

OFFICE OF PUBLIC SCHOOL CONSTRUCTION  
STAKEHOLDER MEETING  
February 13, 2025

IMPLEMENTATION OF PROPOSITION 2 FOR THE SCHOOL FACILITY PROGRAM

PURPOSE

The purpose of this meeting is to engage with stakeholders regarding the implementation of the Kindergarten through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety Bond Act of 2024 (Proposition 2), and to discuss and collect feedback on proposed amendments to the School Facility Program (SFP) Regulations for the following topics:

- Topic 6 – Interim Housing and Natural Disaster Assistance (Attachment A6)
- Topic 7 – Five-Year Master Plan (Attachment A7)
- Topic 8 – Small Size School District Program (Attachment A8)
- Topic 9 – Energy Efficiency Supplemental Grant (Attachment A9)
- Topic 10 – Supplemental Grants for Minimum Essential Facilities (Attachment A10)
- Topic 11 – Transitional Kindergarten Supplemental Grant (Attachment A11)

BACKGROUND

Proposition 2, or Assembly Bill (AB) 247 (Muratsuchi, Chapter 81, Statutes of 2024), the Kindergarten through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety Bond Act of 2024, was approved by a majority of California’s voters on November 5, 2024.

The passage of Proposition 2 necessitates modifications to the SFP Regulations to allow school districts to continue submitting eligibility and funding applications to the Office of Public School Construction (OPSC) that are adherent to the amended or additional components of Education Code. Related to these statutory changes, OPSC must implement the provisions of AB 247 by amending existing SFP Regulations to adhere to the new statutory requirements.

As a result, OPSC is requesting stakeholder feedback regarding these changes. Each of the topics listed within the Purpose section of this report is broken out into its own attachments for stakeholder reference.

AUTHORITY

See Attachments A6, A7, A8, A9, A10, and A11.

## SUMMARY AND NEXT STEPS

Attached is a series of topics related to Interim Housing and Natural Disaster Assistance, the Five-Year Master Plan, Small Size School District Program, Energy Efficiency Supplemental Grant, Supplemental Grants for Minimum Essential Facilities, and Transitional Kindergarten Supplemental Grant.

Staff will review any feedback obtained in today's meeting and anything received through close of business on February 28, 2025, for consideration and will address those suggestions in the next public meeting on this topic.

To submit written feedback after today's meeting, please email your suggestions to the OPSC Communications Team at [OPSCCommunications@dgs.ca.gov](mailto:OPSCCommunications@dgs.ca.gov).

## ATTACHMENT A6

### OFFICE OF PUBLIC SCHOOL CONSTRUCTION STAKEHOLDER MEETING February 13, 2025

#### PROPOSED AMENDMENTS TO THE SCHOOL FACILITY PROGRAM FOR INTERIM HOUSING

##### PURPOSE

To discuss and receive stakeholder feedback resulting from Assembly Bill (AB) 247, the Kindergarten through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety Bond Act of 2024 (Proposition 2), which was approved by a majority of California's voters on November 5, 2024. Proposition 2 adds Education Code (EC) Section 17075.20, which allows the State Allocation Board (Board) to provide assistance for purposes of procuring interim housing and providing other assistance for school districts and county offices of education (COEs) that are impacted by a natural disaster for which the Governor has declared a state of emergency.

##### AUTHORITY

See Attachment A6a.

##### BACKGROUND

Proposition 2 provides the authority for the Board to fund interim housing following a natural disaster for which the Governor has declared a state of emergency. With the addition of EC Section 17075.20(b), it also expands the qualifying criteria for the Facility Hardship Program to include school districts and COEs that have been determined by the Board to be impacted by natural disaster when a declaration of emergency has been made by the Governor.

Prior to the passage of Proposition 2, the School Facility Program (SFP) provided grants for the replacement or repair of school facilities lost or destroyed as a result of a disaster under the Facility Hardship Program, which was created by the statutory authority of EC Section 17075.10 as it read on January 1, 2024. The Facility Hardship Program includes the Seismic Mitigation Program, which provides grants for school facilities at risk for collapse in a seismic event. Funding assistance may be provided in cases of extraordinary circumstances that have caused an imminent health and safety threat to students and staff. One of the qualifying criteria for the program is to have governmental concurrence of the existence of a health and safety threat. The prior statutory authority for these programs did not authorize grants for interim housing, but did allow expenditures on interim housing.

BACKGROUND (cont.)

*EC Section 17075.20 – Summary of Provisions*

The newly added EC Section 17075.20 is inclusive of subdivisions (a) through (e). A summary of each follows:

Subdivision (a), notwithstanding any other law, allows the Board to provide assistance for purposes of procuring interim housing, including, but not limited to, the leasing or acquisition of portable classrooms and any work associated with placing them on a site, to school districts and COEs impacted by a natural disaster for which the Governor has declared a state of emergency. In addition, funds provided shall supplement funding from insurance or any other local, state, or federal government disaster assistance.

Subdivision (b) qualifies school districts and COEs that are impacted by a natural disaster as described in (a) to have met the requirements set forth in EC Section 17075.10, which is known as the Facility Hardship Program in SFP Regulation Section 1859.82. Under the program, districts and COEs can receive funding to replace lost or damaged necessary school facilities.

Subdivision (c) allows school districts and COEs to retain savings from a project that received funds under this section and to use those savings for other high-priority capital outlay purposes consistent with the requirements of EC Section 17070.63(c).

Subdivision (d)(1) indicates that a grant pursuant to this section will not affect the applicant's eligibility for the School Facility Program, except as specified in subdivision (d)(2).

Subdivision (d)(2) specifies that portable classrooms purchased pursuant to (a) shall be included in the determination of eligibility for new construction funding, pursuant to EC Section 17071.75. This means that any such portable classrooms must be included in a district's classroom inventory during establishment of new construction eligibility or added to a district's existing inventory via an adjustment to new construction eligibility if already established.

Subdivision (e) indicates that the Board may provide any other assistance to a school district or COE determined by the Board to be impacted by a natural disaster described in (a).

*Other References*

Governor's Declaration of a State of Emergency

Government Code (GC) 8625 outlines the criteria by which a state of emergency may be declared by the Governor, which is issued by means of an Executive Order. Government Code (GC) 8558(b) defines "state of emergency" as "...the duly

## BACKGROUND (cont.)

proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, electromagnetic pulse attack, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions..."

An Executive Order can include provisions that expedite response activities, such as debris removal and cleanup; authorize state agencies to expedite the procurement of resources; and suspend various legal and procedural requirements to facilitate rapid response and recovery, including contracting and bidding laws.

### California Disaster Assistance Act

The California Disaster Assistance Act (CDAA) provides financial assistance to local jurisdictions for the repair, restoration, or replacement of public real property damaged or destroyed by a disaster. CDAA programs only become available after the Governor has proclaimed a state of emergency exists. In general, the state will cover no less than 75 percent of the eligible costs.

Among the eligible costs, the following are allowable components:

- Repair, permanent restoration, and replacement costs for public facilities.
- Supplies, materials, and equipment.
- Costs for work performed under interagency assistance agreements for which an eligible applicant is legally obligated to pay.
- The local cost share required under federal public assistance programs.

This assistance is requested by a city (mayor or chief executive), county (chairman of a board of supervisors or county administrative officer). A city or county can apply for this funding on behalf of a school district or COE.

### Federal Emergency Management Agency

The Federal Emergency Management Agency (FEMA) provides Public Assistance grants through coordination with the California Governor's Office of Emergency Services to support community recovery from disasters regarding debris removal, life-saving emergency protective measures, and restoration of public infrastructure. This program only becomes available once a Federal Major Disaster Declaration is declared. For permanent work required to restore a facility to its pre-disaster design (size and capacity), FEMA assists with roads and bridges, water control facilities, public buildings and contents, public utilities, and parks, recreational, and other facilities, such as schools.

## STAFF ANALYSIS/DISCUSSION

OPSC recognizes that there are many considerations related to the development of regulations for the added EC Section 17075.20 and understands the importance of connecting with stakeholders related to the development of new regulations. As a result, OPSC has several questions and scenarios listed below in an effort to open the conversation and receive feedback related to initial thoughts for this item. Proposed regulations will be presented at a future stakeholder meeting.

1. *Who is eligible for this grant?*

EC 17075.20 (a) states that a school district or COE can apply for this assistance when it is impacted by a natural disaster for which the Governor has declared a state of emergency. The statute does not authorize charter schools to apply directly for this assistance, but a school district can apply on behalf of a charter school that occupied district-owned facilities impacted by a natural disaster for which the Governor has declared a state of emergency.

2. *What constitutes a natural disaster as it relates to this statute?*

To meet the criteria in EC Section 17075.20, the Governor must have declared a state of emergency for the natural disaster. Based on research of other state entities and the SFP, OPSC interprets a natural disaster to include events such as, earthquakes, wildfires, floods, landslides, storms, hurricanes, tsunamis, and other natural catastrophes.

3. *What does the term “impacted” mean in the context of this statute and to whom does it apply?*

OPSC interprets the impacted district or COE as a district or COE with facilities that were lost or damaged as a result of the natural disaster for which the Governor has declared a state of emergency. For instance, if a district’s facilities are flooded in an event the Governor declared a state of emergency and pupils must be relocated, the district would be eligible to receive assistance pursuant to this statute.

4. *What is Interim Housing?*

Currently, SFP Regulation Section 1859.2 defines *Interim Housing* as “the rental or lease of classrooms used to house pupils temporarily displaced as a result of the modernization of classroom facilities.” Because this definition is limited to modernization projects, OPSC proposes that a new definition that is inclusive of housing for pupils who have been displaced due to a natural disaster is necessary.

STAFF ANALYSIS/DISCUSSION (cont.)

5. *What does funding for the interim housing look like?*

Providing funding for interim housing as reimbursement of actual costs, documented in the form of invoices or lease agreements for portable classrooms, would provide reassurance that the amount of funding provided is reasonable based on the actual costs of interim housing. Additionally, a reimbursement model would facilitate verification that the number pupils housed substantiates the number of portables leased or acquired by the district or COE.

However, OPSC recognizes that limiting interim housing assistance to reimbursement of costs incurred may present a barrier for some school districts that need to accommodate displaced pupils expeditiously, but are faced with up-front costs of interim housing potentially before they receive funding from insurance or government assistance.

OPSC seeks stakeholder input on this issue.

6. *What are the criteria for “supplementing funding from insurance or any other local, state, or federal government disaster assistance”?*

EC Section 17070.20(a) specifies that the allocated funds shall *supplement* funding from insurance or any other local, state, or federal government disaster assistance. To ensure that financial assistance provided does not duplicate funds provided by insurance and other government disaster assistance, a district would ideally first seek funding from these sources prior to submitting a request to the Board for consideration. In this case, the SFP would cover longer-term interim housing needs and other funding sources would cover the urgent, short-term interim housing needs.

In addition to the sources mentioned above in Background, the California Disaster Assistance Act provides assistance for eligible costs such as the repair, permanent restoration, and replacement costs for public facilities, but not for purposes of procuring interim housing.

7. *What is the funding source for interim housing?*

EC Section 17075.20 does not specify a source from which interim housing assistance will be provided. OPSC proposes interim housing costs would be funded from New Construction bond authority regardless of whether the subsequent project would repair or replace facilities. The program would house pupils on a temporary, or potentially permanent basis, which is consistent with the purpose of the New Construction program. If the school district intends to keep the interim housing for classroom use beyond five years of usage, the

STAFF ANALYSIS/DISCUSSION (cont.)

school district's new construction eligibility baseline would be adjusted for the additional capacity.

8. *How will funding amounts be determined?*

In keeping with the proposed New Construction source of funds, OPSC proposes that funding for interim housing, whether it is leased or purchased, be provided on a 50 percent state and 50 percent local share basis. Further, to align with the new statutory provision of the sliding scale for the local share, OPSC proposes that the state and local share percentages would be determined by the method outlined in EC Section 17070.59. Additionally, OPSC proposes that a school district or COE applying for interim housing assistance that is also eligible for SFP Financial Hardship assistance would qualify for additional state assistance and a commensurate reduction in the required local share in accordance with Financial Hardship program provisions.

9. *What if the construction or rehabilitation project takes longer than five years and the interim housing is still being used?*

If a portable classroom being leased by a district is on the site for longer than five years from the date of placement on site, SFP regulations currently require an adjustment to be made to the New Construction baseline. However, depending on the magnitude of the natural disaster, districts may need longer than five years to replace necessary facilities.

SFP Regulation Section 1859.51(i)(5) provides that if a portable classroom needs to be leased beyond five years to provide interim housing during a modernization or new construction project, the Board may approve up to a three-year extension for each qualifying project. In this case, the district must submit an extension request to OPSC to approve the use of leased portable buildings beyond the five-year period in addition to a narrative outlining the circumstances leading to this request. This request is then presented to the Board for approval.

In an effort to track the leased portables under this assistance, OPSC proposes a reporting requirement for districts using interim housing on a site, to provide an annual report (from the date the facilities are placed on site until they are removed) to OPSC, reporting if the facilities have been removed and/or replaced, or if they remain on the property. EC Section 17075.20 indicates that the Board may provide assistance for purposes of procuring interim housing, including, but not limited to, the leasing or acquisition of portable classrooms. If it is more cost effective to do so, the district may elect to purchase the portable classrooms.



STAFF ANALYSIS/DISCUSSION (cont.)

Because districts have a choice of either leasing or purchasing portable classrooms to serve as interim housing, OPSC suggests establishing a requirement for school districts to submit an annual progress report on the status of replacement projects.

*10. Could interim housing become permanent housing?*

The statute allows districts to lease or acquire portable classrooms to meet interim housing needs. If a district elects to acquire portable classrooms, subdivision (d)(2) states that "...a portable classroom *purchased* pursuant to subdivision (a) shall be included in the determination of eligibility for new construction funding pursuant to Section 17071.75." This means that it will be included in a district's classroom inventory during establishment of new construction eligibility or added to a district's existing inventory via adjustment to new construction eligibility if already established.

*11. What is the effective date when districts may request assistance?*

AB 247 was signed into law on July 3, 2024. Therefore, OPSC proposes that districts that incurred expenditures due to a natural disaster event for which the Governor has declared a state of emergency that is "open", as listed on the California Governor's Office of Emergency Services website may request assistance for reimbursement of executed contracts or expenditures dated on or after July 3, 2024.

Open state of emergency proclamations may be found here: [Emergency Proclamations | California Governor's Office of Emergency Services](#)

*12. What does "any other assistance" under EC Section 17075.20(e) mean?*

OPSC interprets this provision to mean that the Board has the discretionary authority to provide additional financial support to districts beyond funds to lease or acquire portable classrooms, which may vary with different types of natural disasters.

*13. What documentation is required to request this assistance?*

In accordance with the action approved by the Board at its December 2024 meeting, an impacted district would submit a *School District Appeal Request* (Form SAB 189) to request interim housing assistance or any other assistance resulting from a natural disaster event for which the Governor has declared a state of emergency.

STAFF ANALYSIS/DISCUSSION (cont.)

The district's request should include information related to the event as well as of the demonstration of efforts to use other local, state, federal and insurance resources to cover these costs.

AUTHORITY**Education Code (EC) Section 17075.20 – Hardship Application**

- (a) Notwithstanding any other law, the board may provide assistance under this chapter for purposes of procuring interim housing, including, but not limited to, the leasing or acquisition of portable classrooms and any work associated with placing them on a site, to school districts and county offices of education impacted by a natural disaster for which the Governor has declared a state of emergency. The allocated funds shall supplement funding from insurance or any other local, state, or federal government disaster assistance.
- (b) For purposes of this section, and notwithstanding any other section of this chapter, school districts and county offices of education determined by the board to be impacted by a natural disaster as described in subdivision (a) are deemed to meet the requirements set forth in Section 17075.10.
- (c) Notwithstanding any other law, a school district or county office of education that receives assistance under this section shall be entitled to retain savings from a project and use those savings for other high-priority capital outlay purposes consistent with the requirements of subdivision (c) of Section 17070.63.
- (d) (1) A grant provided pursuant to this section shall not affect the applicant's eligibility for any other program under this chapter.
- (2) Notwithstanding paragraph (1), a portable classroom purchased pursuant to subdivision (a) shall be included in the determination of eligibility for new construction funding pursuant to Section 17071.75.
- (e) The board may provide any other assistance to a school district or county office of education determined by the board to be impacted by a natural disaster as described in subdivision (a).

*(Added by Stats. 2024, Ch. 81, Sec. 19. (AB 247) Effective July 3, 2024. Operative November 6, 2024, pursuant to Sec. 30 of Ch. 81.)*

**Other Statutory References****Government Code (GC) 8558 – General Definitions**

Three conditions or degrees of emergency are established by this chapter:

- (a) "State of war emergency"...
- (b) "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, electromagnetic pulse attack, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a

**Other Statutory References (cont.)**

“state of war emergency,” which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

(c) (1) “Local emergency” means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, deenergization event, electromagnetic pulse attack, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage or deenergization event that requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

...

**GC 8625 – State of Emergency**

The Governor is hereby empowered to proclaim a state of emergency in an area affected or likely to be affected thereby when:

- (a) He finds that circumstances described in subdivision (b) of Section 8558 exist; and either
- (b) He is requested to do so (1) in the case of a city by the mayor or chief executive, (2) in the case of a county by the chairman of the board of supervisors or the county administrative officer; or
- (c) He finds that local authority is inadequate to cope with the emergency.

**EC 17070.35 – General Provisions**

Link: [EC Section 17070.35](#)

**EC Section 17070.59 – General Provisions**

Link: [EC Section 17070.59.](#)

**Other Statutory References (cont.)****EC Section 17070.63 – General Provisions**

...

(c) Any savings achieved by the district's efficient and prudent expenditure of these funds shall be retained by the district in the county fund for expenditure by the district for other high priority capital outlay purposes.

...

