REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, April 27, 2011

2009 CHARTER SCHOOL FACILITIES PROGRAM FILING ROUND CLOSEOUT

PURPOSE OF REPORT

To make a recommendation to the State Allocation Board (Board) regarding the close out of the 2009 Charter School Facilities Program (CSFP) Filing Round.

DESCRIPTION

Board action is required to close out the 2009 CSFP Filing Round, as well as to reallocate bonding authority that returned to the program within eight months of the awarding of the unfunded Preliminary Charter School Apportionments.

AUTHORITY

Education Code (EC) Sections 17078.52 through 17078.66 and 17180.5 established the CSFP and the 2002, 2004, and 2006 Charter School Facility Accounts.

Pursuant to School Facility Program (SFP) Regulation Section 1859.164, all funds approved as a preliminary apportionment are to be transferred to the Restricted Charter School Fund and any funds not approved as preliminary apportionments are to be transferred to the Unrestricted Charter School Fund.

Pursuant to SFP Regulation Section 1859.166 and 1859.166.1, a time limit and a potential time extension are provided for the conversion of a preliminary apportionment to a final apportionment. These sections further provide that any preliminary charter school apportionments not converted will be rescinded and the funding reserved for the project will be placed back in the Unrestricted Charter School Fund.

BACKGROUND

At its May 2010 meeting, the Board awarded unfunded Preliminary Charter School Apportionments to 13 applications totaling $80.7 million. The Board also took action to hold the filing round open for a period of eight months in the event that bonding authority returned to the CSFP. If bonding authority were to return to either the Propositions 47 or 1D Charter School Facility Accounts, it was to be allocated to the next project on the list and continue down until bonding authority was once again exhausted. Over the course of the eight months, $41.2 million returned to Proposition 1D Charter School Facility Account. This was added to the unallocated $0.8 million left over from the previous round, leaving $42.0 million to continue awarding unfunded Preliminary Charter School Apportionments.

STAFF ANALYSIS / STATEMENTS

The amount of bonding authority that returned to the program prior to the eight month time limit allowed the Office of Public School Construction (OPSC) to offer full unfunded Preliminary Charter School Apportionments to the next two projects in line per the CSFP funding matrix. The Ocean Charter School accepted the award in the amount of $19.9 million and has received an updated financial soundness determination from the California School Finance Authority (CSFA). The funding shell for this project is attached.

After providing an unfunded Preliminary Apportionment for the Ocean Charter School, there is approximately $22.1 million in bonding authority remaining. The next project in line was offered an unfunded Preliminary Apportionment. Initially, the offer was accepted, but after recent conversations with the applicant, the offer has ultimately been declined. Both the OPSC and the CSFA are working with the next applicants on the list in order to provide unfunded Preliminary Apportionments up to the remaining bonding authority.

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RECOMMENDATIONS

1. Approve an unfunded Preliminary Apportionment for the Ocean Charter School in the amount of $19.9 million.

2. Provide that the Ocean Charter School convert the project to a Final Apportionment within four years or as provided in Regulation Section 1859.166.1 once the Board has the available funds and takes action to convert the unfunded Preliminary Charter School Apportionment to a Preliminary Charter School Apportionment.

3. Declare the 2009 CSFP Filing Round closed, with the exception of $22.1 million to be set aside for the Board to continue awarding unfunded Preliminary Apportionments once the appropriate awardees are identified.

4. Direct staff to present unfunded Preliminary Apportionments awarded via the $22.1 million remaining as consent items to a future Board meeting.

5. Direct staff to return all of the remaining applications unfunded once the remainder of the bonding authority has been allocated.

BOARD ACTION

In considering this Item, the State Allocation Board approved the staff's recommendations, which included, but is not limited to, the following:

1) an unfunded approval for the Los Angeles Unified School District, Ocean Charter School, in the amount of $19,925,488;
2) declared that the 2009 Charter School Facilities Program filing round is closed, with the exception of $22.1 million to be set aside for the Board to continue awarding unfunded Preliminary Apportionments once the appropriate awardees are identified; and
3) directed staff to present unfunded Preliminary Apportionments awarded via the remaining $22.1 million as consent items to a future State Allocation Board meeting.

SAB Meeting: **April 27, 2011**

Charter School Facilities Program
Preliminary Apportionment

SCHOOL DISTRICT DATA

Application No	54/64733-00-073	**County**	Los Angeles
School District	Los Angeles Unified	**Charter School**	Ocean Charter School
		School Name	Ocean Charter School

PROJECT DATA

Type of Project:		Middle School
Pupils Assigned	**K-6:**	324
	7-8:	96
	9-12:	0
	Non-Severe:	0
	Severe:	0
Application Filing Basis:		Charter
Number of Classrooms in This Proj		17
Master Plan Acres:		
Existing Acres:		
Proposed Acres:		3.0
Recommended Acres:		12.0

