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The Role of State Agencies in the School Facility Program

The process for a district to receive School Facility Program (SFP) funding to build or modernize public school buildings in California has multiple steps and may involve several State agencies. These agencies may include the following:

California Department of Education (CDE)

Department of Toxic Substances Control (DTSC)

Division of the State Architect (DSA)

Department of Industrial Relations (DIR)


Office of Public School Construction/State Allocation Board (OPSC/SAB)

Ultimately, the district has ownership of the project. It designs, plans, and builds the project itself, according to its own needs. The State agencies role is to determine that the project is in compliance with all of the laws of California, and in some cases to provide guidance to the District. The agencies' specific roles are discussed in detail as part of this agenda item.

State Agency Participation in the Life Cycle of a School Construction Project


PLANNING

- **CDE** reviews potential sites.
- **DTSC** assesses site for potential contamination.*




DESIGN

- **DSA** and **CDE** provide optional design review services.




PLAN REVIEW

- **DSA** reviews plans and specs for compliance with CA Building Code.
- **CDE** reviews plans for compliance with Title V.




FUNDING**

- **OPSC** processes funding application.
- **CDE**, **DSA**, and **DTSC** approvals are complete.
- **SAB** approves funding.




CONSTRUCTION

- **DIR** provides prevailing wage monitoring.***
- **DSA** oversees construction.
- **OPSC** reviews annual substantial progress reports.



CLOSE-OUT

- **DSA** issues certification letter.
- **OPSC** performs compliance review



* Only for new construction projects where additional acreage is acquired.

** A school district may submit an application for funding to the OPSC at various points during the life cycle of a project in accordance with the applicable program regulations.

*** For all projects with construction contract award on or after 1/1/12.

California Department of Education School Facilities and Transportation Services Division

Introduction

The California Department of Education (CDE), under the leadership of Superintendent of Public Instruction Tom Torlakson, provides leadership and professional assistance to local educational agencies by building relationships with stakeholders, authoring guidance and best practices documents, and making available research on a broad range of educational issues.

Specific to school facilities, California *Education Code* Section 17251 requires CDE to develop standards for school districts to use in the selection of school sites and the design of schools. The standards are contained in California Code of Regulations, Title 5, Section 14001 et seq. as most recently adopted by the State Board of Education in 2000. The focus of the CDE standards is on student safety and educational appropriateness.

Role of California Department of Education in the School Facility Program

OPSC Requirements

Districts must submit the appropriate CDE site and/or approval letters to the Office of Public School Construction (OPSC) in order to apply for funding or obtain a fund release.

Authority

Education Code (EC) Section 17070.50 states: "The board shall not apportion funds to any school district, unless the applicant school district...has obtained the written approval of the State Department of Education that the site selection, and the building plans and specifications, comply with the standards adopted by the department pursuant to subdivisions (b) and (c), respectively, of Section 17251."

EC Section 17251 directs the CDE to develop school site selection standards and evaluate school sites for educational merit, safety, reduction of traffic hazards, and conformity to local land use rules if requested by school districts. This section also directs the CDE to establish standards for use by school districts to ensure that the design and construction of school facilities are educationally appropriate and promote school safety, and to review school districts' plans and specifications if requested.

The CDE plan and site approval confirms and documents the project's compliance with legislatively established safety requirements, such as approval from the Department of Toxic Substances Control (DTSC).

The CDE supports other School Facility Programs (SFP) by determining whether a site is the "best available" for Environmental Hardship and Financial Hardship site acquisitions, scoring Career Technical Education Facilities Program (CTEFP) projects, reviewing eligibility for Overcrowding Relief Grant (ORG) funding, determining the square footage eligibility for joint-use projects, and in providing acreage recommendations used in the Charter School Facility Program preliminary apportionment.

A comprehensive list of statutory and regulatory references is included in Attachment 1.