**EC Section 17075.10 – Hardship Application**

- (a) (1) For health and safety projects for school facilities that are determined by the department to pose an unacceptable risk of injury to occupants in the event of a seismic event, a school district shall demonstrate both of the following to the satisfaction of the board:
- (A) That due to unusual circumstances that are beyond the control of the school district, excessive costs need to be incurred in the construction of school facilities.
- (B) That the facilities are needed to ensure the health and safety of pupils if the health and safety of pupils is at risk.
- (2) For purposes of paragraph (1), health and safety projects include projects to replace the most vulnerable school facilities that are identified as a Category 2 building, as defined in the report submitted pursuant to Section 17317.
- (b) (1) A school district is eligible for health and safety funding to replace, reconstruct, or construct new classrooms and related facilities if the school district demonstrates there is a threat to the health and safety of pupils. To determine the applicable grant amounts, the district shall prepare and submit to the department a cost-benefit analysis that compares the minimum cost to remain in the classroom or related facility and mitigate the health and safety problem with the current replacement cost.
- (2) The project qualifies for modernization funding if the minimum cost is less than 50 percent of the current replacement cost of the classroom or related facility.
- (3) The project qualifies for replacement facilities if the cost-benefit analysis prepared pursuant to paragraph (1) demonstrates that the cost to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the replacement value.
- (c) The department shall develop regulations to define eligible health and safety projects that meet the requirements of subdivisions (a) and (b) for purposes of project approval by the board.

**EC Section 17071.75 – New Construction Eligibility Determination**

Link: [EC Section 17071.75.](#)

## ATTACHMENT A7

### OFFICE OF PUBLIC SCHOOL CONSTRUCTION STAKEHOLDER MEETING February 13, 2025

#### PROPOSED REGULATORY AMENDMENTS FOR A FIVE-YEAR SCHOOL FACILITIES MASTER PLAN

##### PURPOSE

To discuss and receive stakeholder feedback regarding proposed regulatory amendments resulting from Assembly Bill (AB) 247, the Kindergarten through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety Bond Act of 2024 (Proposition 2), which was approved by a majority of California's voters on November 5, 2024, related to the submittal of a Five-Year School Facilities Master Plan (Master Plan).

##### AUTHORITY

See Attachment A7a.

##### BACKGROUND

Proposition 2 adds Education Code (EC) Section 17070.54, which requires that school districts submit a five-year school facilities Master Plan, or an updated five-year school facilities Master Plan, approved by the governing board of the school district as a condition of participating in the School Facility Program (SFP) on or after October 31, 2024.

In summary, Proposition 2 requires the following:

- School districts to include specified minimum elements as part of the required five-year school facilities Master Plan, including an inventory of existing facilities, sites, and property.
- The Office of Public School Construction (OPSC) to develop guidelines, in consultation with the California Department of Education (CDE), that school districts may use to guide the development of the school facilities Master Plan.
- OPSC to develop guidelines or standards, in consultation with CDE, that school districts must use to develop and submit the inventory of existing facilities, sites, and property, which must include specified elements.
- The State Controller's Office (SCO) to include instructions in the K-12 audit guide to verify that all required components are reflected in participating school districts' school facilities Master Plans.
- School districts to update their school facilities Master Plans to reflect any changes in enrollment, capacity, or other areas, as appropriate for purposes of participating in the SFP.

Before and after the passage of Proposition 2, OPSC continued to accept SFP applications on a flow basis. To acknowledge the statutory requirements for the

## BACKGROUND (cont.)

Master Plan and to allow continued acceptance of applications, the State Allocation Board (Board) adopted the timelines and policies listed below on December 3, 2024. This policy is intended to ensure that program applicants are aware of their future obligation to comply with the new statute. Therefore, pending the effective date of the program regulations for the Master Plan, applications submitted to OPSC on or after October 31, 2024 must conform to the following:

- All districts must submit a governing board resolution acknowledging the submittal timeline requirements for the type of application submitted, and acknowledging that the project may be rescinded for failure to submit with the required components.
- Facility Hardship and Seismic Mitigation Program projects must submit the Master Plan with the substantial progress certification for construction of the project or the 100 percent complete *Expenditure Report* (Form SAB 50-06), whichever occurs first following the approval of the regulations.
- New Construction and Modernization applications received October 31, 2024 through 12 months following the Office of Administrative Law (OAL) approval of regulations must submit the Master Plan at time of application processing.
- New Construction and Modernization applications received more than 12 months following OAL approval of regulations must submit the Master Plan with the application.

A sample resolution is available on the OPSC website under Resources/School Facility Master Plans and is linked here: [School Facility Master Plans](#).

## STAFF ANALYSIS/DISCUSSION

This report provides an overview of the new and amended statutory requirements regarding the SFP Master Plan submittal requirements codified in EC Section 17070.54. The report is divided into Parts I and II. Part I summarizes the new SFP Master Plan requirements. Part II provides OPSC staff's initial interpretation of each subdivision and contextualizes the new requirements with current program requirements. Future stakeholder meetings will be held to discuss the guidelines for school districts to use in the development of the Master Plan.

### **Part I. Summary of EC Section 17070.54 (a) through (f)**

Subdivision (a) states that as a condition of participation in the SFP, a school district must submit a Master Plan, or updated Master Plan, that has been approved by the governing board of the school district before submittal to OPSC.

Subdivision (b) states that the Master Plan “shall include information on the school district’s eligibility for state bond funding” under the SFP.

STAFF ANALYSIS/DISCUSSION (cont.)

Subdivision (c) lists the information that must be included in the Master Plan, as follows:

- (1) An inventory of facilities, sites and property described in subdivision (d).
- (2) Existing classroom capacity pursuant to Sections 17071.10<sup>1</sup> and 17071.25<sup>2</sup>.
- (3) Projected enrollment growth over the next five years, accounting for growth pursuant to Sections 17071.75<sup>3</sup> and 17071.76<sup>4</sup>.
- (4) A capital planning budget outlining the district's projects.
- (5) Fund sources that will be used to support the acquisition of the applicable school site, New Construction project, Modernization project, and lead testing and remediation projects.
- (6) Verification of the district's current assessed value from the appropriate local government entity that collects and maintains this information,
- (7) The district's certified deferred maintenance plan pursuant to Section 17070.75<sup>5</sup>.
- (8) A narrative describing how the school facilities Master Plan is consistent with the goals, actions, and services identified in the district's local control and accountability plan for the first state priority, as described in paragraph (1) of subdivision (d) of Section 52060<sup>6</sup>, as it relates to school facilities.

Subdivision (d) directs OPSC to work with CDE to develop the Master Plan guidelines, including guidelines or standards for school site inventories that include the following:

- For each building on the site currently used for instructional purposes, the year it was constructed, the building square footage and the year it was last modernized.
- The pupil capacity of the school.
- The age and number of portable buildings.
- Whether the school has a cafeteria or multipurpose room, a library, and/or a gymnasium.

Subdivision (e) states that the State "Controller shall include the instructions necessary to verify that all of the required components of this section are reflected in a participating school district's school facilities Master Plan in the audit guide

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<sup>1</sup> EC Section 17071.10 requires districts to report Existing School Building Capacity for purposes of the New Construction program and was amended by Proposition 2. (*Existing School Building Capacity* (Form SAB 50-02))

<sup>2</sup> EC Section 17071.25 requires districts to report the grade level of the school buildings reported in 17071.10 and establishes classroom loading standards for the SFP. (Form SAB 50-02)

<sup>3</sup> EC Section 17071.75 provides the methodology for the New Construction Eligibility Determination (i.e. the Cohort Method) and was amended by Proposition 2. (*Enrollment Certification Projection* (Form SAB 50-01))

<sup>4</sup> EC Section 17071.76 provides the computation for high school attendance areas.

<sup>5</sup> EC Section 17070.75 requires districts to maintain school facilities funded by the SFP by establishing a routine restricted maintenance account.

<sup>6</sup> See Authority – Attachment A6a.



## STAFF ANALYSIS/DISCUSSION (cont.)

required by Section 14502.1<sup>7</sup>, as part of the audit procedures required pursuant to Section 41024<sup>8</sup>.”

Subdivision (f) requires the district to update the Master Plan to reflect changes in enrollment, capacity, or other areas as appropriate.

### **Part II. OPSC Interpretation and Comments**

OPSC is seeking stakeholder input for consideration to develop program regulations for the implementation and administration of these new requirements for the five-year Master Plan requirement. OPSC acknowledges that many districts may already have developed their own Master Plan documents that may conform to some elements listed in Proposition 2. Where appropriate, districts may be able to use elements common to both.

### **Subdivision (a) of EC Section 17070.54**

To participate in the SFP on or after October 31, 2024, a district must submit a Master Plan, *or updated plan*, that conforms to the EC, which has been approved by the district’s governing board. The Master Plan must be valid for five years. However, the parameters of the five-year period must be established. For example, at time of submittal, a district would theoretically have spent a number of months gathering the necessary information and developing the plan for presentation to its local governing board. The earliest/latest point in time that the information was gathered influences the relevance of the data. Staff is seeking stakeholder feedback on the timing of the five-year period. As noted in the Background section above, the Board took action on December 3, 2024 regarding timelines for submittal of the Master Plan to allow districts to continue submitting applications to OPSC while the implementation process proceeds. Stakeholders can also provide feedback on the adopted timelines for submittal of the Master Plan.

### *Considerations*

1. What duration of the five-year plan should remain to be acceptable?
2. Is remaining duration based on application received date, OPSC processing date, or Board funding date?
3. When must updated plans be submitted?
4. For school districts with Master Plans with a duration longer than five years, such as a 10-year Master Plan that is five years old already, should a recently dated school board resolution accompany the plan to indicate it has been recently reviewed and still accurate?
5. Is acceptance of an addendum to a school district’s existing Master Plan acceptable to add required Proposition 2 components?

OPSC invites stakeholder comment on these considerations.

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<sup>7</sup> See Authority – Attachment A6a.

<sup>8</sup> See Authority – Attachment A6a.

STAFF ANALYSIS/DISCUSSION (cont.)

**Subdivision (b) of EC Section 17070.54**

This requirement is broad and thus merits further definition. OPSC currently maintains districts' "eligibility for state bond funding" under the SFP by capturing submitted and Board-approved New Construction and Modernization program eligibility applications and adjustments in the OPSC Online database.

OPSC interprets this subdivision to mean that school districts' Master Plans should consider existing SFP eligibility, as well as potential SFP program eligibility. The statute does not appear to require school districts to submit, nor OPSC to process, eligibility applications for New Construction and eligibility applications for all school sites for Modernization.

**Subdivisions (c)(1) through (8) of EC Section 17070.54 state the school facilities Master Plan shall include, but is not limited to, all of the following information:**

**Subdivision (c)(1) of EC Section 17070.54 -- Inventory of Existing Facilities, Sites, and Property as Described in (d)**

Because subdivision (c)(1) requires an inventory of facilities described in (d), this section will address both subdivisions together. According to subdivision (d), OPSC, in consultation with CDE, shall develop guidelines or standards for school site inventories that include the following:

- For each building on the site currently used for instructional purposes, the year it was constructed, the building square footage and the year it was last modernized.
- The pupil capacity of the school.
- The age and number of portable buildings.
- Whether the school has a cafeteria or multipurpose room, a library, and/or a gymnasium.

The inventory components listed above are substantially similar to the information that is submitted along with the *Eligibility Determination* (Form SAB 50-03) when a district establishes Modernization eligibility for a site and the *Existing School Building Capacity* (Form SAB 50-02) for New Construction.

The Form SAB 50-03 requires a site map that indicates all permanent and portable classrooms and/or facilities on the site, as well as their age, square footages, and usage. This information is then summarized on the OPSC Site Inventory worksheet. The Form SAB 50-02 captures the number, type (permanent or portable) and grade level of all classrooms on a district-wide or High School Attendance Area (HSAA) filing basis. Individual site data is captured on Site Analysis Worksheets and summed on the Form SAB 50-02.

Thus, existing forms could be used to meet a number of the Master Plan requirements.

STAFF ANALYSIS/DISCUSSION (cont.)

Although subdivision (c)(1) requires districts to submit inventory information for all sites with each Master Plan submittal, OPSC is not required to process an establishment or update existing eligibility on file for every Master Plan submittal. If that is desired by a district, OPSC would need completed eligibility forms.

Therefore, OPSC is seeking stakeholder feedback on how to approach leveraging existing requirements with the new requirements of Proposition 2 for capturing inventory information at this time, with the goal of minimizing duplicative requirements. A future meeting will delve deeper into guidelines for the overall Master Plan and inventory development.

**Subdivision (c)(2) of EC Section 17070.54 -- Existing classroom capacity - EC Sections 17071.10 and 17071.25.**

The second component of the SFP Master Plan is the existing classroom capacity. As noted above, when establishing New Construction eligibility the first time, districts submit this information using the Form SAB 50-02. Historically, this one-time report was only resubmitted when a district reorganizes.

EC Section 17071.10 was amended by Proposition 2 to add subdivision (b)(2), which requires that this one-time report of existing school building capacity be updated and included in the SFP Master Plan submittal. In addition, subdivision (d) was added to EC 17071.10 and requires a district that participates in the New Construction program or Modernization program after November 5, 2024, to “submit an updated report of the school district’s existing school building capacity to the board,” notwithstanding the previous provisions regarding submittal of the “one-time report.”

Based on the new requirement in EC Section 17071.10(d), school districts submitting New Construction or Modernization applications after November 5, 2024 will need to submit an updated report of their existing school building capacity, using the Form SAB 50-02, to comply with statute.

OPSC notes that Section 14 of the existing *Application for Funding* (Form SAB 50-04) requires school districts to report all classrooms constructed or replaced with local funds outside of an SFP-funded project. This information is currently used by OPSC to adjust the district’s New Construction baseline eligibility pursuant to SFP Regulation Section 1859.51. OPSC proposes the continued use of Section 14 of the Form SAB 50-04 as the mechanism to report all classrooms constructed or replaced with local funds outside of the SFP. Any eligibility adjustments that are necessary will be noted by the school district via Section 14 of the Form SAB 50-04 and will be submitted to the Board as eligibility adjustments, as has been done in the past. These two steps together will address the requirements outlined in 17071.10(d).

Staff is requesting stakeholder feedback on this interpretation.

STAFF ANALYSIS/DISCUSSION (cont.)

**Subdivision (c)(3) of EC Section 17070.54 -- Projected enrollment growth for the applicable school district over the next five years, accounting for growth pursuant to EC Sections 17071.75 and 17071.76.**

OPSC interprets this subdivision to mean that school districts' Master Plans should address projected enrollment growth. The statute does not appear to require school districts to submit, nor OPSC to process, applications for the establishment and/or update of New Construction eligibility unless otherwise requested by school districts.

EC Section 17071.75 is the SFP New Construction eligibility determination and remains mostly unchanged from the language of this Section prior to adoption of Proposition 2. EC Section 17071.76 continues to allow districts to base their New Construction eligibility on a high school attendance area. Districts establishing New Construction eligibility and applying for New Construction funding are already required to update their projected enrollment growth in this manner using the *Enrollment Certification Projection* (Form SAB 50-01).

Proposition 2 amended subdivision (g) of EC Section 17071.75, the former three-year eligibility lock for small school districts, to increase the time period to five years. The proposed regulation change resulting from the amendment to EC Section 17071.75 (g) will be addressed in a separate item.

Staff interprets the remainder of EC Section 17070.54 (c)(3) to require districts to provide a narrative on how it will address projected enrollment growth in the district over the next five years. It is acknowledged that some districts may not be experiencing growth, and this scenario would be addressed as well. Additionally, a school district should address all potential funding sources in the Master Plan, which may include potential SFP funding. However, no SFP funding is guaranteed until the Board approves it. Therefore, a district could cite estimated eligibility anticipated to be available for their project without submitting an eligibility establishment or update officially to OPSC. Many school districts already do this in their planning.

**Subdivision (c)(4) of EC Section 17070.54 -- A capital planning budget outlining the applicable school district's projects.**

OPSC is seeking stakeholder feedback on how a district would comply with this requirement.

**Subdivision (c)(5) of EC Section 17070.54 -- The financing and other funding sources that would be used to support the acquisition of the applicable school site, New Construction project, Modernization project, and lead testing and remediation projects.**

This subdivision appears to be applicable to the specific project(s) that the Master Plan accompanies. Some districts already submit this information to OPSC when

STAFF ANALYSIS/DISCUSSION (cont.)

applying for Financial Hardship status using the Financial Hardship Fund Worksheet. One option is to use this form to fulfill the requirement.

The project list is inconclusive. It could refer only to the New Construction, Modernization and the new Lead Remediation Programs. Or it could be more broadly interpreted to include the Career Technical Education and Charter School Facilities Programs, which also fund construction of new and Modernization (aka rehabilitation) of existing facilities. These programs do not have a Financial Hardship component. They offer loans to cover the applicant's matching share.

Staff requests stakeholder feedback on this interpretation.

**Subdivision (c)(6) of EC Section 17070.54 -- Verification of the applicable school district's current assessed value from the appropriate local government entity that collects and maintains this information.**

Some districts already submit this information to OPSC when applying for Financial Hardship assistance for purposes of verifying a district's bonding capacity. Statute now requires this information to be updated and included in the Master Plan. As part of the potential adjustment to a district's matching share, this information could potentially be included on an updated version of the Form SAB 50-04. Therefore, a district could submit this information in that manner.

**Subdivision (c)(7) of EC Section 17070.54 -- The school district's deferred maintenance plan certified pursuant to Section 17070.75.**

The requirements of EC Section 17070.75 remain unchanged by Proposition 2. As a condition of funding, this section requires districts to create and contribute funds to a routine restricted maintenance account (also known as RRMA). Additionally, districts are required to have publicly approved an ongoing and major maintenance plan that outlines the use of the funds deposited, or to be deposited, as well as other requirements.

For purposes of the Master Plan, OPSC proposes that a district could submit a URL link to the locally approved maintenance plan or to the local board agenda where it was approved to demonstrate compliance.

**Subdivision (c)(8) of EC Section 17070.54 -- A narrative describing how the school facilities Master Plan is consistent with the goals, actions, and services identified in the school district's local control and accountability plan for the first state priority, as described in paragraph (1) of subdivision (d) of Section 52060, as it relates to school facilities.**

EC Section 52060(d)(1) states that the first state priority for the local control and accountability plan as it relates to school facilities is that the "...school facilities are maintained in good repair, as defined in subdivision (d) of Section 17002." Section 17002(d) provides a definition for "good repair."

**STAFF ANALYSIS/DISCUSSION** (cont.)

OPSC suggests that the district would include a narrative in the Master Plan as required by the statute. OPSC invites stakeholder feedback as to the content, its length, and breadth and/or if districts have a current document that would meet this requirement.

**Subdivision (d) of EC Section 17070.54** – Discussion above with (c)(1).

**Subdivision (e) of EC Section 17070.54**

The Controller shall include the instructions necessary to verify that all the required components of this section are reflected in a participating school district's school facilities Master Plan in the audit guide required by Section 14502.1, as part of the audit procedures required pursuant to Section 41024.