PRELIMINARY GRANT DATA

Charter School Base Grant	$	3,525,612.00
Multi-Level Constr.		423,073.00
Site Acquisition		3,070,000.00
Site Development		210,000.00
General Site		279,521.00
Urban/Security/Impacted Site		1,967,644.00
Labor Compliance		35,367.00
Subtotal		9,511,217.00
Inflator Factor		576,527.00
Total State Project Share (50%)		10,087,744.00
CSFA Lease-Payment Amount		9,837,744.00
Charter School Cash Contribution		250,000.00
Total Project Cost	$	**20,175,488.00**

PROJECT FINANCING

State Share		
This Project	$	10,087,744.00
Charter School Share		
CSFA Lease Amount		9,837,744.00
Cash Contribution		250,000.00
Total Project Cost	$	**20,175,488.00**

HISTORY OF PROJECT COST AND APPORTIONMENT

	Fund Code		Authorized This Action		Unfunded Preliminary Apportionment
State Share					
Charter School Grant	**957-540**	$	6,836,386.00	$	6,836,386.00
Charter School Grant	**947-510**		3,251,358.00		3,251,358.00
Charter School Share					
CSFA Lease Amount	**957-540**		6,586,386.00		6,586,386.00
CSFA Lease Amount	**947-510**		3,251,358.00		3,251,358.00
Cash Contribution			250,000.00		
Total Project Cost		$	**20,175,488.00**	$	**19,925,488.00**

Funding Source: Bonds/2006-November

Pursuant to the Board's action on March 11, 2009, this application has been approved as an Unfunded Preliminary Apportionment and placed on the Unfunded List. This approval does not constitute a guarantee or commitment of future State funding.

The above Charter School Grant is a maximum reservation of funding for each of the construction and site acquisition amounts (50 percent State share amount) and is not intended to reflect the actual project costs at the time the project is converted to a Final Charter School Apportionment (FCSA). The FCSA shall be based on SAB regulation allowances established at the time the project is converted and shall not exceed the maximum amounts in each category.

The Charter School shall ensure that it is in compliance with all applicable laws, regulations and certifications it made on the program forms.

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, April 27, 2011

STATE ALLOCATION BOARD SUB-COMMITTEE ON RULES AND PROCEDURES

PURPOSE OF REPORT

To present clarifications to the State Allocation Board (Board) Sub-Committee on Rules and Procedures (Committee) recommendations regarding Appeals processing.

DESCRIPTION

The report is to present the recommendations of the Committee and clarification requested at the March Board meeting regarding the adoption of a uniform policy and procedure for processing Appeals to the Board.

AUTHORITY

Currently, the Board does not have a formalized policy or set guidelines related to the review, processing and presentation of appeal items to the Board.

Based on a 1995 item presented to the Board, legal counsel opined regarding the processing of appeal indicated that it is within the authority of the Board to establish priorities for addressing agenda items and conducting meetings.

BACKGROUND

On February 14, 2011, the Committee met to discuss three issues: an adoption of a uniform policy to handle items up for reconsideration at the Board, the adoption of a uniform policy and procedure for handling Appeals to the Board and procedure for offering other legal solutions besides a finding of Material Inaccuracy. The reconsideration item was discussed by the Committee, but is not yet ready for presentation to the full Board. The Material Inaccuracy item was discussed briefly and it was decided by the Committee that the issue would be referred to the Board Sub-Committee on Audits.

The policy and procedure for handling Appeals was presented at the March Board meeting. Concerns were raised over the section of the staff report relating to a request for postponement of the hearing of the Appeal, and particularly in regard to this language: "An approval or disapproval shall be communicated in writing to the party seeking postponement no later than 5 working days before the hearing." Board members expressed concerns that, in light of the fact that Board items are published 5 working days prior to the Board hearing, this language could preclude districts from requesting a postponement in order to have time to address issues raised in the item.

The Board decided to postpone this item and requested that staff clarify the language in question.

COMMITTEE RECOMMENDATIONS

Filing an Appeal
Upon reaching a disagreement with the Office of Public School Construction (OPSC) on an item, the school district must file a School District Appeal Request (Form SAB 189) to begin the formalized appeal process. The Form shall be filed with the OPSC. The Form should state the basis or bases for the appeal and any relevant information for resolving the dispute.

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Request for Postponement – See Staff Comments for Clarification Options

Timeline for processing an appeal
Timeline for processing a policy appeal: 90 days – 120 days. In the event the appeal is dealing with a health and safety issue, the appeal shall take precedence and be processed to the Board within 60-90 days. Within 5 working days of receiving the appeal the analyst will send an acknowledgement letter informing the school district OPSC has received the appeal, has begun processing it, and the date the item will be [placed] on the SAB workload, but no later than 120 days from receipt of a Form SAB 189. A copy of this letter shall go to the Assistant Executive Officer (AEO) and the Chair of the Board.

Appeals Processing Timeline – See Staff Comments
"Direct OPSC to develop a timeline to be used for processing all appeals, which allows for communication with the District prior to presentation at the Board, and allows for transparency and objectivity. OPSC shall bring back the timeline for processing and communication with the District that meets the 90-120 day timeline for Board adoption at the next regularly scheduled meeting."

