

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, August 27, 2008

SPECIAL EDUCATION GRANTS

PURPOSE OF REPORT

To report on the authority provided in law to adjust the per-unhoused-pupil grant amounts for Special Day Class (SDC) pupils in the School Facility Program (SFP).

BACKGROUND

At the June 2008 State Allocation Board (SAB) meeting, the Board approved a six percent increase to the per-unhoused-pupil grant amounts pursuant to Education Code (EC) Section 17072.11(b). In accordance with this EC section, the increase applied only to per-pupil grants for elementary, middle and high school pupils.

At the July 2008 SAB meeting, Staff stated that this EC section did not provide the authority to adjust the per-unhoused-pupil grant amounts for SDC pupils. The Board requested that Staff research the issue further and report back.

AUTHORITY

EC Section 17072.10 (a):

- a) The board shall determine the applicant's maximum total new construction grant eligibility by multiplying the number of unhoused pupils calculated pursuant to Article 3 (commencing with Section 17071.75) in each school district with an approved application for new construction, by the per-unhoused-pupil grant as follows:
 - (1) Five thousand two hundred dollars (\$5,200) for elementary school pupils.
 - (2) Five thousand five hundred dollars (\$5,500) for middle school pupils.
 - (3) Seven thousand two hundred dollars (\$7,200) for high school pupils.

EC Section 17072.11 as created by Assembly Bill (AB) 127, Statutes of 2006:

- (a) All of the following shall apply on and after July 1, 2006, until January 1, 2008:
 - (1) The per-unhoused-pupil grant eligibility determined under paragraphs (1) and (2) of subdivision (a) of Section 17072.10 shall be increased by 7 percent.
 - (2) The per-unhoused-pupil grant eligibility determined under paragraph (3) of subdivision (a) of Section 17072.10 shall be increased by 4 percent.
 - (3) The board shall conduct an analysis of the relationship between the per-unhoused-pupil grant eligibility determined under this article and the per-pupil cost of new school construction for elementary, middle, and high school pupils.
- (b) On or after January 1, 2008, the board shall increase or decrease the per-unhoused-pupil grant eligibility by amounts it deems necessary to cause the grants to correspond to costs of new school construction, provided that the increase in any fiscal year pursuant to this section shall not exceed 6 percent.

EC Section 17072.11 as modified by Senate Bill (SB) 132, Statutes of 2007:

- (a) All of the following shall apply on and after July 1, 2006, ~~until January 1, 2008:~~
 - (1) The per-unhoused-pupil grant eligibility determined under paragraphs (1) and (2) of subdivision (a) of Section 17072.10 shall be increased by 7 percent.
 - (2) The per-unhoused-pupil grant eligibility determined under paragraph (3) of subdivision (a) of Section 17072.10 shall be increased by 4 percent.
 - (3) The board shall conduct an analysis of the relationship between the per-unhoused-pupil grant eligibility determined under this article and the per-pupil cost of new school construction for elementary, middle, and high school pupils.

AUTHORITY (cont.)

- (b) On or after January 1, 2008, the board shall increase or decrease the per-unhoused-pupil grant eligibility determined pursuant to subdivision (a) by amounts it deems necessary to cause the grants to correspond to costs of new school construction, provided that the increase in any fiscal year pursuant to this section shall not exceed 6 percent.

STAFF COMMENTS

Staff research has confirmed that the information presented at the July 2008 SAB was accurate as illustrated by the legislative history summarized below.

History of Legislation

AB 127, chaptered May 20, 2006, added EC Section 17072.11(b) as noted above. In response to a written request from the County School Facilities Consortia, SAB legal counsel reviewed EC Section 17072.11(b) and opined in March of 2007 that the authority provided was broad enough to allow the Board to approve an increase to the new construction per-unhoused-pupil grant amounts for all pupil categories, including elementary, middle, high school, and SDC pupils.

A drafting error in AB 127 resulted in EC Section 17072.11(a) providing grant increases only until January 1, 2008. To correct this error, SB 132, chaptered October 14, 2007, removed text from EC Section 17072.11(a) as shown stricken out above. In addition to removing text, SB 132 added text as shown underlined above.

After SB 132 modified EC 17072.11(b), SAB legal counsel reviewed the section again. The text added by SB 132 clarifies that adjustments to the per-unhoused-pupil grant amounts must be made pursuant to subdivision (a). Subdivision (a) of EC 17072.11 provides for increases in "the per-pupil cost of new school construction for elementary, middle, and high school pupils", but does not include provisions for SDC pupils. This is further validated in that EC Section 17072.11(a) also references EC Section 17072.10(a), which describes new construction grant eligibility determination for elementary, middle, and high school pupils, but does not include provisions for SDC pupils.

It has therefore been concluded by SAB legal counsel that, based on current statute, the Board does not have the authority to approve a six percent increase to the new construction per-unhoused-pupil grant amounts for SDC pupils under EC Section 17072.11(b). Such authority would have to be provided through new legislation. It is Staff's understanding that this issue is being addressed by currently proposed legislation.

RECOMMENDATION

Approve this report.

The State Allocation Board accepted the report on August 27, 2008.