OPSC is not seeking feedback on this section at this time. Any amendments to the audit guide will be addressed during the Controller's annual audit guide update process. At that time, OPSC will present proposed changes to the audit guide and seek stakeholder feedback in that forum.

**Subdivision (f) of EC Section 17070.54**

Requires the school district update its school facilities Master Plan to reflect any changes in enrollment, capacity, or other areas, as appropriate for purposes of participating in the school facilities program.

This subdivision is discussed above as part of subdivision (a).

**Future Stakeholder Meetings**

OPSC will meet with CDE to discuss the creation of guidelines for the Master Plan requirements and welcomes comments in advance of the next stakeholder meeting for OPSC's consideration on the following:

1. Guidelines for school districts to use in the development of the Master Plan.
2. Other information that should be required to include in the Master Plan.
3. Guidelines or standards for school districts to use in development and submittal of the facilities inventory required as a component of the Master Plan.

AUTHORITY**Education Code (EC) Section 17070.54 – General Provisions**

- (a) As a condition of participating in the school facilities program, a school district shall submit to the department a five-year school facilities master plan, or updated five-year school facilities master plan, approved by the governing board of the school district.
- (b) The school facilities master plan submitted pursuant to subdivision (a) shall include information on the school district's eligibility for state bond funding pursuant to this chapter.
- (c) The school facilities master plan shall include, but is not limited to, all of the following information:
- (1) An inventory of existing facilities, sites, and property pursuant to subdivision (d).
  - (2) Existing classroom capacity, as determined pursuant to Sections 17071.10 and 17071.25.
  - (3) Projected enrollment growth for the applicable school district over the next five years, accounting for growth pursuant to Sections 17071.75 and 17071.76.
  - (4) A capital planning budget outlining the applicable school district's projects.
  - (5) The financing and other funding sources that would be used to support the acquisition of the applicable school site, new construction project, modernization project, and lead testing and remediation projects.
  - (6) Verification of the applicable school district's current assessed value from the appropriate local government entity that collects and maintains this information.
  - (7) The school district's deferred maintenance plan certified pursuant to Section 17070.75.
  - (8) A narrative describing how the school facilities master plan is consistent with the goals, actions, and services identified in the school district's local control and accountability plan for the first state priority, as described in paragraph (1) of subdivision (d) of Section 52060, as it relates to school facilities.
- (d) The department, in consultation with the State Department of Education, shall develop guidelines that school districts may use to guide the development of the school facilities master plan required as a condition of participating in the school facilities program. The department, in consultation with the State Department of Education, shall develop guidelines or standards that school districts shall use to develop and submit the inventory required pursuant to paragraph (1) of subdivision (c) for every school in the school district, including, but not limited to, all of the following:
- (1) The year each building at the school that is currently used for instructional purposes was constructed.
  - (2) The square footage of each building that is currently used for instructional purposes.
  - (3) The year, if any, each building that is currently used for instructional purposes was last modernized.
  - (4) The pupil capacity of the school.
  - (5) The age and number of portable buildings at the school.
  - (6) Whether the school has any of the following:
    - (A) A cafeteria or multipurpose room or hybrid facility.

AUTHORITY

(B) A library.

(C) A gymnasium.

(e) The Controller shall include the instructions necessary to verify that all of the required components of this section are reflected in a participating school district's school facilities master plan in the audit guide required by Section 14502.1, as part of the audit procedures required pursuant to Section 41024.

(f) The school district shall update its school facilities master plan to reflect any changes in enrollment, capacity, or other areas, as appropriate for purposes of participating in the school facilities program.

*(Added by Stats. 2024, Ch. 81, Sec. 5. (AB 247) Effective July 3, 2024. Operative November 6, 2024, pursuant to Sec. 30 of Ch. 81.)*

### **EC Citations Referenced in Section 17070.54**

**Note:** Hyperlinks to the EC citations are provided below. The sections that were amended by Chapter 81, Statutes of 2024 (AB 247) are notated by *italics*.

#### **EC Section 14502.1 – Financial and Compliance Audits**

[EC Section 14502.1.](#)

#### **EC Section 17070.75 – Routine Restricted Maintenance Requirements**

[EC Section 17070.75.](#)

#### **EC Section 17071.10 - Existing School Building Capacity**

(a) The calculation determined by this article shall be made on a one-time basis, and will be used as the baseline for eligibility determinations pursuant to this chapter.

(b) (1) Each school district that elects to participate in the new construction program pursuant to this chapter shall submit to the board a one-time report of existing school building capacity.

*(2) The information reflected in the report described in paragraph (1) shall be included in a school facilities master plan submitted pursuant to Section 17070.54.*

(c) Notwithstanding subdivisions (a) and (b), a school district newly formed, reorganized, or affected by reorganization, pursuant to an election that occurred on or after November 4, 1998, shall calculate or recalculate its existing school building capacity pursuant to regulations adopted by the board.

*(d) Notwithstanding subdivisions (a), (b), and (c), a school district that elects to participate in the new construction program or modernization program pursuant to this chapter after November 5, 2024, shall submit an updated report of the school district's existing school building capacity to the board.*

#### **EC Section 17071.25 - Existing School Building Capacity**

[EC Section 17071.25.](#)



AUTHORITY

**EC Section 17071.75 New Construction Eligibility Determination**

[EC Section 17071.75.](#)

(a)...

...

(g) For a school district with an enrollment of 2,500 or fewer, an adjustment in enrollment projections shall not result in a loss of ongoing eligibility to that school district for a period of ~~three~~ five years from the date of the approval of eligibility by the board.

**EC Section 17071.76 – High School Attendance Area**

[EC Section 17071.76.](#)

**EC Section 41024 – Accounting Regulations, Budget Controls and Audits**

[EC Section 41024.](#)

**EC Section 52060 – Local Control and Accountability Plans**

[EC Section 52060.](#)

**School Facility Program Regulations References**

Laws and Regulations can be accessed here: [Laws, Regulations for School Construction Projects](#)

School Facility Program Forms can be accessed here: [Forms](#)

## ATTACHMENT A8

### OFFICE OF PUBLIC SCHOOL CONSTRUCTION STAKEHOLDER MEETING February 13, 2025

#### PROPOSED AMENDMENTS TO THE SCHOOL FACILITY PROGRAM FOR THE CREATION OF A SMALL SIZE SCHOOL DISTRICT PROGRAM

##### PURPOSE

To discuss and receive stakeholder feedback resulting from Assembly Bill (AB) 247, the Kindergarten through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety Bond Act of 2024 (Proposition 2), which was approved by a majority of California’s voters on November 5, 2024. This discussion and resulting stakeholder feedback is for the creation of a new Small Size School District Program under Article 11.5 of Chapter 12.5 of the Education Code (EC), which encompasses the School Facility Program (SFP).

##### AUTHORITY

See Attachment A8a.

##### BACKGROUND

Article 11.5, comprised of EC Sections 17078.35, 17078.36, 17078.37, and 17078.38, was added to allow the State Allocation Board (Board) to provide a preliminary application process, preliminary apportionment, separate design grants, project assistance grants, and project and construction management grants to small school districts that meet the eligibility requirements and have an enrollment of 2,500 or fewer pupils. The following is a summary of the new statutes.

EC Section 17078.35 defines the following terms for the purposes of Article 11.5:

- *Final Apportionment*  
“Final apportionment” has the same meaning as “apportionment” as defined in subdivision (a) of EC Section 17070.15, which is “an allocation of funds for the purpose of eligible new construction, modernization, or hardship approved by the board [State Allocation Board] for an applicant school district.”
- *Preliminary Application*  
“Preliminary application” means an application for a preliminary apportionment.
- *Preliminary Apportionment*  
“Preliminary apportionment” means a reservation of bond authority for eligible applicants in advance of full compliance with all the application requirements otherwise required for an apportionment under the SFP.

BACKGROUND (cont.)

- *Project and Construction Management Grant*  
“Project and construction management grant” means a grant for purposes of obtaining the services from a county office of education, other local educational agency with applicable school facilities construction expertise, applicable state department, or a certified private construction consulting entity from a list established by the California Department of Education (CDE) pursuant to EC Section 17078.47(d)(2), to assist with the planning, site acquisition, preconstruction, construction, and closeout of a project.
- *Small School District*  
“Small school district” is a school district, as defined in EC Section 17070.15, with an enrollment of fewer than 2,501 pupils. “Fewer than 2,501 pupils” is equal to “2,500 or fewer pupils,” the phrasing used in this discussion.

The term “school district” is defined in EC Section 17070.15(q) to mean a school district or a county office of education.

EC Section 17078.36 states that all the rules applicable to the SFP apply to the Small School District Program except for those specified in Article 11.5. This section specifies that projects funded under Article 11.5 shall not exceed the amounts made available under Proposition 2. EC Sections 101412(a)(1)(A) and (a)(2)(A) authorize up to ten percent of the amounts allocated in Proposition 2 to New Construction and Modernization to be available to Small School District Program projects. At its January 22, 2025 meeting, the Board set aside the full ten percent of New Construction and Modernization bond authority for the Small School District Program: \$330 million for New Construction projects and \$400 million for Modernization projects.

EC Section 17078.37 states that all small school district projects must submit a preliminary application to the Board and meet all applicable requirements for applications for New Construction (pursuant to Article 3, commencing with EC Section 17071.75) or Modernization (pursuant to Article 6, commencing with EC Section 17073.10). For funding purposes only, the preliminary apportionments will be processed in a manner that is substantially identical to the preliminary apportionment requirements established in EC Section 17078.24 for the Critically Overcrowded Schools Program. This means that the bond authority for the total estimated state costs of a project will be reserved at the time of preliminary apportionment, and then the grants will be amended to reflect the actual scope of work in the approved plan set when the full funding conversion application is processed. If requested and determined to be eligible, the Board will also provide a project and construction management grant that is equal to five percent of the state share of the preliminary apportionment.

## STAFF ANALYSIS/DISCUSSION

EC Section 17078.38 requires the Board to adopt regulations on the following:

- preliminary application
- preliminary apportionment
- apportionment of design grants, project assistance grants, and project and construction management grants to qualifying financial hardship small school districts, as part of the preliminary apportionment
- substantial progress requirements on apportionments for design and site grants
- requirements for a final apportionment for the project

The Office of Public School Construction (OPSC) recognizes that there are many considerations related to the development of regulations for EC Sections 17078.35, 17078.36, 17078.37, and 17078.38. OPSC has several questions and ideas outlined below to open the conversation and receive stakeholder feedback. OPSC anticipates hosting additional stakeholder meetings to address stakeholder feedback and provide proposed regulations.

1. *What is the purpose of the Small Size School District Program and how will the preliminary apportionments from the program assist small school districts?*

The program will provide preliminary apportionments that reserve bond authority for up to four years, plus the possibility of a single one-year extension subject to Board approval, to a small school district that has a New Construction or Modernization project. A preliminary apportionment mitigates the risk that SFP bond authority will be depleted before a small school district can design the project and obtain the required approvals and documents, such as CDE plan and/or site approval and Division of the State Architect (DSA) plan approval, that are required to receive a final apportionment.

2. *Who is eligible for a preliminary apportionment under the Small Size School District Program?*

Small school districts with an enrollment of 2,500 or fewer pupils can apply for a preliminary apportionment by submitting a preliminary application to OPSC, based on Article 11.5.

3. *What is the proposed overall process for a small school district that seeks a preliminary apportionment?*

- A. A small school district will submit an *Application for Preliminary Apportionment*, along with the necessary eligibility forms for New Construction or Modernization.

STAFF ANALYSIS/DISCUSSION (cont.)

- B. The *Application for Preliminary Apportionment* will be reviewed by OPSC staff and will be sent to the Board for approval.
  - C. If approved, the small school district will receive an unfunded approval. A financial hardship small school district may participate in the priority funding process to receive the applicable preliminary apportionment funds for the project.
  - D. Concurrently, or subsequent to the preliminary apportionment, the small school district will work on the project's design and obtaining all required approvals and documents for the project's final apportionment.
    - a. Small school districts will need to submit an annual report to OPSC until the preliminary apportionment is converted into a final apportionment. Further details about the submittal of an annual report and the final apportionment requirements can be found below.
  - E. Once the project meets all SFP requirements for an adjusted grant, the school district will file an *Application for Funding* (Form SAB 50-04) for a final apportionment.
  - F. The Form SAB 50-04 for a final apportionment will be reviewed by OPSC staff and will be sent to the Board for approval.
4. *Which grants will a small school district with a project that qualifies for financial hardship be eligible for in a preliminary apportionment?*
- A small school district project that qualifies for financial hardship will be eligible for separate design grants, project assistance grants, and project and construction management grants as part of a preliminary apportionment.
5. *Which grants will a small school district with a project that does not qualify for financial hardship be eligible for in a preliminary apportionment?*
- A small school district project that does not qualify for financial hardship will be eligible for project assistance grants and project and construction management grants as part of a preliminary apportionment; however, they will not be apportioned until the final apportionment is approved. This allows the reservation of bond authority for small school district to cover these costs; however, non-financial hardship school district would use their required matching share to cover the cost initially.

STAFF ANALYSIS/DISCUSSION (cont.)

6. *What funding will be released when a successful small school district project with financial hardship is approved for a preliminary apportionment?*

When funding is released for a successful small school district eligible for financial hardship assistance, the funding associated with the separate design grants, project assistance grants, and project and construction management grants will be released to the small school district. Design funding will be released at 40 percent of the total state share for New Construction projects and 25

percent of the total state share for Modernization projects, which is consistent with current SFP Regulations.

7. *What funding will be released when a successful small school district project without financial hardship is approved for a preliminary apportionment?*

No advance funding is released for non-financial hardship school districts. School districts would use the required local match for the initial costs of the project. Because the school district received a preliminary apportionment, they can proceed knowing that bond authority for the state share has been reserved for the specific project, provided the school district submits an Approved Application by the deadline.

8. *What form document(s) will a small school district need to submit for the preliminary application process?*

Small school districts would submit an *Application for Preliminary Apportionment* based on OPSC's interpretation of EC Section 17078.37. OPSC proposes to create a new form similar to the *Application for Preliminary Apportionment* (Form SAB 50-08) that was used under the Critically Overcrowded Schools Program. OPSC will bring a sample *Application for Preliminary Apportionment* form to the next OPSC Stakeholder Meeting on this topic.

OPSC is proposing that districts submit a project narrative to assist in calculating the preliminary apportionment. A project narrative is required for Charter School Facilities Program (CSFP) preliminary apportionment applications. For the CSFP, the narrative must include a description of the proposed project including, but not limited to, number of classrooms, grade level of the pupils to be served, intended opening date of the project, the Charter School General Location, and whether the project will be permanent or portable construction.

STAFF ANALYSIS/DISCUSSION (cont.)

9. *What eligibility requirements will a small school district need to meet to be eligible to apply for a preliminary apportionment?*

A small school district will need to have qualifying eligibility under the respective New Construction or Modernization program to apply for a preliminary apportionment. A small school district will need to use either an *Enrollment Certification/Projection* (Form SAB 50-01) to update their New Construction eligibility, or an *Eligibility Determination* (Form SAB 50-03) for a Modernization application to update their site-specific eligibility, if necessary.

As part of a small school district's New Construction eligibility update, a district could also lock in their enrollment for a period of five years due to the Proposition 2 amendments to EC Section 17071.75(g).

10. *How can a small school district receive design grants as part of their preliminary apportionment?*

Design grants would only be available to small school districts that qualify for financial hardship assistance by meeting the requirements in EC Section 17075.15, based on EC Section 17078.38(b).

OPSC proposes that small school districts should be able to make a request for design grants on the preliminary application so that these design grants can be included as part of the preliminary apportionment. This would be similar to how financial hardship school districts currently request an advance design apportionment according to SFP Regulation Section 1859.81.

11. *How can a small school district receive project assistance grants as part of their preliminary apportionment?*

Project assistance grants would be available as a supplemental grant at the preliminary apportionment stage for all small school districts with an enrollment of 2,500 pupils or fewer for the prior fiscal year, based on EC Sections 17072.10(e) and 17074.10(e). The amount of the supplemental grant is adjusted annually by an amount commensurate with the percentage adjustment for the Class B Construction Cost Index (CCI) as approved by the Board each January pursuant to EC Section 17070.35.

12. *How can a small school district receive a project and construction management grant as part of their preliminary apportionment?*

The project and construction management grant is a separate supplemental apportionment for small school districts pursuant to EC Section 17078.38(b)(2). The project and construction management grant should be included as part of the preliminary application and the preliminary apportionment. The preliminary

STAFF ANALYSIS/DISCUSSION (cont.)

apportionment of a project and construction management grant is equal to five percent of the state share of the preliminary apportionment.

OPSC proposes that small school districts should be able to make a request for the project and construction management grant on the preliminary application so that the project and construction management grant can be included as part of the preliminary apportionment.

The project and construction management grant will be recalculated at the time of conversion for full funding.

*13. How will construction cost changes be accounted for at the preliminary apportionment stage?*

OPSC proposes that the preliminary apportionment mirror the CSFP and provide an inflator factor on top of the current base and supplemental grants to account for potential future changes in the CCI. At the time of conversion, the adjusted grant would be based on that year's CCI, and the project would be capped at the original preliminary apportionment (plus the inflator).

At preliminary apportionment, a project's total cost will be calculated using the *Application for Preliminary Apportionment* form, a narrative describing what the small school district plans to do in the project, and the inflator factor. At the time of conversion, the total project cost will be recalculated based on the DSA-approved plan sets, a Form SAB 50-04, and the current year's grant amounts.

If the conversion application's total project cost is higher than the preliminary apportionment, and bond authority is available, the conversion application can receive an apportionment for the full adjusted amount. If no bond authority is available, the conversion application will need to be reduced to the amount reserved for the preliminary apportionment. If the conversion total project cost is less than the preliminary apportionment, the excess authority will be returned.

*14. How will the priority funding process work for apportionments provided under the Small Size School District Program?*

All apportionments provided under the Small Size School District Program will be subject to the priority funding process. All apportionments will initially receive an unfunded approval and will need to participate in a priority funding filing round for bond sales to take place to fund the apportionment.



STAFF ANALYSIS/DISCUSSION (cont.)

*15. How will the substantial progress requirements on preliminary apportionments work?*

A Small Size School District Program project that qualifies for financial hardship assistance and receives design grants as part of their preliminary apportionment will be subject to the substantial progress requirements, similar to those that are currently in place for approved New Construction or Modernization grant applications, based on EC 17078.38(c).

