

OVERVIEW

PURPOSE

To discuss topics relating to the “Rules and Operating Procedures of the State Allocation Board.”

DESCRIPTION

This meeting is to present information that will facilitate discussion of potential amendments to the *Rules and Operating Procedures of the State Allocation Board* document. The Sub-Committee’s recommendations will then be presented to the full State Allocation Board (Board) for adoption at a later date.

AUTHORITY

See Attachment A - *Rules and Operating Procedures of the State Allocation Board*

BACKGROUND

At the March 2012 Board meeting, the Board discussed issues such as the structuring of recommendations to the Board and the re-introduction of a category similar to that of “Consent Specials” in the monthly agenda. In addition, there may be other issues that may require clarification and/or discussion.

ITEM FORMAT

This item has been divided by topic. It is the intent of the Chair of this Sub-Committee to address each topic individually and conclude with a recommendation for the full membership of the Board to adopt the amendments to the *Rules and Operating Procedures of the State Allocation Board* document.

CONSENT SPECIALS

PURPOSE

To re-introduce a category, such as the prior “Consent Specials” category, in the State Allocation Board (Board) agendas.

QUESTION

Should a category, similar to what used to be the “Consent Specials” category, be re-introduced in the Board agendas?

DESCRIPTION

The standard order for presenting items in the Board agendas has evolved over the last 20 years. That standard order had been: Minutes, Consent, Financial Reports, Consent Special, Specials, Regulations, and Reports. Items designated as “Consent Specials” were items that staff highlighted to the Board because of their unique nature. They included items such as time extensions requests for projects needing additional time to submit the necessary documentation to perfect the project, facility hardship and rehabilitation projects with recommendations for conceptual approval or funding. These items were analyzed in detail, reviewed thoroughly by management and met all of the requirements of law, regulation and Board policy. Further, the school districts concurred with the staff’s recommendation(s).

BACKGROUND

In December 2010, the Board approved the *Rules and Operating Procedures of the State Allocation Board* document in order to provide transparency and consistency for managing the agendas and the meetings. Effective with the January 2011 Board agenda, the standard order for presenting items changed; the “Consent Specials” category was eliminated and “Action Items” became the new category.

STAFF COMMENTS

Over the last six months, the Board has been combining the approval of some “Action Items” with the “Consent” agenda; therefore, some members have expressed a willingness to re-introduce a category, similar to the “Consent Specials” category, back into the Board agendas. If re-introduced, staff would present those types of items immediately following the Consent agenda.

The Sub-Committee consider other terms similar to that of the “Consent Specials” category.

ACTIONS REQUESTED OF THE SUB-COMMITTEE

1. Discuss and confirm that a category, similar to the “Consent Specials” category, will be made part of the Board agenda.
2. Seek the Sub-Committees input as to the title of this category.

STRUCTURE OF RECOMMENDATIONS TO THE STATE ALLOCATION BOARD

PURPOSE

To discuss the structure of the recommendations presented to the State Allocation Board (Board).

QUESTION

What should the structure of recommendations be for appeal items?

AUTHORITY

Education Code Section 17070.20 states “The Director of General Services shall administer this chapter and shall provide assistance to the board as it requires.”

Regulation Section 1555, California Code of Regulations, states “There are ten persons that are constitutionally or statutorily empowered to vote and act upon matters before the State Allocation Board which pertain to the allocation and apportionment of funds to school districts for the purpose of school construction or purposes related thereto pursuant to Government Code Section 15490.

Any six such persons shall constitute a quorum. A consensus vote of at least six such persons is required for all decisions or actions of the Board which expressly pertain to the apportionment or allocation of funds for the purpose of school construction or purposes related thereto.”

BACKGROUND

At the June 2011 Board meeting, an item was presented to the Board as a result of staff’s administrative action denying the district’s request. The district submitted a *School District Appeal Request* (Form SAB 189) to request the State Allocation Board approve their appeal. A motion was made to approve the staff’s recommendation, which was to deny the district’s request; however, there were insufficient votes in support of the staff’s recommendation.

A Board member questioned the next steps for the appeal and asked if the appeal would continue to be heard at a subsequent Board meeting until the time sufficient votes were in support of either approving or denying the district’s appeal. The Board member indicated that since staff already administratively denied the district’s request, absent a positive action by the Board to overturn the staff’s administrative action, the staff’s administrative action would stand. As a result of the Board member’s comments, staff restructured the format of the recommendations for subsequent meetings. The structure of the recommendations for appeal items has changed from approving or denying district requests to:

1. Take no action, which would allow Staff's administrative action to stand.
2. Grant the District's appeal.

At the January 2012 Board meeting, a Board member raised a procedural issue relating to actions of approval and whether those actions were appropriate. It was maintained that the Board should be making deliberative decisions rather than supporting a recommendation to "Take no action." At the same meeting another Board member expressed that the intent was to always have the Board take an action and that staff needed to write the recommendations clearer.

