

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, August 25, 1999

ADJUSTMENTS TO EXISTING SCHOOL BUILDING CAPACITY

PURPOSE OF REPORT

To present proposed amendments to the Senate Bill (SB) 50 Emergency Regulations.

DESCRIPTION

At the July 28, 1999, State Allocation Board meeting, staff was requested to address the issue of existing school building capacity as calculated in the School Facility Program (SFP) for districts that entered into a construction contract for permanent facilities between August 27, 1998 and November 18, 1998. Staff has reviewed the situation and has prepared a suggested change to the regulations.

The SFP requires that a school district prepare a one-time report on the existing school building capacity in the district. This report is then used in conjunction with the district's projected student enrollment to determine if there is a need for additional classrooms in the district. If so, the district is eligible for funding under the SFP. To determine what classrooms should be included in the existing capacity, the SAB approved regulations that specified that all facilities which existed or were under contract at the time of the submittal of a request for the determination of the baseline eligibility must be counted in the capacity. For a majority of districts, these regulations have worked well. They allow flexibility to the districts as to when the baseline capacity is established, while preventing eligibility for funding for classrooms that were, in reality, essentially complete and available.

However, certain districts may have been disadvantaged by the regulations. In a few cases, districts that had no eligibility under the old Lease-Purchase Program (LPP) proceeded with locally funded projects after SB 50 became law, but before the new regulations were adopted and the Office of Public School Construction (OPSC) could accept SFP applications. After the regulations were in place, it became apparent that the projects were at least partially eligible under the new program, but since contracts had been signed prior to establishing a capacity baseline, the projects were considered existing and reimbursement for 50 percent of the project costs was precluded.

STAFF COMMENTS

The OPSC believes that an inadvertent inequity has been created in the regulations that affects districts that signed construction contracts for new permanent facilities between the time SB 50 became law (August 27, 1998) and when the SAB approved the emergency regulations (November 18, 1998). During this period of time, a district without eligibility in the LPP program could not file an application in either the old or new (future) program. In this case, the district was faced with delaying the project in order to determine if the new program would allow funding, or to proceed with the project without knowing the consequences of that action.

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STAFF COMMENTS (cont.)

The OPSC suggests that this circumstance was limited to certain projects, which met the following criteria:

- (1) The facilities to be constructed were permanent construction, not portable.
- (2) The construction contract for these facilities was signed between August 27, 1998 and November 18, 1998.
- (3) The project did not have full eligibility under the provisions of the LPP.

LAW

Regulation Section 1859.31 Gross Classroom Inventory.

The district shall prepare a gross inventory of all classrooms owned or lease in the district or high school attendance area as appropriate. For the purpose of the gross classroom inventory, the following shall be considered a classroom. Any classroom:

- (a) for which a contract was signed for the construction or acquisition of facilities or for which construction work has commenced at the time the SFP application for determination of eligibility is submitted to the OPSC.

RECOMMENDATIONS

1. Adopt the proposed addition of language to Regulation Section 1859.32 as follows:
(l) any permanent classroom contained in a project for which the construction contract was signed between August 27, 1998 and November 18, 1998 and for which the district did not have full project eligibility under the LPP.
2. Authorize Staff to submit the change to the Office of Administrative Law for inclusion in the final regulations.

This Item was approved by the State Allocation Board on August 25, 1999.