A Small Size School District Program project that does not receive a design fund release following their preliminary apportionment will not be subject to the submittal of substantial progress reports for the timeframe of up to five years after the preliminary apportionment received an approval.

To support successful project conversion applications, OPSC proposes that small school districts submit an annual report to our office until the preliminary apportionment is converted into a final apportionment as detailed below. This annual report will be a narrative that will detail the progress that is being made towards designing the project and obtaining the required approvals and documents for the project's final apportionment.

Once the project's conversion application has been submitted, reviewed, approved, and has received a final apportionment, the final apportionment will need to meet the substantial progress requirements that are currently in place for approved New Construction or Modernization grant applications, based on EC 17078.38(c).

*16. How will the final apportionment requirements work?*

Pursuant to EC Section 17078.38(d), the final apportionment requirements for a project funded under the new Small Size School District Program will be substantially similar to the Critically Overcrowded Schools Program. Districts will have up to four years to obtain the required DSA and CDE approvals and submit an Approved Application, i.e. a complete Form SAB 50-04 to apply for a final apportionment. Small school districts may request a single one-year extension from the Board.

*17. How soon can a small school district apply for a preliminary apportionment under the Small Size School District Program?*

A small school district can apply for a preliminary apportionment under the Small Size School District Program as soon as OPSC develops the *Application for Preliminary Apportionment* form and regulations, and the form and regulations have been approved by the Board and the Office of Administrative

STAFF ANALYSIS/DISCUSSION (cont.)

Law. The new forms and regulations will become effective as of the effective date that is determined by the Office of Administrative Law.

AUTHORITY**Education Code (EC) 17070.35 – General Provisions**

(a) 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. However, the board shall have no authority to set the level of the fees of any architect, structural engineer, or other design professional on any project. The initial regulations adopted pursuant to this chapter shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this chapter shall be adopted by November 4, 1998. If the initial regulations are not adopted by that date, the board shall report to the Legislature by that date, explaining the reasons for the delay.

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

(3) Determine the eligibility of school districts to receive apportionments under this chapter.

(4) Apportion funds to eligible school districts under this chapter.

(b) The board shall review and amend its regulations as necessary to adjust its administration of this chapter to conform with the act that amended this section to add this subdivision. Regulations adopted pursuant to this subdivision shall be adopted by November 5, 2002, and shall be adopted as emergency regulations in accordance with 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). The adoption of any emergency regulation pursuant to this subdivision filed with the Office of Administrative Law shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulation adopted pursuant to this section shall remain in effect for no more than 365 days unless the board has complied with Sections 11346.2 to 11348, inclusive, of the Government Code.

**EC Section 17078.35 – Assistance to Small School Districts**

For purposes of this article, the following definitions apply:

(a) “Final apportionment” has the same meaning as “apportionment” as defined in subdivision (a) of Section 17070.15.

AUTHORITY (cont.)

- (b) "Preliminary application" means an application for a preliminary apportionment pursuant to this article.
- (c) "Preliminary apportionment" means a reservation of bond authority for eligible applicants under this article in advance of full compliance with all of the application requirements otherwise required for an apportionment pursuant to this chapter.
- (d) "Project and construction management grant" means a grant for purposes of obtaining the services from a county office of education, other local educational agency with applicable school facilities construction expertise, applicable state department, or a certified private construction consulting entity from the list maintained pursuant to paragraph (2) of subdivision (d) of Section 17078.47, to assist with the planning, site acquisition, preconstruction, construction, and closeout of a project.
- (e) "Small school district" is a school district, as defined in Section 17070.15, with an enrollment of fewer than 2,501 pupils.

*(Added by Stats. 2024, Ch. 81, Sec. 23. (AB 247) Effective July 3, 2024. Operative November 6, 2024, pursuant to Sec. 30 of Ch. 81.)*

**EC Section 17078.36 – Assistance to Small School Districts**

- (a) Unless this article expressly provides otherwise, the provisions contained in the other articles of this chapter shall apply with equal force to a project funded under this article. This article shall control over the provisions of this chapter contained in other articles only to the extent that this article expressly conflicts with those provisions.
- (b) This article shall apply only to a small school district that is otherwise eligible under this chapter for a project that meets both of the following:
  - (1) The project meets the criteria set forth in subdivision (a) of Section 17078.37.
  - (2) The project is to be funded from proceeds of state bonds approved by the voters at the November 5, 2024, statewide general election that shall not exceed the amounts made available pursuant to paragraphs (1) and (2) of subdivision (a) of Section 101412.

*(Added by Stats. 2024, Ch. 81, Sec. 23. (AB 247) Effective July 3, 2024. Operative November 6, 2024, pursuant to Sec. 30 of Ch. 81.)*

**EC Section 17078.37 – Assistance to Small School Districts**

Notwithstanding subdivision (a) of Section 17072.30 and subdivision (a) of Section 17074.16, as applicable:

AUTHORITY (cont.)

(a) Applicants for funding pursuant to this article shall do both of the following:

(1) Submit preliminary applications to the board.

(2) Meet the eligibility requirements described in Article 3 (commencing with Section 17071.75) and Article 6 (commencing with Section 17073.10), as applicable.

(b) The board shall do both of the following:

(1) Accept a preliminary application from, and make a preliminary apportionment to, a small school district for new construction grants pursuant to Article 4 (commencing with Section 17072.10) or modernization grants pursuant to Article 7 (commencing with Section 17074.10) in a manner substantially identical to the preliminary apportionment requirements established in Section 17078.24, except that the eligibility of the applicant shall be based on the criteria established in paragraph (2) of subdivision (a).

(2) If requested, provide a preliminary apportionment of a project and construction management grant equal to 5 percent of the state share of the preliminary apportionment.

*(Added by Stats. 2024, Ch. 81, Sec. 23. (AB 247) Effective July 3, 2024. Operative November 6, 2024, pursuant to Sec. 30 of Ch. 81.)*

**EC Section 17078.38 – Assistance to Small School Districts**

The board shall adopt regulations setting forth all of the following:

(a) The preliminary application and preliminary apportionment.

(b) The apportionment of design grants, project assistance grants pursuant to subdivision (e) of Section 17072.10 and subdivision (e) of Section 17074.10, as applicable, and project and construction management grants to applicants that qualify for financial hardship assistance pursuant to Section 17075.15, as part of the preliminary apportionment.

(c) The existence of substantial progress requirements on apportionments for design and site grants identical to the requirements set forth in Section 1859.105 of Title 2 of the California Code of Regulations.

(d) The requirements for a final apportionment for the project in a manner substantially identical to the requirements of subdivisions (a) and (b) of Section 17078.25.

*(Added by Stats. 2024, Ch. 81, Sec. 23. (AB 247) Effective July 3, 2024. Operative November 6, 2024, pursuant to Sec. 30 of Ch. 81.)*

Links to Referenced Authority Sections

**EC Section 17070.15 – General Provisions**

Link: [EC Section 17070.15.](#)

**EC Section 17070.35 – General Provisions**

Link: [EC Section 17070.35.](#)

**EC Section 17071.75 – New Construction Eligibility Determination**

Link : [EC Section 17071.75.](#)

**EC Section 17072.10 – New Construction Grant Eligibility Determination**

Link : [EC Section 17072.10.](#)

**EC Section 17072.30 – New Construction Funding Process**

Link: [EC Section 17072.30.](#)

**EC Section 17073.10 – Modernization Eligibility Determination**

Link: [EC Section 17073.10.](#)

**EC Section 17074.10 – Modernization Apportionment**

Link: [EC Section 17074.10.](#)

**EC Section 17074.16 – Modernization Apportionment**

Link: [EC Section 17074.16.](#)

**EC Section 17075.15 – Hardship Application**

Link: [EC Section 17075.15.](#)

**EC Section 17078.10 – Critically Overcrowded School Facilities**

Link: [EC Section 17078.10.](#)

**EC Section 17078.22 – Critically Overcrowded School Facilities**

Link: [EC Section 17078.22.](#)

**EC Section 17078.24 – Critically Overcrowded School Facilities**

Link: [EC Section 17078.24.](#)

**EC Section 17078.25 – Critically Overcrowded School Facilities**

Link: [EC Section 17078.25.](#)

Links to Referenced Authority Sections (cont.)

**EC Section 17078.47 – State Augmentation of Federal Supporting America’s School Infrastructure Grant Program for Priority School Districts**

Link: [EC Section 17078.47.](#)

**EC Section 101412 – Kindergarten Through Grade 12 School Facilities Program Provisions**

Link: [EC Section 101412.](#)

**Section 1859.105 of Title 2 of the California Code of Regulations**

Link: [Section 1859.105 of Title 2 of the California Code of Regulations](#)

**Section 1859.140 of Title 2 of the California Code of Regulations**

Link [Section 1859.140 of Title 2 of the California Code of Regulations](#)

## ATTACHMENT A9

### OFFICE OF PUBLIC SCHOOL CONSTRUCTION STAKEHOLDER MEETING February 13, 2025

#### REVISIONS TO THE SUPPLEMENTAL GRANT FOR ENERGY EFFICIENCY

##### PURPOSE

To discuss and receive stakeholder feedback on implementing updates to the supplemental grant for energy efficiency and to administer statutory amendments to the School Facility Program (SFP) resulting from California's voter-approved Assembly Bill (AB) 247, the Kindergarten through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety, and Safety Bond Act of 2024 (Proposition 2).

##### AUTHORITY

See Attachment A9a.

##### BACKGROUND

A supplemental grant for energy efficiency has existed in the SFP since 2002, but the funds allocated for the grant were exhausted many years ago. Staff has reviewed how statutory changes enacted by Proposition 2 will affect existing regulations and processing guidelines.

Proposition 2 amended provisions in Education Code (EC) Section 17077.35 for the supplemental grant for energy efficiency, which covers the increased costs associated with including energy efficiency components in SFP New Construction and Modernization projects. In subdivision (a), Proposition 2 amended the "ultimate goal of school facility self-sufficiency" to add pollution reduction.

EC Section 17077.35(b) was amended by Proposition 2 to replace all the provisions that detail the energy efficiency components that may be included in a project. Instead, Proposition 2 provides that:

*"Energy efficiency components that enable school facilities to advance state energy goals and adapt to higher average temperatures that pose a threat to the health and safety of pupils and staff are eligible for inclusion into a project pursuant to this section, including, but not limited to, all of the following:*

- (1) Electric heating, ventilation, and air condition (HVAC), school kitchen equipment, and water heating.*
- (2) The use of ground source temperatures for heating and cooling.*
- (3) Energy and water conservation, load reduction, peak-load shifting, and building energy efficiency measures.*
- (4) Solar water heating technologies.*
- (5) Onsite renewable energy and storage, such as photovoltaics and battery storage, microgrid controllers, and service panel upgrades.*



BACKGROUND (cont.)

- (6) *Shade structures and the conversion of ground and rooftop surfaces to materials with low absorption and reflection of heat, which may include, but are not limited to, natural surfaces.”*

EC 17077.35(c) requires that, to be eligible for the grant, the building in the project shall exceed the nonresidential building energy-efficiency standards in Part 6 of Title 24 of the California Code of Regulations, and the district must certify that the cost for the project exceeds the amount of SFP funding (state and district shares) already being provided. Proposition 2 deleted requirements to:

- exceed Title 24 energy efficiency requirements by 15 percent or more for new construction, or 10 percent or more for modernization, and
- provide sufficient energy savings to return the cost of the initial investment in the project within seven years.

EC Section 17077.35 (d) requires that the supplemental grant amount shall not exceed five percent of the state share of grants authorized by EC Sections 17072.10 (new construction base grant) and 17074.10 (modernization base grant). Proposition 2 clarifies that the supplemental grant is for the costs of design, purchase and installation (previously “design and other plan components”).

STAFF ANALYSIS/DISCUSSION

This item is intended to provide the Office of Public School Construction’s (OPSC) initial thoughts and interpretation of the amended statute and raise questions on potential processing details to prompt and receive feedback from stakeholders. Any questions will be addressed in a future stakeholder meeting, and OPSC will present proposed regulations in a future stakeholder meeting.

*Prior Processing of the Energy Efficiency Grant*

When the original energy efficiency grant was processed by OPSC, certain requirements needed to be met for a district to be eligible. One of the main requirements indicated that a project must exceed the nonresidential building energy-efficiency standards in an amount not less than 15 percent for new construction projects and in an amount not less than 10 percent for modernization projects. The amount exceeding the threshold would then be assessed on a sliding scale to determine how much, up to five percent, of the total base grant would be provided as the energy efficiency grant. In addition, for new construction projects, for all projects that exceeded 25 percent of the standards, the grant amount was capped at five percent of the total base grant. Similarly, for modernization projects, for all projects that exceed 14 percent of the standards, the grant amount was also capped at five percent of the total base grant. To determine the amount a project exceeded the energy-efficiency standards, the Division of State Architect (DSA) provided OPSC with an Energy Compliance Review Verification Form that indicated

## STAFF ANALYSIS/DISCUSSION (cont.)

the percentage based on a weighted average of all the buildings in a project that exceeded the standards.

SFP Regulation Section 1859.71.3(b)(1) states: “The New Construction Grant multiplied by one percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is 15 percent, or by one percent plus 0.04 percent for each 0.1 percent increment of increased energy efficiency up to 25 percent. The multiplier may not exceed five percent.” Therefore, all new construction projects that were determined to exceed energy efficiency standards by more than 25 percent received the full five percent grant amount.

The energy efficiency grant for modernization projects was determined per SFP Regulation 1859.78.5(b)(1), which states the following: “The Modernization Grant multiplied by one percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is 10 percent, or by one percent plus 0.1 percent for each 0.1 percent increment of increased energy efficiency up to 14 percent. The multiplier may not exceed five percent.” Therefore, any modernization projects that exceeded energy efficiency standards by more than 14 percent received the full five percent grant amount.

To determine the funding a district was eligible for, the grant percentage was multiplied by the total base grant amount. The total base grant was derived using the per pupil grant from the current Construction Cost Index (CCI). The tables below show a few examples of how this calculation was applied for processing the energy efficiency grant using the per pupil grant based on the 2004 CCI.

### **New Construction**

<b>% Energy Efficiency</b>	<b>Grant Percentage</b>	<b>Total Base Grant for 5 K-6 pupils (2004) Per Pupil Grant \$6,040</b>	<b>Total Energy Efficiency Grant Amount</b>
26	5%	\$30,200	\$1,510.00

### **Modernization**

<b>% Energy Efficiency</b>	<b>Grant Percentage</b>	<b>Total Base Grant for 5 K-6 pupils (2004) Per Pupil Grant \$2,609</b>	<b>Total Energy Efficiency Grant Amount</b>
15	5%	\$13,045	\$652.25

## STAFF ANALYSIS/DISCUSSION (cont.)

### *Eligible Project Scope*

As the language in the amended EC differs somewhat from the original language, staff is proposing options for stakeholder discussion on the potential scenarios for project approval. EC Section 17077.35(c) requires that “the building proposed for the project... shall exceed the nonresidential building energy efficiency standards specified in Part 6 ... of Title 24.” OPSC interprets this section to mean that both new construction and modernization projects should include in the scope of work at least one building with renewable energy measures that exceed the nonresidential building energy standards specified in Title 24. If the scope of the work does not include at least one building with any of the required components, then the project does not meet the conditions as stated in the amended EC and therefore does not qualify to receive the grant. The topic of reimbursements will be mentioned later in this item.

### *Requesting the Supplemental Grant*

Staff presents the following two potential options for eligibility determination and calculation of the supplement grant. Staff is open to other options as well.

#### Option 1

This option would maintain the existing energy efficiency grant sliding scale calculation. To qualify, new construction projects would still need to exceed Title 24 energy efficiency requirements by at least 15 percent, and modernization projects would still need to exceed Title 24 by at least 10 percent. Projects would receive a grant ranging from one to five percent of the total base grant, depending on how much they go beyond the 15-percent and 10-percent thresholds.

#### Considerations:

- This method was used in determining the prior energy efficiency grant.
- The grant will be distributed per the number of components added to support advancing the state’s energy goals.
- This appears to be in alignment and supported by the wording in EC Section 17077.35(a) regarding the language, “an increase not to exceed 5 percent” to imply that the grant is not intended to be “all or nothing.”
- It may require additional steps such as a change order to obtain approval from DSA, possibly resulting in processing delays.

#### New Submittals

When the district submits a new SFP application that includes DSA plans with energy-efficiency components in the scope of work, the following would need to be verified:

STAFF ANALYSIS/DISCUSSION (cont.)

- On the *Application for Funding* (Form SAB 50-04), the District must check the box for Energy Efficiency in Section 5 for new construction projects or the box in Section 6 for modernization projects and list the percentage that matches with what is listed on DSA Tracker.
- The DSA Project Tracker should show that the approved project exceeds the nonresidential building energy-efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations. The percentage it exceeds must be listed next to the type of program (e.g. New Construction or Modernization), as well as the pertinent box for the type of program is listed.

**Energy Efficiency**

☒ **The Plan meet Title 24 Energy Requirements**

☐ **Project's new construction exceeds Title 24 by**      0%

☒ **Project's modernization exceeds Title 24 by**      21.9%

*Example: DSA Tracker showing the percentage it exceeds by 21.9% for a Modernization Project*

- The pertinent box for the Type of Program must be for same type of SFP funding that the District is requesting.

Option 2

For all projects that qualify, the grant amount will be equal to five percent of the total base grant.

Considerations:

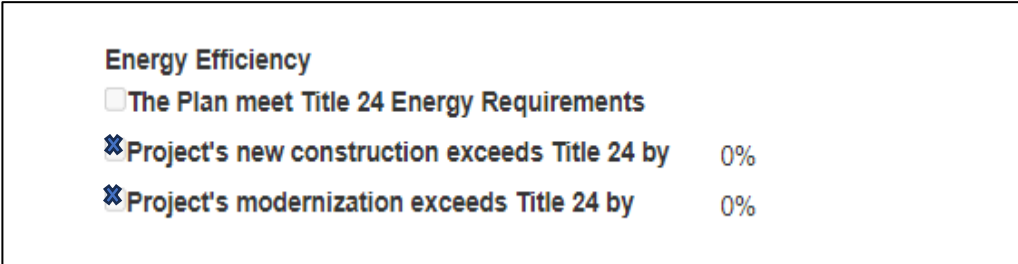
- It will be a simplified approach that would require minimal DSA review and approval.
- Provides maximum funding for projects for the increased costs for adding any energy components that exceeds Title 24 in an effort to continually move towards the maximizing of green efforts.
- Some projects may not exceed the maximum potential for green energy goals while receiving the maximum possible grant.