At the March 2012 Board meeting, a Board member raised the issue of a motion to "Take no action," which was voted on and failed. Because there was not a substitute motion to vote on, staff administrative actions stood. The Board member questioned the actions results.

This item explains and discusses the structure of staff recommendations for adoption by the Sub-Committee.

STAFF COMMENTS

The Office of Public School Construction (OPSC) is the administrative arm of the Board. It is the OPSC's responsibility to analyze all factual information related to a project to assist the Board in making legal decisions based on law, regulation, and Board policy. This ensures consistency while maintaining integrity of the School Facility Program. Only projects that meet these criteria are presented to the Board for approval. Over 99.5 percent of projects are approved in this manner.

Occasionally, school districts disagree with the OPSC's findings. In these cases, the school district may file a *School District Appeal Request* (Form SAB 189) to request that the State Allocation Board overturn the staff's actions. School districts are then able to present their case to the Board.

There have been suggestions that staff should not be providing recommendations, but instead provide options for the Board to consider. When viable and legal options exist, staff will include them in the presentation of the facts to the Board. However, in the case of appeals, staff, as the administrative arm to the Board, has already taken an action to deny the district's specific request.

Options for Presenting Recommendations for Appeals to the Board

The following options are being presented to the Sub-Committee for consideration as to the structure of staff's recommendations to the Board. In all options, six consensus votes must be obtained to change staff's administrative actions. For appeals to the Board, staff would no longer provide a section entitled "Recommendation;" the section would be entitled "Options."

Option A:

- 1. Take no action, which would allow staff's administration of the program to remain unchanged.**
- 2. Approve the district's appeal.**

This option requires a positive vote for the Board to take action on an alternative to staff's administration of the program. The Board has the ability to approve a substitute motion to these options in cases where staff is able to provide alternative options. These options are generally in between the spectrum of approving and denying a district's appeal.

This option also is transparent to the Board and the public that, absent a positive vote by the Board, staff's administration of the program remains unchanged.

Option B:

Seek Board direction.

This option may provide flexibility for the Board if needed to create a motion. If the sufficient positive votes do not exist to approve the district's appeal or any alternative motions, the staff's administration of the program remains unchanged.

Option C:

Approve the district's appeal.

This option provides a consistent and clear option which the Board could consider as a standardized option. It also allows for staff's administration of the program to remain unchanged in the event there are not six positive votes to support the district's appeal.

ACTION REQUESTED OF THE SUB-COMMITTEE

Seek the Sub-Committee's input concerning the options outlined above.

WORKING GROUPS

PURPOSE

To discuss the current rules and procedures relating to working groups of the State Allocation Board (Board).

AUTHORITY

Regulation Section 1555, California Code of Regulations, states “There are ten persons that are constitutionally or statutorily empowered to vote and act upon matters before the State Allocation Board which pertain to the allocation and apportionment of funds to school districts for the purpose of school construction or purposes related thereto pursuant to Government Code Section 15490.

Any six such persons shall constitute a quorum. A consensus vote of at least six such persons is required for all decisions or actions of the Board which expressly pertain to the apportionment or allocation of funds for the purpose of school construction or purposes related thereto.”

DESCRIPTION

The *Rules and Operating Procedures of the State Allocation Board* document (Attachment A) sets forth the composition, quorum, duties, rules and staffing for working groups of the Board. “The Chair, or any other Board Member, subject to a majority of the Board concurring, may create a subcommittee or working group of the Board.”

The document also sets forth the composition and duties for working groups as follows:

Composition

- Membership of a working group shall be determined by the Board or a subcommittee of the Board.
- Working Group meetings shall be publicly noticed and allow for public comment.

Duties

- Working groups shall perform the duties assigned to them and report on all matters referred to them.

STAFF COMMENTS

At the April 2012 Audit Sub-Committee hearing, a member of the audience requested that all working groups of the Board should also be webcast in addition to being publicly noticed for purposes of transparency.

ACTION REQUESTED OF THE SUB-COMMITTEE

Seek the Sub-Committee’s input on whether to make changes to the *Rules and Operating Procedures of the State Allocation Board* document.