STAFF COMMENTS

Staff has prepared the options to clarify the "request for postponement" and a timeline for processing appeals for the Board to consider.

Request for Postponement

Request Submittal

Option 1- include a time limit for request for postponement
The school district or the OPSC may submit a request for postponement at any time up to 2 working days after the Board item is published. The request shall be in written form addressed to the Chair and Vice Chair of the Board and shall include a statement of the reasons supporting postponement.

Or

Option 2 - no time limit for request for postponement
A request for postponement by the school district or the OSPC may be submitted at any time prior to the Board meeting. The request shall be in written form addressed to the Chair and Vice Chair of the Board and shall include a statement of the reasons supporting postponement.

Chair/Vice Chair Response

An approval or disapproval shall be communicated in writing to the school district no later than 5 working days before the hearing. If the postponement request is received within 5 working days of the hearing, the approval or disapproval shall be communicated as soon as possible prior to the hearing. If the request for postponement is approved, a new notice of hearing shall be mailed to the school district no later than 15 days before the new hearing date.

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Appeals Processing Timeline

- OPSC receives the Form SAB 189 from District.
- Within 5 business days
  OPSC staff sends letter to the school district acknowledging receipt and informing the district of date that item will be placed on SAB workload.
- Within 40 days
  OPSC staff, Executive Officer (EO), AEO and other relevant personnel shall meet with the school district.
- Within 60 days
  Initial OPSC staff recommendation on appeal is provided to AEO and EO.
- Within 65 days
  AEO and EO have 5 days after receiving initial OPSC staff recommendation to review, edit and finalize the recommendation.
- Within 70 days
  OPSC staff mails a letter to the school district with the final recommendation.
- Within 80 days
  The District shall inform OPSC staff in writing if they agree with the recommendation or wish to move forward to have the item heard at the Board.
- Appeal is scheduled to be heard at next regular Board meeting – thus having the hearing within 120 days.

See the Attachment for a visual presentation of the timeline.

RECOMMENDATIONS

1. Seek direction from the full Board regarding the Committee's recommendations for the appeals procedure.
2. Seek direction from the Board regarding the request for postponement.
3. Adopt the OPSC proposed Appeals Processing Timeline.

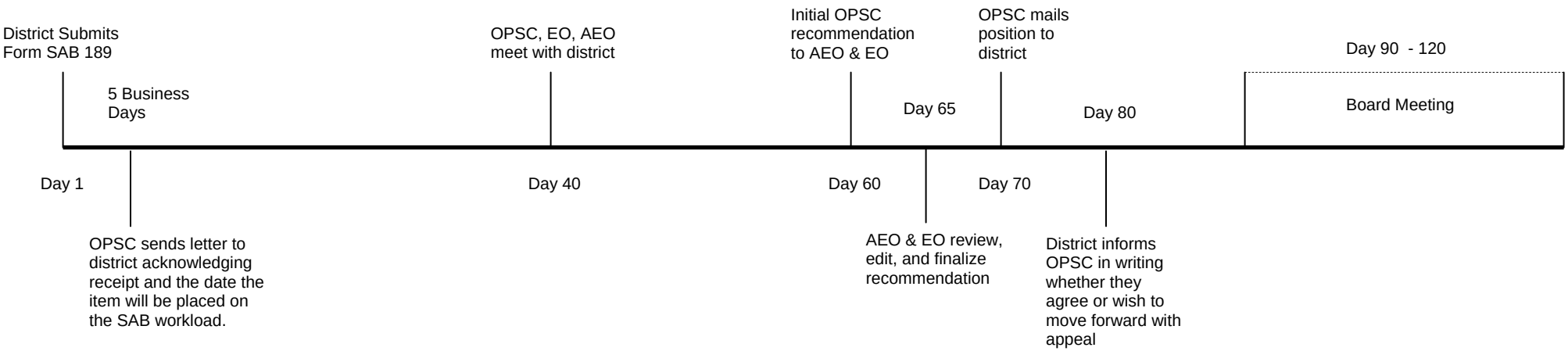
BOARD ACTION

In considering this Item, the State Allocation Board approved staff's Option #2, which provides that a Request for Postponement by the school district or the OPSC may be submitted at any time prior to the Board meeting. The request shall be in written form addressed to the Chair and Vice-Chair of the Board and shall include a statement of the reasons supporting postponement. Further, the Board approved that the first Request for Postponement would automatically be granted with additional requests to be responded to by the Chair/Vice-Chair. The Chair/Vice-Chair will communicate a response of the approval or disapproval in writing to the school district no later than two working days from receipt of the request. However, if the Request for Postponement is received the week of the Board meeting, the approval or disapproval shall be verbally communicated. The State Allocation Board also approved the Appeals Processing Timeline, which allows for transparency, objectivity, consistency and enhanced communication between school districts and the OPSC in processing appeals.

(Rev. 1)

ATTACHMENT

Appeals Processing Timeline



*All days are calendar days, unless specified.