STAFF ANALYSIS/DISCUSSION (cont.)

New Submittals

When a district submits a new SFP application that includes DSA plans that have energy efficiency components within the scope of work, the following must be verified to qualify for the grant:

- On the Form SAB 50-04, the District must check the box for Energy Efficiency in Section 5 for new construction projects or the box in Section 6 for modernization projects.
- The DSA Project Tracker should show that the approved project exceeds the nonresidential building energy-efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations. No percentage is indicated but the pertinent box for the type of program (e.g. New Construction or Modernization) is confirmed and checked by DSA. If the DSA Project Tracker does not show the percentage the project is exceeding, then the district will need to submit acceptable documentation such as the DSA Energy Compliance Review Verification Form.



The screenshot shows a section titled "Energy Efficiency". Below the title, there are three items: an unchecked checkbox for "The Plan meet Title 24 Energy Requirements", and two checked checkboxes (marked with an 'X') for "Project's new construction exceeds Title 24 by 0%" and "Project's modernization exceeds Title 24 by 0%".

*Example: DSA Tracker showing the box checked for New Construction*

- The pertinent box for the Type of Program must be for same type of funding that the District is requesting.

Under this proposal, applications that are eligible to receive the energy efficiency grant may receive an amount that equals a flat rate of five percent of the new construction or modernization base grant.

This option will provide a more simplified calculation where the District will receive the full supplemental grant of five percent if there were energy efficiency components added within the scope of the project. Rather than with a sliding scale based on the percentage the project is exceeding Title 24 standards, this option will give the same percentage to all projects that have been shown to be approaching the ultimate goal of reaching energy self-sufficiency.

## STAFF ANALYSIS/DISCUSSION (cont.)

### *Eligible Applications that are In-house*

#### Existing In-house Submittals received before October 31, 2024

In keeping with current SFP Regulations, districts that have already submitted a Form SAB 50-04 before October 31, 2024, that meets the requirements of the supplemental grant, may request the grant at the time OPSC processes the application. The district may submit additional plans if they were not previously included in the original scope of work, however the following will apply:

- The district will need to withdraw the current application and resubmit, thus receiving a new date in line to be processed later, provided that there is available authority at that time.
- As the project will be treated as a new submittal, the updated Form SAB 50-04 must indicate the request for energy efficiency and the District must submit documentation to support the request.
- DSA plans to be added to a new SFP application cannot be part of the scope of the work for any previously state funded project.

#### Existing In-house Submittals received after October 31, 2024

Districts that have already submitted a Form SAB 50-04 received on or after October 31, 2024, that meets the requirements of the supplemental grant and the submitted plans include energy measures that exceed Title 24, may request the grant at the time OPSC processes the application, provided the following will apply:

- The District will, if the initial Form SAB 50-04 did not include the request, submit an updated Form SAB 50-04 requesting the energy efficiency grant.
- The District must submit acceptable documentation such as confirmation from DSA to support the request for the energy efficiency grant. Alternatively, the DSA project tracker will be updated during the processing to confirm that the project qualifies for the energy efficiency grant.

#### Reimbursement

Districts may be eligible for reimbursement for this supplemental grant for projects that include an eligible scope of work, provided the district executed construction contracts on or after July 3, 2024, in accordance with the effective date of AB 247.

## STAFF ANALYSIS/DISCUSSION (cont.)

### *Application for Funding (Form SAB 50-04)*

Staff suggests that the energy efficiency grant can be requested by selecting the existing boxes on the Form SAB 50-04 and certified by the Architect of Record. Below are screenshots showing both the New Construction and Modernization Sections on the Form SAB 50-04 where the district can check the box for the energy efficiency request.

#### **New Construction Section 5**

**5. New Construction Additional Grant Request—New Construction Only**

a. Therapy: Toilets (sq. ft.)   
Other (sq. ft.)

b. Multilevel Construction (CRS):

c. ☐ Project Assistance

d. Site Acquisition:

(1) 50 percent Actual Cost: \$

(2) 50 percent Appraised Value: \$

(3) 50 percent Relocation Cost: \$

(4) 2 percent (min. \$25,000): \$

(5) 50 percent DTSC Fee: \$

e. 50 percent hazardous waste removal: \$

☐ Response Action (RA)

f. Site Development

☐ 50 percent Service-Site: \$

☐ 50 percent Off-Site: \$

☐ 50 percent Utilities: \$

☐ General Site

g. ☒ Energy Efficiency:  %

h. ☐ Automatic Fire Detection/Alarm System

☐ Automatic Sprinkler System

i. ☐ High Performance Incentive (Indicate Points):

#### **Modernization Section 6**

**6. Modernization Additional Grant Request**

a. ☐ Project Assistance

b. ☒ Energy Efficiency:  %

c. ☐ Site Development—60 percent utilities: \$

d. ☐ Automatic Fire Detection/Alarm System

e. ☐ High Performance Incentive (Indicate Points):

*Examples of Energy Efficiency Grant Request on the Form SAB 50-04 for both New Construction and Modernization applications.*

AUTHORITY  
All Applications

**Education Code (EC) 17070.35 – General Provisions**

(a) 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. However, the board shall have no authority to set the level of the fees of any architect, structural engineer, or other design professional on any project. The initial regulations adopted pursuant to this chapter shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this chapter shall be adopted by November 4, 1998. If the initial regulations are not adopted by that date, the board shall report to the Legislature by that date, explaining the reasons for the delay.

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

(3) Determine the eligibility of school districts to receive apportionments under this chapter.

(4) Apportion funds to eligible school districts under this chapter.

(b) The board shall review and amend its regulations as necessary to adjust its administration of this chapter to conform with the act that amended this section to add this subdivision. Regulations adopted pursuant to this subdivision shall be adopted by November 5, 2002, and shall be adopted as emergency regulations in accordance with 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). The adoption of any emergency regulation pursuant to this subdivision filed with the Office of Administrative Law shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulation adopted pursuant to this section shall remain in effect for no more than 365 days unless the board has complied with Sections 11346.2 to 11348, inclusive, of the Government Code.



AUTHORITY  
All Applications (cont.)

**EC Section 17072.10 – New Construction Grant Eligibility Determination**

(a) The board shall determine the maximum total new construction grant eligibility of an applicant 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.

(b) The board annually shall adjust the per-unhoused-pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B construction as determined by the board.

(c) Regulations adopted by the board prior to July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026, as amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15, shall continue in effect. An increase made to the per-unhoused-pupil grant amounts set forth in subdivision (a), on or after January 1, 2010, including, but not limited to, those made pursuant to Section 17072.11 on or after January 1, 2010, also shall be made to the per-unhoused-pupil who is a qualifying individual with exceptional needs grant amounts established pursuant to this subdivision. If an increase to the per-unhoused-pupil grant amounts differentiates among the pupil groups based on whether the pupils are elementary, middle, or high school pupils, the Office of Public School Construction shall recommend to the board, within 60 days of that increase, a methodology to adjust the per-unhoused-pupil grant amount for pupils who are qualifying individuals with exceptional needs so that those adjustments appropriately reflect the increases.

(d) The board may establish a single supplemental per-unhoused-pupil grant in addition to the amounts specified in subdivision (a) based on the statewide average marginal difference in costs in instances where a project requires multilevel school facilities due to limited acreage. The application of a school district shall demonstrate that a practical alternative site is not available.

(e) For a school district having an enrollment of 2,500 or less for the prior fiscal year, the board may approve a supplemental apportionment of up to seven thousand five hundred dollars (\$7,500) for any new construction project assistance. The amount of the supplemental apportionment authorized pursuant to this subdivision shall be adjusted in 2008 and every year thereafter by an amount equal to the percentage adjustment for class B construction.

AUTHORITY  
All Applications (cont.)

**EC Section 17074.10 – Modernization Apportionment**

(a) The board shall determine the total funding eligibility of a school district for modernization funding by multiplying the following amounts by each pupil of that grade level housed in school buildings that satisfy the requirements of Section 17073.15:

(1) Two thousand two hundred forty-six dollars (\$2,246) for each elementary pupil.

(2) Two thousand three hundred seventy-six dollars (\$2,376) for each middle school pupil.

(3) Three thousand one hundred ten dollars (\$3,110) for each high school pupil.

(b) The board shall annually adjust the factors set forth in subdivision (a) according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the board.

(c) The board may adopt regulations to be effective until July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026. The regulations shall be amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15.

(d) It is the intent of the Legislature that the amounts provided pursuant to this article for school modernization do not include funding for administrative and overhead costs.

(e) For a school district having an enrollment of 2,500 or less for the prior fiscal year, the board may approve a supplemental apportionment of up to two thousand five hundred dollars (\$2,500) for any modernization project assistance. The amount of the supplemental apportionment shall be adjusted in 2001 and every year thereafter by an amount equal to the percentage adjustment for class B construction.

(f) For a portable classroom that is eligible for a second modernization, the board shall require the school district to use the modernization funds to replace the portable classroom and to certify that the existing eligible portable classroom will be removed from any classroom use, unless the school district is able to document that modernizing the portable classroom is a better use of public resources. The capacity and eligibility of the school district shall not be adjusted for replacing a portable classroom pursuant to this subdivision and Section 17073.15.

AUTHORITYApplications Received on or after October 31, 2024**EC Section 17077.35 – Energy Efficiency**

- (a) An applicant school district may include plan design and other project components that promote school facility energy efficiency approaching the ultimate goal of school facility energy self-sufficiency and pollution reduction, and may seek a grant adjustment for the state's share of the increased costs associated with those components.
- (b) Energy efficiency components that enable school facilities to advance state energy goals and adapt to higher average temperatures that pose a threat to the health and safety of pupils and staff are eligible for inclusion into a project pursuant to this section, including, but not limited to, all of the following:
- (1) Electric heating, ventilation, and air conditioning (HVAC), school kitchen equipment, and water heating.
  - (2) The use of ground source temperatures for heating and cooling.
  - (3) Energy and water conservation, load reduction, peak-load shifting, and building energy efficiency measures.
  - (4) Solar water heating technologies.
  - (5) Onsite renewable energy and storage, such as photovoltaics and battery storage, microgrid controllers, and service panel upgrades.
  - (6) Shade structures and the conversion of ground and rooftop surfaces to materials with low absorption and reflection of heat, which may include, but are not limited to, natural surfaces.
- (c) In order to be eligible for the grant adjustment pursuant to this section, the building proposed for the project, including the energy-efficiency and renewable energy measures used pursuant to this section, shall exceed the nonresidential building energy-efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations. The applicant shall certify that the cost for the project exceeds the amount of funding otherwise available to the applicant under this chapter.
- (d) The board shall provide an applicant for a new construction or modernization project with a grant adjustment to provide an increase not to exceed 5 percent of its state grants authorized by Sections 17072.10 and 17074.10 for the state's share of costs associated with design, purchase, and installation related to school facility energy efficiency as set forth in this article.
- (e) The board may adopt regulations for purposes of this section.

*(Amended by Stats. 2024, Ch. 81, Sec. 21. (AB 247) Effective July 3, 2024. Operative November 6, 2024, pursuant to Sec. 30 of Ch. 81.)*

## ATTACHMENT A10

### OFFICE OF PUBLIC SCHOOL CONSTRUCTION STAKEHOLDER MEETING February 13, 2025

#### PROPOSED REGULATORY AMENDMENTS FOR MINIMUM ESSENTIAL FACILITIES MODERNIZATION SUPPLEMENTAL GRANT

##### PURPOSE

To discuss and receive stakeholder feedback regarding proposed regulatory amendments resulting from Assembly Bill (AB) 247, the Kindergarten through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety Bond Act of 2024 (Proposition 2), which was approved by a majority of California's voters on November 5, 2024, related to the School Facility Program (SFP) Modernization Supplemental Grant for Minimum Essential Facilities (MEF).

##### AUTHORITY

See Attachment A10a.

##### BACKGROUND

The SFP currently provides funding for MEF through the New Construction program by means of SFP Regulation Section 1859.77.3(a). It is a Use of Grants (UOG) request (not a supplemental grant) that diverts existing New Construction pupil grants from funding the construction of classrooms to instead build MEFs.

Applicants may request to use New Construction grants that exceed the capacity of a project if the project is to construct a multipurpose room (MPR), gymnasium, multipurpose/gymnasium hybrid, and/or library at an existing site that does not have an existing or adequate facility of the type being requested.

The funding for the grant is calculated on a pupil grant basis by multiplying the current California Basic Educational Data System (CBEDS) enrollment for the site, plus the Net School Building Capacity for the proposed project, by the square footage for the type of facility being requested (refer to the square footage chart from SFP Regulation Section 1859.82.1(b)(3)(b) 2. to determine the maximum pupil grant request for the application).

As the UOG request diverts New Construction pupil grants to fund the MEF, the district's New Construction eligibility baseline is adjusted by the pupil grants requested for the added classroom capacity in the project, plus the grants being diverted for the MEF portion of the project.

With the passage of Proposition 2 on November 25, 2024, a new way to provide MEF funding was added by means of a Modernization supplemental grant.

## STAFF ANALYSIS/DISCUSSION

Staff has prepared potential options to implement the statutory changes to program eligibility and funding criteria for the Modernization supplemental grant for MEF.

### **Eligibility Criteria**

This grant is a Modernization *only* supplemental grant that may be provided *in addition to* any other funding provided for the application. In order to request the grant, the district must have Modernization eligibility, a valid project, and submit an Approved Application for Modernization funding. This is not a stand-alone grant and can only be requested in addition to a complete application for funding.

### *Application Submittal Timing*

If an application has already been received by OPSC, on or after October 31, 2024, and is on the Workload List or the Applications Received Beyond Bond Authority (ARBBA) List but did not request the grant and would like to, districts may do so, provided the existing scope of work in the DSA-approved plans submitted with the original application contains the expansion or construction of an MEF eligible for this supplemental grant. If the scope of work requested in the application does not contain the expansion or construction of an MEF eligible for this supplemental grant, districts may add eligible scope of work to the application and request this supplemental grant, provided that the additional scope of work was approved by the Division of the State Architect (DSA) *prior* to the received date of the funding application. Districts that wish to add eligible scope of work that was approved by DSA *after* the received date of the funding application must withdraw their existing application and resubmit the funding application to OPSC in order to request this supplemental grant.

### *Reimbursement*

Districts may be eligible for reimbursement of projects that include an eligible scope of work specific to this supplemental grant, provided the district executed construction contracts on or after July 3, 2024, in accordance with the effective date of AB 247.

### *Determining a Minimum Essential Facility*

There are four types of eligible facilities for this grant, as identified in statute: MPR, gymnasium, library or school kitchen. In order to be eligible for this supplemental grant, the MEF must meet the requirements of the *California Code of Regulations, Title 5* (Title 5). Permanent or portable construction is allowed.

## STAFF ANALYSIS/DISCUSSION (cont.)

Districts can utilize this supplemental grant to expand an existing facility or construct a new one. In order to be eligible to expand an existing facility, the facility must be 60 percent or less than the recommended size needed to serve the enrollment of the school. Districts may be eligible to construct a new facility if the project's site is lacking one of the eligible facilities.

Hybrid facilities such as a multipurpose/gymnasium or multipurpose/gymnasium/kitchen are eligible to receive this grant. However, sites with an existing multipurpose/gymnasium hybrid are considered to have both an MPR and a gymnasium and therefore are not eligible for a new facility of this type (either MPR or gymnasium). Note that while the site may not be eligible for a new MPR or gymnasium, the district may be able to expand the existing facility if it is determined to be 60 percent or less of the recommended size needed to serve the enrollment of the site.

To maintain consistency with existing SFP Regulations, OPSC proposes that elementary schools (K-6) would not be eligible for a gymnasium and would only be eligible for an MPR. Further, an elementary school would not be eligible for a multipurpose/gymnasium hybrid, only an MPR.

### *Determining the Recommended Facility Size*

In order to determine the recommended size of the facility, OPSC proposes to utilize relevant portions of the current square footage chart (excerpts below) from the Facility Hardship Program in SFP Regulation Section 1859.82.1(b)(4)(B) 2.

Facility	Elementary School Pupils	Middle School Pupils	High School Pupils
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum 4,000 sq. ft.	5.3 sq. ft. per pupil minimum 5,000 sq. ft.	6.3 sq. ft. per pupil minimum 8,200 sq. ft.
Gymnasium (includes shower/locker area)	N/A	12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.	15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.
Library/Media Center	2.3 sq. ft. per pupil plus 600 sq. ft., minimum 960 sq. ft.	3.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.

For multipurpose/gymnasium hybrid facilities, OPSC proposes to use the square footage recommendations from SFP Regulation Section 1859.77.3(a)(7)(A)(3), which are:

- Middle Schools: 15.2 square feet per pupil with a minimum of 8,056 square feet and a maximum of 18,848 square feet.
- High Schools: 18.6 square feet per pupil with a minimum of 10,193 square feet and a maximum of 21,874 square feet.

### STAFF ANALYSIS/DISCUSSION (cont.)

This is the same method currently used to determine the recommended size of a facility for a UOG request to construct an MEF pursuant to SFP Regulation Section 1859.77.3(a). The chart currently defines the per pupil and minimum square footage amounts for an MPR (including food service), gymnasium and library. The square footage recommendations in this chart utilize space allowances from the Lease Purchase Program (LPP) as a guide.

As the existing chart has the square footage amount for a school kitchen included in the square footage total for an MPR, OPSC proposes utilizing the food service square footage amounts from the LPP Handbook to determine the square footage recommendations for a school kitchen. They are as follows:

- Elementary Schools: 2 square feet per pupil with a minimum of 400 square feet and a maximum of 1,480 square feet.
- Middle Schools: 2 square feet per pupil with a minimum of 400 square feet and a maximum of 1,880 square feet.
- High Schools: 3 square feet per pupil with a minimum of 600 square feet and a maximum of 3,975 square feet.

Conversely, since the chart does not provide the square footage for an MPR-only facility, MPR-only square footage recommendations can be determined by calculating the difference between the recommended square footage for a combined MPR and food service facility and the recommended square footage for only a school kitchen facility. As such, MPR-only recommended square footage is proposed to be as follows:

- Elementary Schools: 3.3 square feet per pupil with a minimum of 3,600 square feet.
- Middle Schools: 3.3 square feet per pupil with a minimum of 4,600 square feet.
- High Schools: 3.3 square feet per pupil with a minimum of 7,600 square feet.

