ATTACHMENT A

AUTHORITY

Education Code Section 17070.35(a) states, “In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following:

(1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter…

(2) Establish and publish any procedures and policies in connection with the administration of this chapter as it deems necessary…”

Budget Letter 10-09 requires that if there are insufficient bond proceeds, departments and agencies are responsible for prioritizing the projects that will be funded consistent with the prioritization criteria outlined (including job creation). It also indicates that if bond proceeds are not managed efficiently, additional bonds may not be sold for the program.

Government Code Section 15503 states, “Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.”

A financial hardship review is only valid for 180-day period. Regardless of the cause, if a project is unable to move forward or not funded in that period, a district must re-establish their financial hardship status. This ensures the California Education Code Section 17075.10(b) requirement that a district is making all reasonable effort to fund their matching share of their project.

California Education Code Section 17075.10(B) requires that the district has made all reasonable efforts to impose all levels of local debt capacity and development fees, and that the school district is unable to participate in the program pursuant to this chapter except as set forth in this article.

SFP Regulation Section 1859.81(f) states if a district has been included on the “Unfunded List (Lack of AB 55 Loans)” for more than 180 calendar days as a result of the State of California’s inability to provide interim financing from the Pooled Money Investment Account (AB 55 loans), the Board may suspend the unfunded review requirement as defined in Regulation Section 1859.81(e). Projects added to any other unfunded list shall be subject to the review detailed in Regulation Section 1859.81(e). Regulation Section 1859.81(f) shall become inoperative January 1, 2011, at which time the Board will have the option to extend the SFP emergency regulations (Regulation Sections 1859.96, 1859.148.2, and 1859.166.2) for another year or declare the State’s fiscal crisis is over.

SFP Regulation Section 1859.90.2 states that a priority funding round may be established pursuant to a public notice and announcement by the Board at one of its monthly meetings.

SFP Regulation Section 1859.129(b)(2) and 1859.197 (b)(2) state that If the district is requesting an Apportionment pursuant to Section 1859.90.1, the Board will require that this time limit be reduced to no more than 90 days from the date of the apportionment.

SFP Regulation Section 1859.153.1(a) "…a district that meets the following may request an advance release of funds from a preliminary apportionment: (c) A district is eligible for an amount, not to exceed the Preliminary Apportionment, for environmental hardship site acquisition pursuant to Section 1859.75.1 after submittal of a Form SAB 50-08 pursuant to Section 1859.141."

SFP Regulation Section 1859.164.2 states the following regarding advance fund releases:
"A Charter School receiving a Preliminary Charter School Apportionment from the Board after July 2, 2003 may request an advance release of funds for either of the following:

> (a) A separate advance release of funds for design equal to 20 percent of the amount determined in Section 1859.163.1(a)(1) through (9) or Section 1859.163.5(a) through (g).
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> (3) are met for an amount not to exceed the Preliminary Charter School Apportionment for site acquisition. The Board shall release to the Charter School an amount up to the Preliminary Charter School Apportionment determined in Section 1859.163.1(b).
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> Qualified Charter Schools may request a separate advance release of funds for the design and for the site acquisition for the same project. A Charter School seeking an advance release of funds pursuant to (a) and/or (b) must have been deemed and maintained financial soundness status from the Authority. Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release State funds included in a Preliminary Charter School Apportionment pursuant to (a) or (b) to the Charter School after submittal of the Form SAB 50-05."

Section 20 of Assembly Bill 127, Chapter 35, Statutes of 2006 (Pereta/Nunez) states:

> (1) The amount of one billion nine hundred million dollars ($1,900,000,000) for new construction of school facilities of applicant school districts under Chapter 12.5 (commencing with Section 17070.10) of Part 10. Of the amount allocated under this paragraph, up to 10.5 percent shall be available for purposes of seismic repair, reconstruction, or replacement, pursuant to Section 17075.10.
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> (7) The amount of one billion dollars ($1,000,000,000) shall be available for providing new construction funding to severely overcrowded schoolsites pursuant to Article 14 (commencing with Section 17079) of Chapter 12.5 of Part 10.