OPSC reviewed Title 5 and found that while Title 5 provides concrete square footage recommendations for instructional spaces, per pupil square footage recommendations for MPR, gymnasium, library and school kitchen facilities were not included.

#### *Determining Enrollment*

OPSC will utilize the site's CBEDS enrollment at the time of application processing to determine the recommended size of the facility. The CBEDS year will be determined based on the date of the initial 90-Day Notification of Upcoming Processing. Should the 90-Day window begin before and end after October 31, Districts will have the option of utilizing either CBEDS year.

STAFF ANALYSIS/DISCUSSION (cont.)

*Supplemental Grant for Only One Project*

A site can only request and receive this supplemental grant once per site, pursuant to Education Code Section 17073.16(b) (i.e., if a district submitted an application and received the supplemental grant for the construction of a new gymnasium at a site, the district could not request the supplemental grant again on the same or any future application, regardless of whether the site's existing MEF is undersized or nonexistent).

*Schools that Span Grade Levels*

As mentioned above, elementary schools are not eligible for a gymnasium or a multipurpose/gymnasium hybrid, consistent with current SFP Regulations. However, if the site serves mixed grade levels such as a K-8, it would be eligible for a gymnasium or a multipurpose/gymnasium hybrid. In order to determine the square footage amount in the case of a mixed grade level site, OPSC proposes to use the highest grade level served to determine the square footage amounts, consistent with existing OPSC practices.

*Minimum Square Footage Built*

OPSC proposes that in order to be eligible for this supplemental grant, the project must build more than 60 percent of the recommended facility size needed to serve the school's enrollment, in order to address the need for an inadequately sized or lacking MEF.

*Demolition and Replacement Requirements for New Projects*

OPSC proposes that in applications where a site lacks an MEF, the conversion or replacement of space that is not that MEF type would be allowed only if the displaced facilities are rebuilt in the same project. For example, if a site lacks a library, the application may convert existing classrooms into a library provided those displaced classrooms are rebuilt in the same project.

*Demolition and Replacement Requirements for Expansion Projects*

OPSC proposes that the demolition of an undersized MEF and the replacement of that MEF with an MEF that is more than 60 percent of the recommended size needed to serve the school's enrollment would be considered an expansion of that MEF and considered an allowable use of this supplemental grant.

*Existing Sites Constructed Under the SFP*

If the enrollment of an existing facility that was previously constructed via a UOG request for an MEF has increased to the point that the facility is deemed to be less than 60 percent of the recommended size needed to serve the enrollment of the site, the site could receive the grant to expand the existing facility.



**STAFF ANALYSIS/DISCUSSION** (cont.)

*Affected Supplemental Grants*

The funding for this Modernization supplemental grant would not be increased by any other supplemental grants (i.e. the three percent grant for Access and Fire Life Safety would not be applied to this grant). The only supplemental grant that OPSC proposes to be increased by this supplemental grant is the Geographic Percent Factor supplemental grant (SFP Regulation Section 1859.83(a)).

**Funding Methods**

The language in Education Code (EC) Section 17073.16 is broad regarding the calculation of the grant. As such, OPSC has developed two options to present to stakeholders for consideration. Both options would be limited to funding the *lesser* of the new space being constructed or the recommended size of the space based on the site's enrollment.

Recommended Size of MEF		
Existing MEF Space (Ineligible for Funding)	New Space Constructed Less Than Recommended Size (Eligible for Funding)	Gap Between Space Constructed and Recommended Size (Ineligible for Funding)
Total Size of Expanded MEF		

*When the school district is constructing less than the recommended size.*

Recommended Size of MEF		
Existing MEF Space (Ineligible for Funding)	New Space Constructed Up to Recommended Size (Eligible for Funding)	Space Built Beyond Recommended Size (Ineligible for Funding)
Total Size of Expanded MEF		

*When the lesser is the recommended size of the space.*

*Overview of Funding Options*

Option 1

In this scenario, the supplemental grant amount would be calculated using the Permanent/Portable Other and Toilet square foot grant amounts. New projects would be funded based on the lesser of the total size of the new MEF or the recommended size of the MEF based on current enrollment. Expansion projects would be funded based on the lesser of the delta between the existing MEF space and the total size of the expanded MEF or the delta between the existing MEF space and the recommended size of the MEF based on current enrollment.

STAFF ANALYSIS/DISCUSSION (cont.)

Option 2

In this scenario, a calculation to determine the maximum pupil grant amount for the facility, similar to the existing UOG for MEF calculation in SFP Regulation 1859.77.3(a)(7), will determine the supplemental grant amount. The Modernization base grant amount will be used in this calculation to determine funding for the new MEF using per-pupil grants. The site's modernization baseline eligibility will not be adjusted because of this grant (beyond the pupil grants requested in Section 2). New projects would be funded based on the lesser of the total size of the new MEF or the recommended size of the MEF based on current enrollment. Expansion projects would be funded based on the lesser of the delta between the existing MEF space and the total size of the expanded MEF or the delta between the existing MEF space and the recommended size of the MEF based on current enrollment.

Options	Funding Method	New Projects	Expansion Projects
Option 1	The supplemental grant amount would be calculated using the Permanent/Portable Other and Toilet square foot grant amounts.	Funded based on the <i>lesser</i> of: <ul style="list-style-type: none"> <li>• The total size of the new MEF, or</li> <li>• The recommended size of the MEF based on current enrollment.</li> </ul>	Funded based on the <i>lesser</i> of the delta between: <ul style="list-style-type: none"> <li>• The existing MEF space and the total size of the expanded MEF, or</li> <li>• The delta between the existing MEF space and the recommended size of the MEF based on current enrollment.</li> </ul>
Option 2	A calculation to determine the maximum Modernization pupil grant amount for the facility, similar to the existing UOG for MEF calculation in SFP Regulation 1859.77.3(a)(7), will determine the supplemental grant amount.	Funded based on the <i>lesser</i> of: <ul style="list-style-type: none"> <li>• The total size of the new MEF, or</li> <li>• The recommended size of the MEF based on current enrollment.</li> </ul>	Funded based on the <i>lesser</i> of the delta between: <ul style="list-style-type: none"> <li>• The existing MEF space and the total size of the expanded MEF, or</li> <li>• The delta between the existing MEF space and the recommended size of the MEF based on current enrollment.</li> </ul>

STAFF ANALYSIS/DISCUSSION (cont.)

*Full Description of Funding Options*

Option 1

In this scenario, the supplemental grant amount would be calculated using the Permanent/Portable Other and Toilet square foot grant amounts. New projects would be funded based on the lesser of the total size of the new MEF or the recommended size of the MEF based on current enrollment. Expansion projects would be funded based on the lesser of the delta between the existing MEF space and the total size of the expanded MEF or the delta between the existing MEF space and the recommended size of the MEF based on current enrollment.

- Recommended MEF Size (New Projects)
  - The calculation to determine the supplemental grant amount, when the lesser of the two is the recommended MEF size, is summarized as:

Determine the recommended MEF size utilizing the square footage chart from SFP Regulation Section 1859.82.1(b), multiply that recommended MEF size by the Permanent/Portable Other square foot and Permanent/Portable Toilet square foot grant amounts (Toilet space will be funded first), add the Permanent/Portable Other square footage total and the Permanent/Portable Toilet square footage total for the total supplemental grant amount.

- Actual Size of the Facility (New Projects)
  - The calculation to determine the supplemental grant amount, when the lesser of the two is the new or expanded facility, is summarized as:

Determine the total square footage of the new or expanded facility, multiply that amount by the Permanent/Portable Other square foot and Permanent/Portable Toilet square foot grant amounts (Toilet space will be funded first), add the Permanent/Portable Other square footage total and the Permanent/Portable Toilet square footage total for the total supplemental grant amount.

- Delta of the Existing MEF Size and the Recommended MEF Size (Expansion Projects)
  - The calculation to determine the supplemental grant amount, when the lesser of the two is the delta between the existing MEF size and the recommended MEF size, is summarized as:

STAFF ANALYSIS/DISCUSSION (cont.)

Determine the recommended MEF size utilizing the square footage chart from SFP Regulation Section 1859.82.1(b) and verify that the existing MEF square footage is 60 percent or less than the recommended MEF size. Subtract the existing MEF square footage from the recommended MEF square footage to determine the delta, which is the square footage eligible to be funded. Multiply the delta by the Permanent/Portable Other square foot and Permanent/Portable Toilet square foot grant amounts (Toilet space will be funded first), add the Permanent/Portable Other square footage total and the Permanent/Portable Toilet square footage total for the total supplemental grant amount.

- Delta of the Existing MEF Size and the Total Size of the Expanded Facility (Expansion Projects)
  - The calculation to determine the supplemental grant amount, when the lesser of the two is the delta between the existing MEF size and the total size of the expanded facility, is summarized as:

Determine the recommended MEF size utilizing the square footage chart from SFP Regulation Section 1859.82.1(b) and verify that the existing MEF square footage is 60 percent or less than the recommended MEF size. Subtract the existing MEF square footage from the total square footage of the expanded facility to determine the delta, which is the amount eligible to be funded. Multiply the delta by the Permanent/Portable Other square foot and Permanent/Portable Toilet square foot grant amounts (Toilet space will be funded first), add the Permanent/Portable Other square footage total and the Permanent/Portable Toilet square footage total for the total supplemental grant amount.

Option 1 Considerations

- By basing the funding on the Permanent/Portable Other and Toilet square footage that is being built, it considers the actual type of space built when determining the supplemental grant amount.
- When a new project is funded based on the lesser of the size of the new facility and the recommended square footage, the grant only funds *up to* what is recommended.

STAFF ANALYSIS/DISCUSSION (cont.)

- By considering the existing MEF space in an expansion project, the supplemental grant would not fund any work done to the existing space. Only the lesser of the new square footage being built or the delta between the existing and the recommended square footage would be funded.
- Funding within the program is made more consistent by partially aligning how MEF spaces are funded with how the Facility Hardship Replacement and Charter Rehabilitation programs are funded.
- This option differs from how existing MEF (New Construction) UOG applications are currently funded. Existing UOG MEF applications are funded by using a calculation to determine the appropriate number of pupil grants to fund the MEF space and funding is determined by using per pupil grant amounts. Instead, this method would fund using square footage grant amounts based on Permanent/Portable Toilet and Other square footage.

Option 2

In this scenario, a calculation to determine the maximum pupil grant amount for the facility, similar to the existing UOG for MEF calculation in SFP Regulation 1859.77.3(a)(7), will determine the supplemental grant amount. The Modernization base grant amount will be used in this calculation to determine funding for the new MEF using per-pupil grants. The site's modernization baseline eligibility will not be adjusted because of this grant (beyond the pupil grants requested in Section 2). New projects would be funded based on the lesser of the total size of the new MEF or the recommended size of the MEF based on current enrollment. Expansion projects would be funded based on the lesser of the delta between the existing MEF space and the total size of the expanded MEF or the delta between the existing MEF space and the recommended size of the MEF based on current enrollment.

- Recommended Size (New Projects)
  - The calculation to determine the supplemental grant amount, when the lesser of the two is the recommended MEF size, is summarized as:

Determine the recommended MEF size utilizing the square footage chart from SFP Regulation Section 1859.82.1(b). Multiply that recommended MEF size by the Permanent/Portable Other square foot grant amount. Divide that product by the Modernization base grant amount for the project type. Round up. That number is the maximum pupil amount for the facility. The supplemental grant

STAFF ANALYSIS/DISCUSSION (cont.)

amount is the maximum pupil amount for the facility multiplied by the Modernization base grant amount for the type of project.

- Actual Size of the Facility (New Projects)
  - The calculation to determine the supplemental grant amount, when the lesser of the two is the square footage of the new facility, is summarized as:

Determine the square footage of the new facility. Multiply that amount by the Permanent/Portable Other square foot grant amount. Divide that product by the Modernization base grant amount for the project type. Round up. That number is the maximum pupil amount for the facility. The supplemental grant amount is the maximum pupil amount for the facility multiplied by the Modernization base grant amount for the type of project.

- Delta of the Existing MEF Size and the Recommended MEF Size (Expansion Projects)
  - The calculation to determine the supplemental grant amount, when the lesser of the two is the delta between the existing MEF size and the recommended MEF size, is summarized as:

Determine the recommended MEF size utilizing the square footage chart from SFP Regulation Section 1859.82.1(b) and verify that the existing MEF square footage is 60 percent or less than the recommended MEF size. Subtract the existing MEF square footage from the recommended MEF square footage to determine the delta, which is the square footage eligible to be funded. Multiply the delta by the Permanent/Portable Other square foot grant amount. Divide that product by the Modernization base grant amount for the project type. Round up. That number is the maximum pupil amount for the facility. The supplemental grant amount is the maximum pupil amount for the facility multiplied by the Modernization base grant amount for the type of project.

- Delta of the Existing MEF Size and the Total Size of the Expanded Facility (Expansion Projects)
  - The calculation to determine the supplemental grant amount, when the lesser of the two is the delta between the existing MEF size and the expanded facility, is summarized as:

STAFF ANALYSIS/DISCUSSION (cont.)

Determine the recommended MEF size utilizing the square footage chart from SFP Regulation Section 1859.82.1(b) and verify that the existing MEF square footage is 60 percent or less than the recommended MEF size. Subtract the existing MEF square footage from the square footage of the expanded facility to determine the delta, which is the square footage eligible to be funded. Multiply the delta by the Permanent/Portable Other square foot grant amount. Divide that product by the Modernization base grant amount for the project type. Round up. That number is the maximum pupil amount for the facility. The supplemental grant amount is the maximum pupil amount for the facility multiplied by the Modernization base grant amount for the type of project.

Option 2 Considerations

- This option is most similar to how the existing UOG MEF (New Construction) grant is currently funded, with the main difference being that this option utilizes Modernization base grant amounts to determine funding instead of New Construction base grant amounts.
- This option does not differentiate between Other and Toilet square footage being built but instead focuses on total square footage. All Permanent space is funded at the same amount and all Portable space is funded at the same amount.
- By considering the existing MEF space in an expansion project, only the new square footage being built (not to exceed the recommended) is funded. Only the lesser of the new square footage being built or the delta between the existing and the recommended square footage would be funded.

AUTHORITY  
All Applications

**Education Code (EC) Section 17070.35 – General Provisions**

(a) 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. However, the board shall have no authority to set the level of the fees of any architect, structural engineer, or other design professional on any project. The initial regulations adopted pursuant to this chapter shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this chapter shall be adopted by November 4, 1998. If the initial regulations are not adopted by that date, the board shall report to the Legislature by that date, explaining the reasons for the delay.

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

(3) Determine the eligibility of school districts to receive apportionments under this chapter.

(4) Apportion funds to eligible school districts under this chapter.

(b) The board shall review and amend its regulations as necessary to adjust its administration of this chapter to conform with the act that amended this section to add this subdivision. Regulations adopted pursuant to this subdivision shall be adopted by November 5, 2002, and shall be adopted as emergency regulations in accordance with 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). The adoption of any emergency regulation pursuant to this subdivision filed with the Office of Administrative Law shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulation adopted pursuant to this section shall remain in effect for no more than 365 days unless the board has complied with Sections 11346.2 to 11348, inclusive, of the Government Code.

**School Facility Program (SFP) Regulation Section 1859.2. Definitions.**

“Multipurpose/Gymnasium Hybrid” means a single facility that is comprised of both a multipurpose room and a gymnasium that share common space for purposes of Section 1859.77.3. The facility must be identified as a Multipurpose/Gymnasium Hybrid by the California Department of Education.



AUTHORITY  
All Applications (cont.)

**SFP Regulation Section 1859.77.3. Use of New Construction Grant Funds for Projects Accepted by the DSA after January 22, 2003.**

New Construction Grant funds and any other funds provided by these Regulations shall be expended as set forth in Education Code Section 17072.35; and may also be utilized for the cost incurred by the district for the development and implementation of remedial action plan approved by the DTSC pursuant to Education Code Section 17213.

Authorization for use of New Construction Grants for which the final plans and specifications for the project were accepted by the DSA after January 22, 2003 may be requested as follows:

(a) A district may request new construction grants that exceed the capacity of the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations if the project is to construct a multipurpose, gymnasium, Multipurpose/Gymnasium Hybrid, and/or library, or for an Alternative Education school to construct a multipurpose/gymnasium, library, counseling offices, and/or conference rooms, at an existing site that does not have an existing or adequate facility of the type being requested when all of the following is met:

(1) The district must adopt a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the district's governing board on a date preceding the application filing that includes the following:

(A) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.

(B) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.

(C) A plan outlined in the resolution that identifies how the district has housed or will house the pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan must certify one of the following methods:

1. The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB, and the district must identify the source of the funds; or

2. The district will utilize higher district loading standards providing the loading standards are within the approved district's teacher contract and do not exceed 33:1 per classroom.

(2) The existing school site was not constructed under the SFP.

(3) The proposed project includes no more than eight classrooms.

(4) Grants requests, above 100 percent of the number of pupils to be housed, based on Special Day Class pupil eligibility are only permitted under this subsection (a) when building a Special Day Class facility.

AUTHORITY  
All Applications (cont.)

(5) For purposes of this Section, a Multipurpose/Gymnasium Hybrid is considered to be both a multipurpose and a gymnasium. A school site with a middle school and/or high school pupils is eligible for one multipurpose and one gymnasium; therefore, if a school site has an adequate multipurpose and an adequate gymnasium, it is not eligible for a Multipurpose/Gymnasium Hybrid under this Section.

(6) For purposes of this section to determine if an existing facility is inadequate, the existing square footage is less than 60 percent of the square footage necessary for the current CBEDS for the site plus the Net School Building Capacity of the proposed project as calculated pursuant to Section 1859.82.1(b)(4)(B)2., except for Alternative Education Schools. For Alternative Education Schools, refer to the following:

ALTERNATIVE EDUCATION			
Support Facility	Existing Site Plus Proposed Project Contain 1 or 2 Classrooms	Existing Site Plus Proposed Project Contain 3 to 10 Classrooms *	Existing Site Plus Proposed Project Contain 11 or More Classrooms*
Multipurpose Facility or Gymnasium (includes food service)	2,500 sq. ft.	6.3 sq. ft. per pupil minimum 4,000 sq. ft.	6.3 sq. ft. per pupil minimum 7,200 sq. ft., maximum of 18,000 sq. ft.
Counseling Offices, and/or Conference Rooms	1,000 sq. ft. Combined Total	1,000 sq. ft.	1,000 sq. ft.
Library/Media Space		4.3 sq. ft. per pupil plus 600 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft.

\*The proposed project cannot include more than eight classrooms.

(7) The maximum excess pupil amount being requested for this type of use of grants request, is calculated by the following:

(A) Multiply the current CBEDS for the site plus the Net School Building Capacity for the proposed project by the square footage for the type of facility being requested, as follows:

1. For Alternative Education Schools, refer to the chart above.

AUTHORITYAll Applications (cont.)

2. For a multipurpose room, gymnasium, and/or library, refer to the chart in Section 1859.82.1(b)(4)(B)2.

3. For a Multipurpose/Gym Hybrid:

a. For school sites with middle school pupils, use 15.2 square feet per pupil, with a minimum of 8,056 square feet and a maximum of 18,848 square feet.

b. For school sites with high school pupils, use 18.6 square feet per pupil, with a minimum of 10,193 square feet and a maximum of 21,874 square feet.

(B). Multiply the product in (a)(7)(A) above by the per square foot grant amount of \$154. This per square foot grant amount will be adjusted in the manner prescribed in Section 1859.71.

(C) Divide the product in (a)(7)(B) above by the New Construction Grant amount for the project grade level, rounded up to the nearest whole number.

...

**SFP Regulation Section 1859.82.1. Facility Hardship Program.**

...

(b)(4)(B)

2. Using the enrollment determined in 1. any permanent replacement Square Footage provided will be calculated in accordance to a., b., c., below and the chart below.

a. If the actual square footage being constructed in the replacement project is less than the amount allowable in the chart for each facility type, the replacement Square Footage shall be limited to the actual square footage constructed.

b. Non-specialized classroom space provided is limited by the enrollment determined in 1. rounded up to the nearest whole classroom based on 1859.82.1(b)(4)(A)2., and then reduced for any classroom space available at the site to house the pupils at the site.

c. Classrooms with specialized design such as auto shop, metal shop, music rooms, consumer home economic laboratories, industrial technology laboratories, or science laboratories will qualify for funding if used for its specialized purpose in the current enrollment reporting year or immediately preceding enrollment reporting year. Additionally, these spaces will not count as available capacity for purposes of providing funding in this section when calculating space available to house displaced pupils.

d. Any space not in the chart below will be provided based on the Square Footage replaced. This may include, but is not limited to, janitor's closets, hallways, and vestibules.

AUTHORITY  
All Applications (cont.)

Facility	Elementary School Pupils	Middle School Pupils	High School Pupils
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum 4,000 sq. ft.	5.3 sq. ft. per pupil minimum 5,000 sq. ft.	6.3 sq. ft. per pupil minimum 8,200 sq. ft.
Toilet	3 sq. ft. per pupil minimum 300 sq. ft.	4 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
Gymnasium (includes shower/locker area)	N/A	12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.	15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.
School Administration	3 sq. ft. per pupil minimum 600 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft.	4 sq. ft. per pupil minimum 800 sq. ft.
Library/Media Center	2.3 sq. ft. per pupil plus 600 sq. ft., minimum 960 sq. ft.	3.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.
Kindergarten Classrooms (including Transitional Kindergarten)	1,350 sq. ft. for each replacement classroom.	NA	NA
Classrooms (1 <sup>st</sup> -12 <sup>th</sup> grade)	960 sq. ft. for each replacement classroom	960 sq. ft. for each replacement classroom	960 sq. ft. for each replacement classroom
Computer instructional support area, Industrial and Technology/Education Laboratory	960 sq. ft. for each replacement classroom.	960 sq. ft. for each replacement classroom.	960 sq. ft. for each replacement classroom.
Laboratory Classrooms (including science and consumer home economics. (Does not include Industrial and Technology/Education Laboratory)	1,300 sq. ft. for each replacement classroom.	1,300 sq. ft. for each replacement classroom.	1,300 sq. ft. for each replacement classroom.

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AUTHORITY  
All Applications (cont.)

**SFP Regulation Section 1859.83. Excessive Cost Hardship Grant.**

In addition to any other funding authorized by these Regulations, a district is eligible for funding as a result of unusual circumstances that created excessive project costs beyond the control of the district. The Excessive Cost Hardship Grant shall be based on any of the following:

(a) Excessive Cost due to Geographic Location.

A district with a project that is located in a geographic area designated in the Geographic Percentage Chart below is eligible for the sum of the Excessive Cost Hardship Grant(s) determined by multiplying the indicated percentage factor shown in the Geographic Percentage Chart below by each of the following amounts:

(1) The New Construction Grant and the Modernization Grant.

(2) The funding provided by Sections 1859.71.2, 1859.71.3, 1859.72, 1859.73, 1859.73.2, 1859.76(d)(1) and (2), 1859.78.4, 1859.78.5, 1859.82.1, 1859.82.2, 1859.83(b), (c), (d) and (e) and 1859.125(a)(1) through (a)(2).

...

AUTHORITY

Applications Received on or after October 31, 2024

**EC Section 17073.16 – Modernization Eligibility Determination**

(a) A school district eligible for funding pursuant to this article may receive a supplemental grant for either of the following:

(1) Expanding an existing gymnasium, multipurpose room, library, or school kitchen, if the facility is 60 percent or less than the department's recommended size needed to serve the enrollment of the school.

(2) Constructing a new gymnasium, multipurpose room, library, or school kitchen if the site is lacking one or more of the specified facilities.

(b) A site may receive a supplemental grant for only one project described in subdivision (a).

...

(d) The funding provided under this section shall be in addition to any other funding provided pursuant to this article.

(e) The board, in consultation with the Superintendent, shall develop regulations implementing this section.

*(Added by Stats. 2024, Ch. 81, Sec. 13. (AB 247) Effective July 3, 2024. Operative November 6, 2024, pursuant to Sec. 30 of Ch. 81.)*

## ATTACHMENT A11

### OFFICE OF PUBLIC SCHOOL CONSTRUCTION STAKEHOLDER MEETING February 13, 2025

#### PROPOSED REGULATORY AMENDMENTS FOR SCHOOL FACILITY PROGRAM SUPPLEMENTAL GRANT FOR TRANSITIONAL KINDERGARTEN CLASSROOMS

##### PURPOSE

To discuss and receive stakeholder input regarding proposed regulatory amendments resulting from provisions of Proposition 2, related to the establishment of a new supplemental grant for the retrofit or new construction of transitional kindergarten classrooms for school districts receiving an apportionment for modernization funding.

##### AUTHORITY

Education Code (EC) Section 17073.16 states in part:

- (c) (1) A school district eligible for a modernization apportionment may also receive a supplemental grant for either of the following:
  - (A) Retrofitting an existing school facility to adequately house transitional kindergarten pupils.
  - (B) Constructing new transitional kindergarten classrooms if the site is lacking sufficient school facilities to house transitional kindergarten pupils.
- (2) A school district that receives a supplemental grant to house transitional kindergarten pupils pursuant to paragraph (1) shall meet the requirements of subparagraphs (A) and (B) of paragraph (5) of subdivision (b) of, paragraphs (2) and (3) of subdivision (f) of, and subdivision (g) of, Section 17375.

See Attachment A11a for the remainder of the Authority.

##### BACKGROUND

In July 2021, Assembly Bill 130 expanded the existing Full-Day Kindergarten Facilities Grant Program (FDK Program) to include preschool and transitional kindergarten. The last apportionments for those funds were approved in June 2024. A new opportunity for districts seeking funding for transitional kindergarten facilities was approved through AB 247 (Muratsuchi, Chapter 81, Statutes of 2024).

On November 5, a majority of California's voters approved Proposition 2, which implements the provisions of AB 247 (Muratsuchi, Chapter 81, Statutes of 2024). Among the provisions of Proposition 2, EC Section 17073.16 has been added and establishes three new supplemental grants for School Facility Program (SFP) Modernization funding applications. One of these provides funding for the retrofit of existing school facilities or new construction of a transitional kindergarten classroom(s) for school districts receiving an apportionment for modernization funding.

## STAFF ANALYSIS/DISCUSSION

The passage of Proposition 2 necessitates modifications to the SFP Regulations to allow school districts to submit funding applications that allow for the inclusion of transitional kindergarten supplemental grants, as referenced in the amended EC. The Office of Public School Construction (OPSC) is asking for stakeholder feedback on proposed implementation, pursuant to the new EC Section 17073.16.

### *Supplemental Grant for Retrofit and New Construction of Transitional Kindergarten Classrooms – EC Section 17073.16(c) through (e)*

With the passage of Proposition 2, Section 17073.16(c) through (e) was added to the EC to provide a supplemental grant to build new or retrofit existing school facilities to house transitional kindergarten pupils. This grant is a modernization *only* supplemental grant that will be provided *in addition to* any other funding provided for the application. In order to request the grant, the district must first have modernization eligibility, a valid project that has modernization scope of work that is in addition to the transitional kindergarten portion of the project and must submit an application for modernization funding. This is not a stand-alone grant and can only be requested in addition to an otherwise complete application for funding.

OPSC notes that although the referenced subdivisions in EC Section 17375 refer to preschool classrooms, the supplemental grant provided in EC Section 17073.16(c) is limited to providing funding for transitional kindergarten classrooms. The references to EC Section 17375 strictly pertain to eligibility requirements to receive the supplemental grant. However, pursuant to amendments in EC Sections 17072.35(b) and 17074.25(b), a district is not precluded from using a new construction or modernization base grant to support the construction of preschool classrooms. This new eligible use of new construction and modernization base grant funding was addressed as part of the January 30, 2025, stakeholder meeting discussing all new eligible uses of SFP funding.

### **Qualifying Criteria for Funding**

Based on OPSC staff's initial review of the new statute, the qualifying criteria described below would apply to projects requesting the additional grant to construct new transitional kindergarten classrooms or retrofit existing classrooms to house transitional kindergarten pupils.

#### *Application Submittal Timing*

Applications on the Workload List or Applications Received Beyond Bond Authority (ARBBA) List, received by OPSC on or after October 31, 2024, may request the supplemental grant, provided the existing scope of work in the approved plan set includes the retrofit or construction of a transitional kindergarten classroom(s) that is eligible for this supplemental grant. Districts may add eligible scope of work to the application and request this supplemental grant, provided that the additional scope of work was approved by the Division of the State Architect (DSA) *prior* to the received date of the funding application. Districts that wish to add eligible scope of



## STAFF ANALYSIS/DISCUSSION (cont.)

work that was approved by DSA *after* the received date of the funding application must withdraw their existing application and resubmit the funding application to OPSC in order to request this supplemental grant. Additionally, the California Department of Education (CDE) approval letter submitted with any *Application for Funding* (Form SAB 50-04) on or after October 31, 2024, must include the work eligible for the transitional kindergarten supplemental grants requested.

### *Reimbursement*

Districts may be eligible for reimbursement of the new supplemental grant for projects that include an eligible scope of work, provided the district executed construction contracts on or after July 3, 2024, in accordance with the effective date of AB 247.

### *Portable Classrooms*

EC Section 17073.16(c)(2) cites EC Section 17375(f)(3), which specifies that a school district shall not use funds to purchase or install portable classrooms. Therefore, portable classrooms are not eligible to be purchased when constructing new transitional kindergarten classrooms nor when replacing existing classrooms as part of a retrofit project.

### *Adjustments for New Capacity*

The FDK Program provided an exclusion for new classrooms constructed with program funds in that the new capacity was not included in the New Construction baseline. However, SFP regulations require an adjustment to the district's new construction baseline if new transitional kindergarten classrooms are constructed with funding from the new supplemental grant, as they are not specifically exempted in the way new transitional kindergarten classrooms were in the FDK Program. The new classrooms would also be included in the gross classroom inventory for purposes of establishing New Construction eligibility.

### *Title 5 Requirements*

EC Section 17073.16 (c)(2) states that districts receiving a supplemental grant to house transitional kindergarten shall meet several requirements outlined in EC Section 17375(g). Chief among them is the provision that districts receiving a supplemental transitional kindergarten grant must construct or retrofit facilities that result in Title 5-compliant classrooms. Key requirements for Title 5 include, but are not limited to:

- Kindergarten classroom size for permanent structures is not less than 1,350 square feet, including restrooms, storage, teacher preparation, wet and dry areas.
- Kindergarten classrooms are designed to allow supervision of play yards (unless prevented by site shape or size) and all areas of the classroom.

STAFF ANALYSIS/DISCUSSION (cont.)

- Play yard design provides a variety of activities for development of large motor skills.
- Classrooms are located close to parent drop-off and bus loading areas.
- Storage, casework, and learning stations are functionally designed for use in free play and structured activities, e.g., shelves are deep and open for frequent use of manipulative materials.
- Windows, marking boards, sinks, drinking fountains, and furniture are appropriate heights for kindergarten-age students.
- Restrooms are self-contained within the classroom or within the kindergarten complex.

**Eligibility Determination for the Transitional Kindergarten Supplemental Grant**

*Lacking Sufficient School Facilities to House Transitional Kindergarten Pupils*

EC Section 17073.16(c)(2) requires school district to meet the requirements of EC Section 17375(b)(5)(A) to determine program eligibility. This section directs districts to provide the enrollment data for the year in which its application is processed and the three immediately preceding years. This data, in addition to a review conducted by CDE, will be used to determine the school site's need for transitional kindergarten classrooms and their eligibility for the supplemental grant. Districts would be instructed to provide the appropriate enrollment documents as part of the 90-Day Notification of Upcoming Application Processing. The eligibility review process for the supplemental grant would mirror that of Program applications submitted during the Third and Fourth filing rounds of the FDK program.

Pursuant to EC Section 17375(b)(5)(A), part of the verification process will also include consulting with CDE to determine if an application should be limited to a retrofit project. Additionally, OPSC in partnership with CDE, will conduct site reviews for any classrooms onsite originally designed to house kindergarten pupils. Kindergarten classrooms determined to have met Title 5 requirements at the time of construction will be counted towards the total usable kindergarten classrooms onsite.

A project site will be considered lacking transitional kindergarten facilities if the projected transitional kindergarten enrollment at the site exceeds the kindergarten classroom capacity at the site using the SFP loading standard of 25 (K-6) pupils per classroom. For purposes of determining existing classroom capacity, districts will specify if they intend to operate full or part-day transitional kindergarten/kindergarten programming.

## STAFF ANALYSIS/DISCUSSION (cont.)

### **Options for Calculating the Grant**

Statute does not stipulate how funding shall be calculated for the transitional kindergarten supplemental grant. Therefore, OPSC is currently contemplating various options for calculating funding for this supplemental grant.

#### *Option 1: Square Footage-Funding*

Funding could be calculated based on a square footage grant. The total allowable square footage would meet the minimum Title 5 requirements for transitional kindergarten classrooms following the current funding model for the replacement of facilities under the Facility Hardship/Seismic Mitigation Programs. There are established grant amounts for Other and Toilet square footage.

#### Considerations:

- This method would limit funding to the confines of the enclosed classroom space.
- Does not account for playground, path of travel, or pick-up drop-off work that is typically required for Title 5 compliance.

#### *Option 2: FDK Funding Model*

Funding could be calculated following the funding model for classrooms funded through the FDK Program. The equivalent of 25 New Construction pupil grants is provided for new transitional kindergarten classrooms. The equivalent of 25 Modernization pupil grants is provided to retrofit existing classrooms. In addition, this supplemental grant could potentially include other FDK Program and SFP supplemental grants as applicable to the project scope.

#### Considerations:

- Maintains consistent methodology used by the FDK Program to construct or retrofit new, Title 5-compliant classrooms.
- This supplemental grant could exceed the Modernization base grant that it is supplementing.
- District providing new or retrofitted transitional kindergarten classrooms could add additional supplemental grants to the transitional kindergarten portion of the Modernization project. See the chart below for additional grants.
- Determining how to apply a new construction grant into the 60/40 State/District funding share concept for Modernization applications would be necessary.

## STAFF ANALYSIS/DISCUSSION (cont.)

### *Option 3: Percentage-Based Funding*

Funding could be based on the percentage of the value of the Modernization per-pupil grants requested. This method is similar to other Modernization supplemental grants.

#### Consideration:

- Depending on the number of Modernization pupil grants, this method may not provide adequate grants or may provide excessive grants, to retrofit or construct the facilities in the project.

### **Supplementing the Transitional Kindergarten Supplemental Grant**

For each of the options presented above, OPSC is also continuing to evaluate the applicability of the other Modernization program supplemental grants to determine which grants can be considered on top of the transitional kindergarten supplemental grant. OPSC will bring those findings back to the next stakeholder meeting. Below are some initial concepts regarding which projects may be eligible for existing supplemental grants to augment the transitional kindergarten supplemental grant.

Supplemental Grants	New Construction	Retrofit	Additional Information
Automatic Fire Detection/Alarm System	Eligible	Eligible	
Automatic Sprinkler System	Eligible	Not Eligible	
Site Development (FDK Program model)	Eligible	Eligible	The transitional kindergarten Supplemental Grant will be increased by 35 percent
Site Development (SFP model)	Eligible	Eligible	Districts may request site development for the transitional kindergarten classroom(s) by submitting a cost estimate
Multilevel Classroom Construction	Eligible	Not Eligible	
50-Year Old Utilities	Not Eligible	Eligible	The retrofit base grant will be increased by 15 percent

AUTHORITY  
All Applications

**Education Code (EC) 17070.35 – General Provisions**

(a) 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. However, the board shall have no authority to set the level of the fees of any architect, structural engineer, or other design professional on any project. The initial regulations adopted pursuant to this chapter shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this chapter shall be adopted by November 4, 1998. If the initial regulations are not adopted by that date, the board shall report to the Legislature by that date, explaining the reasons for the delay.

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

(3) Determine the eligibility of school districts to receive apportionments under this chapter.

(4) Apportion funds to eligible school districts under this chapter.

(b) The board shall review and amend its regulations as necessary to adjust its administration of this chapter to conform with the act that amended this section to add this subdivision. Regulations adopted pursuant to this subdivision shall be adopted by November 5, 2002, and shall be adopted as emergency regulations in accordance with 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). The adoption of any emergency regulation pursuant to this subdivision filed with the Office of Administrative Law shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulation adopted pursuant to this section shall remain in effect for no more than 365 days unless the board has complied with Sections 11346.2 to 11348, inclusive, of the Government Code.

**EC Section 17375 – Full-Day Kindergarten Facilities Grant Program**

(a)(1) The California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program is hereby established, under the administration of the State Allocation Board pursuant to the requirements of this section, to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing transitional kindergarten classrooms and full-day kindergarten classrooms

AUTHORITY  
All Applications (cont.)

pursuant to Section 8973, and for the construction of new preschool classrooms, the modernization of existing preschool classrooms, or the modernization of existing kindergarten and grade 1 to 12, inclusive, classrooms that would be converted to provide California state preschool programs operated by school districts on a public school site, pursuant to this section.

(2) Moneys appropriated pursuant to this section shall be deposited in the California Preschool, Transitional Kindergarten, and Full-Day Kindergarten Facilities Account, hereby created in the State Treasury, administered by the State Allocation Board.

(3) For the 2018–19 fiscal year, the sum of one hundred million dollars (\$100,000,000) is hereby appropriated from the General Fund to the State Allocation Board to provide one-time grants as specified in this section, as it read on December 31, 2020.

(4) (A) For the 2021–22 fiscal year, the sum of four hundred ninety million dollars (\$490,000,000) is hereby appropriated from the General Fund to the State Allocation Board to provide one-time grants as specified in this section. The funds appropriated in this subparagraph shall be available for encumbrance or expenditure by the State Allocation Board until June 30, 2027.

(B) For the 2022–23 fiscal year, the sum of one hundred million dollars (\$100,000,000) is hereby appropriated from the General Fund in the 2021–22 fiscal year to the State Allocation Board to provide one-time grants as specified in this section. The funds appropriated in this subparagraph shall be available for encumbrance or expenditure by the State Allocation Board until June 30, 2028.

(C) (i) Of the moneys allocated to a school district from the appropriation made pursuant to this paragraph, savings and interest achieved upon full completion of an approved project, and as a result of a school district's efficient and prudent expenditure of the moneys allocated, may be used for professional development or instructional materials to build capacity for the implementation of a California state preschool program, a transitional kindergarten program, a full-day kindergarten program, or high priority capital outlay purposes identified by the school district and in accordance with subdivision (f), associated regulations, and any accompanying grant agreement.

(ii) Notwithstanding any other law, for purposes of the funds appropriated in support of this paragraph only, a school district may retain and use savings and interest pursuant to clause (i) even if it receives financial hardship assistance pursuant to Section 17075.10.

(iii) Savings and interest retained by a school district shall be expended within one year of project completion or returned to the state as required by associated regulations and any accompanying grant agreement.

(5) New school facilities built pursuant to this section shall not be included in the eligibility determination used for purposes of the Leroy F. Greene School

AUTHORITY  
All Applications (cont.)

Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10).

(b) (1) The State Allocation Board shall award grants to school districts that lack the facilities to provide transitional kindergarten or full-day kindergarten as required for eligibility pursuant to Sections 17071.25 and 17072.10, that lack facilities that satisfy the design requirements required for new kindergarten classrooms as specified in paragraph (2) of subdivision (h) of Section 14030 of Title 5 of the California Code of Regulations, or that lack the facility capacity to increase California state preschool program services.

(2) Priority for grants shall be given to school districts that meet either of the following criteria:

(A) The school district is financially unable to contribute a portion of, or all of, the local matching share required pursuant to paragraph (3) for a project, and meets the requirements for financial hardship pursuant to Sections 17075.10 and 17075.15. For purposes of this section, paragraph (5) of subdivision (d) of Section 17075.15 shall not apply.

(B) (i) For school districts seeking a transitional kindergarten or full-day kindergarten facilities grant, the school district is located in an underserved community with a high population of pupils who are eligible for free or reduced-price meals pursuant to subdivision (a) of Section 42238.01.

(ii) For school districts seeking a preschool facilities grant, the school district is located in an underserved area, as defined in Section 8205, that is prioritized to receive funds for the California state preschool program according to the prioritization process described in Section 8210.

(3) Except for school districts that meet the requirements for financial hardship pursuant to Section 17075.10 and as specified in paragraph (4), a school district that applies for a grant pursuant to this section for new construction shall provide 50 percent of the cost of the project, and a school district that applies for a grant pursuant to this section for a retrofit project shall provide 40 percent of the cost of the project.

(4) Except for school districts that meet the requirements for financial hardship pursuant to Section 17075.10, a school district shall provide 25 percent of the cost of the project, whether the project is for new construction or retrofit, if the school district does either of the following:

(A) Converts a part-day kindergarten program to a full-day kindergarten program. A school district that was awarded a grant from funds appropriated pursuant to paragraph (3) of subdivision (a) and met the requirements of this paragraph shall have its grant amount adjusted from funds appropriated pursuant to paragraph (4) of subdivision (a) to reflect the requirements of this paragraph.

(B) Commencing with the 2021–22 fiscal year, offers, or expands enrollment in, a California state preschool program or transitional kindergarten program.

AUTHORITY  
All Applications (cont.)

(5) (A) A school district seeking a transitional kindergarten or full-day kindergarten facilities grant from moneys in the California Preschool, Transitional Kindergarten, and Full-Day Kindergarten Facilities Account shall provide the Office of Public School Construction with schoolsite enrollment data for the year in which its application is processed and the three immediately preceding years. The Office of Public School Construction shall use this data to verify the schoolsite's overall need for funding pursuant to this section based on the schoolsite's enrollment patterns. As part of this verification, the Office of Public School Construction, in consultation with the State Department of Education, shall determine if the schoolsite's need for funding shall be limited to retrofit projects.

(B) For a school district seeking a new construction grant for preschool classrooms from moneys in the California Preschool, Transitional Kindergarten, and Full-Day Kindergarten Facilities Account, the school district shall demonstrate that its existing classrooms, including outdoor play areas and equipment, are insufficient to meet the needs of providing preschool, and that the school district's projected enrollment in the preschool program exceeds the current preschool program classroom capacity at the applicable schoolsite. A school district shall use both of the following to demonstrate enrollment for purposes of determining eligibility:

(i) The most recent childcare needs assessment conducted by its regional local planning council for preschool age children.

(ii) A current or future contract with the State Department of Education to operate a preschool program.

(6) A school district, county office of education, or community college district seeking a preschool facilities grant shall hold title to the real property where the facilities will be located.

(c) The State Allocation Board shall disburse grant funds to school districts with approved applications for new construction or retrofit projects, to the extent funds are available for the state's applicable matching share, if the school district has provided its applicable local matching share, unless the school district meets the requirements for financial hardship pursuant to Section 17075.10, and upon certification by the school district that the school district has entered into a binding contract for completion of the approved project.

(d) The State Allocation Board shall allocate funds to school districts using the same maximum grant eligibility amounts that are used for purposes of the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10), as set forth in Sections 17072.10 and 17072.11 for new construction, and as set forth in Section 17074.10 for retrofit projects.

(e) As a condition of receiving grant funds pursuant to this section, and before the release of those funds, the school district shall do all of the following:



AUTHORITY  
All Applications (cont.)

- (1) Execute and submit a grant agreement consistent with the applicable sections of the grant agreement specified in Section 1859.90.4 of Title 2 of the California Code of Regulations.
  - (2) For a school district applying for grant funds for a transitional kindergarten facilities project, pass a resolution at a public meeting of the governing board of the school district stating the school district's intent to offer, or expand enrollment in, a transitional kindergarten program.
  - (3) For a school district applying for grant funds for a California state preschool program facilities project, pass a resolution at a public meeting of the governing board of the school district stating the school district's intent to expand enrollment in a preschool program and apply for expanded program service funding, and certify that the school district has or will apply for a contract to operate a preschool program before occupying the to-be-constructed or retrofitted facility.
- (f) (1) A school district may use grant funds awarded for new construction on costs necessary to adequately house preschool, transitional kindergarten, and kindergarten pupils in an approved project, which shall include only the following:
- (A) The costs of design, engineering, testing, inspections, plan checking, construction management, site acquisition and development, evaluation and response action costs relating to hazardous substances at a new or existing schoolsite, demolition, construction, landscaping, necessary utility costs, utility connections and other related fees, equipment including telecommunication equipment to increase school security, furnishings, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.
  - (B) The costs of acquiring an existing government-owned or privately owned building, or a privately financed school building, and the necessary costs of converting the government-owned or privately owned building for public school use.
- (2) (A) A school district may use grant funds awarded for a retrofit project to retrofit an existing school facility to adequately house preschool, transitional kindergarten, and kindergarten pupils, which shall only include the costs of design, engineering, testing, inspection, plan checking, construction management, demolition, construction, necessary utility costs, utility connection and other related fees, the purchase and installation of air-conditioning equipment and insulation materials and related costs, furniture and equipment, including telecommunication equipment to increase school security, fire safety improvements, playground safety improvements, the identification, assessment, or abatement of hazardous asbestos, seismic safety improvements, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.

AUTHORITY  
All Applications (cont.)

(B) Grant funds awarded for a retrofit project shall not be used for costs associated with acquisition and development of real property or for routine maintenance and repair.

(3) A school district shall not use funds to purchase or install portable classrooms. For purposes of this article, "portable classroom" means a classroom building of one or more stories that is designed and constructed to be relocatable and transportable over public streets, and for a single-story portable classroom, is designed and constructed for relocation without the separation of the roof or floor from the building and when measured at the most exterior walls, has a floor area that does not exceed 2,000 square feet.

(g) For a modernization grant pursuant to this article to retrofit an existing preschool classroom, including outdoor play areas and installed equipment, the applicable classroom shall comply with all of the following:

(1) The Field Act, as set forth in Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365).

(2) The California Building Standards Code, as set forth in Title 24 of the California Code of Regulations.

(3) The regulations for early learning and care programs as set forth in Chapter 19 (commencing with Section 18000) of Division 1 of Title 5 of, and Chapter 1 (commencing with Section 101151) of Division 12 of Title 22 of, the California Code of Regulations, as applicable.

(4) Written approval from the State Department of Education that the building plans comply with the standards set forth in Subchapter 1 (commencing with Section 14001) of Chapter 13 of Division 1 of Title 5 of the California Code of Regulations.

(h) The State Allocation Board may adopt regulations to implement this section. Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(i) Notwithstanding any other law, a school district shall be subject, with regard to this section, to an audit conducted pursuant to Section 41024.

(j) The Office of Public School Construction shall report to the Director of Finance, and shall post on its internet website, information regarding the use of grant funds that have been made available to school districts during each fiscal year grant funds are disbursed pursuant to this section. A final report shall also be issued after projects have been audited pursuant to Section 41024 and any savings have been spent or returned to the state.

(k) The Department of General Services may charge its administrative costs against the California Preschool, Transitional Kindergarten, and Full-Day

AUTHORITY  
All Applications (cont.)

Kindergarten Facilities Account, which shall be subject to the approval of the Department of Finance and which shall not exceed 2.5 percent of the account. These administrative funds shall be subject to the encumbrance or expenditure availability for the appropriations described in paragraph (4) of subdivision (a).

(l) Funds made available to school districts pursuant to this article shall supplement, not supplant, existing funds available for school facilities construction.

(m) For purposes of this section, the following definitions apply:

(1) "Kindergarten" includes transitional kindergarten, as defined in Section 48000.

(2) "Preschool classroom" means a preschool classroom used or proposed to be used for instructional purposes in a California state preschool program.

(3) "Preschool program" means a full-day California state preschool program pursuant to Article 2 (commencing with Section 8207) of Chapter 2 of Part 6.

(4) "Schoolsite" or "site" means the project site for which the school district is applying for grants under this article.

(5) "School district" means as follows:

(A) For transitional kindergarten and full-day kindergarten facilities grants, "school district" means a school district.

(B) For preschool facilities grants, "school district" means a school district, county office of education, or a community college district that operates a preschool program on behalf of, or in lieu of, a school district or county office of education.

*(Amended by Stats. 2024, Ch. 38, Sec. 8. (SB 153) Effective June 29, 2024.)*

**School Facility Program Regulation Section 1859.51. Adjustments to the New Construction Baseline Eligibility.**

The baseline eligibility for new construction determined on the Form SAB 50-03 will be adjusted as follows:

(a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.

(b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.

(c) Reduced by the number of pupils housed in additional classrooms constructed or purchased based on the loading standards, pursuant to Education Code Section 17071.25(a)(2)(A), in a modernization SFP project.

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AUTHORITYApplications Received on or after October 31, 2024**EC Section 17072.35 – New Construction Funding Process**

(a) A grant for new construction may be used for any and all costs necessary to adequately house new pupils in any approved project, and those costs may only include the cost of design, engineering, testing, inspection, plan checking, construction management, site acquisition and development, evaluation and response action costs relating to hazardous substances at a new or existing schoolsite, demolition, construction, acquisition and installation of portable classrooms, landscaping, necessary utility costs, utility connections and other fees, equipment including telecommunication equipment to increase school security, furnishings, and the upgrading of electrical systems or the wiring or cabling of classrooms in order to accommodate educational technology, including schoolsite-based infrastructure necessary to provide access to broadband internet within the schoolsite. A grant for new construction may also be used to acquire an existing government or privately owned building, or a privately financed school building, and for the necessary costs of converting the government or privately owned building for public school use. A grant for new construction may also be used for the costs of designs and materials that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools. A grant for new construction may be used for the costs of design, materials, and construction to advance state energy goals pursuant to state law, support outdoor learning environments, or to directly shade and protect pupils from higher average temperatures, which may include incorporating nature and natural materials. A grant for new construction may be used for seismic mitigation purposes and for related design, study, and testing costs.

(b) This section does not preclude a school district from using a grant for new construction to support the construction of a school kitchen, a transitional kindergarten classroom, a facility to support a local educational agency-administered preschool program, including, but not limited to, a California state preschool program set forth in Article 2 (commencing with Section 8207) of Chapter 2 of Part 6, that is operated by a school district and located on a schoolsite operated by the district, or a facility to support school nurses and counselors to increase access to health care and mental health services.

(c) In developing guidelines and regulations for consideration by the board, the State Department of Education shall provide a school district with maximum flexibility in the design and new construction of school facilities.

*(Amended by Stats. 2024, Ch. 81, Sec. 11. (AB 247) Effective July 3, 2024. Operative November 6, 2024, pursuant to Sec. 30 of Ch. 81.)*

AUTHORITYApplications Received on or after October 31, 2024 (cont.)**EC Section 17073.16 – Modernization Eligibility Determination**

(a) A school district eligible for funding pursuant to this article may receive a supplemental grant for either of the following:

(1) Expanding an existing gymnasium, multipurpose room, library, or school kitchen, if the facility is 60 percent or less than the department's recommended size needed to serve the enrollment of the school.

(2) Constructing a new gymnasium, multipurpose room, library, or school kitchen if the site is lacking one or more of the specified facilities.

(b) A site may receive a supplemental grant for only one project described in subdivision (a).

(c) (1) A school district eligible for a modernization apportionment may also receive a supplemental grant for either of the following:

(A) Retrofitting an existing school facility to adequately house transitional kindergarten pupils.

(B) Constructing new transitional kindergarten classrooms if the site is lacking sufficient school facilities to house transitional kindergarten pupils.

(2) A school district that receives a supplemental grant to house transitional kindergarten pupils pursuant to paragraph (1) shall meet the requirements of subparagraphs (A) and (B) of paragraph (5) of subdivision (b) of, paragraphs (2) and (3) of subdivision (f) of, and subdivision (g) of, Section 17375.

(d) The funding provided under this section shall be in addition to any other funding provided pursuant to this article.

(e) The board, in consultation with the Superintendent, shall develop regulations implementing this section.

*(Added by Stats. 2024, Ch. 81, Sec. 13. (AB 247) Effective July 3, 2024. Operative November 6, 2024, pursuant to Sec. 30 of Ch. 81.)*

**EC Section 17074.25 – Modernization Apportionment**

(a) (1) A modernization apportionment may be used for an improvement to extend the useful life of, or to enhance the physical environment of, the school. The improvement may only include the cost of design, engineering, testing, inspection, plan checking, construction management, demolition, construction, the replacement of portable classrooms, necessary utility costs, utility connection and other fees, the purchase and installation of air-conditioning equipment and insulation materials and related costs, furniture and equipment, including telecommunication equipment to increase school security, fire safety improvements, playground safety improvements, the identification, assessment, or abatement of hazardous asbestos, seismic safety improvements, and the upgrading of electrical systems or the wiring or cabling of classrooms in order to accommodate educational technology, including schoolsite-based infrastructure necessary to provide access to broadband internet within the schoolsite. A

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modernization apportionment may be used for the costs of design, materials, demolition, and construction to advance state energy goals pursuant to state law, support outdoor learning environments, or to directly shade and protect pupils from higher average temperatures, which may include incorporating nature and natural materials. A modernization grant may not be used for costs associated with acquisition and development of real property or for routine maintenance and repair.

(2) A modernization apportionment may also be used for any of the following:

(A) The cost of designs and materials that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high-performance schools.

(B) Seismic mitigation purposes and related design, study, and testing costs.

(C) To remediate any water outlet used for drinking or preparing food with lead levels in excess of 15 parts per billion.

(D) The control, management, or abatement of lead.

(b) This section shall not preclude a school district from using a grant for modernization to support the modernization of a school kitchen, a transitional kindergarten classroom, a facility to support a local educational agency-administered preschool program, including, but not limited to, a California state preschool program set forth in Article 2 (commencing with Section 8207) of Chapter 2 of Part 6, that is operated by a school district and located on a schoolsite operated by the district, or a facility to support school nurses and counselors to increase access to health care and mental health services.

(c) (1) A modernization apportionment may be used to limit pupil exposure to harmful air pollutants by updating air filtration systems.

(2) (A) This subdivision is declaratory of existing law.

(B) It is the intent of the Legislature in enacting Chapter 714 of the Statutes of 2018 (Assembly Bill 2453 of the 2017–18 Regular Session) to encourage school districts to add air filtration systems to applications for modernization apportionments when air pollution occasionally or regularly exceeds levels known to be harmful to public health.

(d) Notwithstanding any other provision of this article, a school district that is apportioned funds pursuant to Section 17073.16 shall use the supplemental grant for expanding an existing, or constructing a new, gymnasium, multipurpose room, library, or school kitchen.

(e) In developing guidelines and regulations for consideration by the board, the department, in consultation with the State Department of Education, shall provide a school district with maximum flexibility in the design and modernization of school facilities.

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Applications Received on or after October 31, 2024 (cont.)

*(Amended by Stats. 2024, Ch. 81, Sec. 15. (AB 247) Effective July 3, 2024. Operative November 6, 2024, pursuant to Sec. 30 of Ch. 81.)*