Site Review and Approval

Districts begin the school site approval process by providing the assigned CDE field representative with maps and information on three or more candidate sites. The field representative visits the potential sites and provides the district with a written evaluation and ranking of the sites and a recommendation on the feasibility of each site being able to provide for a safe and appropriate educational setting.

The district then selects the site it will pursue and prepares the necessary documents and studies needed for CDE site approval. These requirements are detailed on the SFPD Form 4.01. The district's governing board must make a number of findings and determinations on the suitability of the site as a school prior to submitting the information to CDE. Depending on the unique characteristics of the site and its location, specific safety analyses that may be required include:

- Review and approval by the Department of Toxic Substances Control of the Phase 1 Environmental Assessment and any required additional studies or remediation
- Review by CalTrans Division of Aeronautics if near an airport
- Evaluation of high-voltage power transmission lines
- Determination that there are no on-site hazardous substances releases, hazardous pipelines, or wastes
- Studies for hazardous air emitters and hazardous material handlers within a quarter mile and air quality within 500 feet of heavily trafficked roads
- Risk assessment for storage tanks within 1,500 feet
- Safety study for railroads within 1,500 feet
- Risk assessment for pipelines within 1,500 feet

Site Approval Letter

Following the CDE review of the submitted documents, a site approval letter is issued. The site approval is valid for five years. However, the site approval is subject to re-review before the end of the five years if, prior to acquisition and/or initiation of the hazardous materials cleanup, changes take place that would affect the original approval. Such changes include changes in surrounding land uses or the California Environmental Quality Act (CEQA) determination, master plan capacity of the site, or changes in code or regulation.

The OPSC uses information in the site approval letter to verify eligibility for funding. The CDE-approved property must match the property described in the district's appraisal, escrow documents and/or court documents for condemnation. The master plan acreage, useable acreage, and CDE recommended acreage are used to determine eligibility for supplemental grants, such as multilevel construction and urban/security/impacted sites. The acreage is also used to determine whether all the land being purchased is eligible for state funding, as the amount of useable acreage that exceeds the master plan acreage is not eligible for state funding.

Plan Approval

School design is based on Title 5 requirements and the educational specification approved by the district governing board. The educational specification informs the architect on the facilities necessary to deliver the district's adopted educational program.

The CDE plan review ensures that the plans meet the design standards in *California Code of Regulations*, Title 5. The CDE reviews a number of factors including:

- Classroom size
- Delivery and utility areas
- Future expansion
- Site lay out and placement of buildings
- Special education Least Restrictive Environment
- Supervision
- Pedestrian safety
- Parking and drop-off design
- Adequacy of playground and field areas
- Consultation with career technical education advisory committee on high school projects

Large new construction projects on a school site not previously approved by the DTSC may also need to be reviewed and approved by the DTSC. The CDE ensures that projects subject to the DTSC review have had the appropriate review and approval.

The CDE final plan approval is required to obtain SFP funding for new construction, modernization, ORG, CTEFP, Joint-Use, Charter School Facilities Program, Critically Overcrowded Schools (COS), and Facility Hardship (includes the Seismic Mitigation Program). Several programs provide opportunities for design, preliminary apportionments, and/or reservations of funds. In these cases, the CDE final plan approval may be submitted later in the process to obtain a full adjusted grant and/or fund release. CDE plan approval is not required for CTEFP equipment-only projects.

Preliminary Plan Review

The CDE conducts a preliminary plan review, which allows districts to obtain input from the CDE and make necessary changes to the project plans before the development of the final plans. The following documents are required:

- Plan review application
- Preliminary or schematic constructions plans (site plan, floor plan, and elevations) [New construction only]
- Preliminary modernization plans (site plan, floor plan, demolition plan, and elevations) [Modernization only]
- Special studies (if applicable – for example, physical education plan, small site worksheet, risk analysis for site hazards)
- Educational Specifications (if applicable)
- Plan Summary - New or Addition (if applicable)

When the preliminary plan review is complete, the CDE issues a letter noting any required changes necessary for Title 5 compliance and provides specific suggestions based on best practices.

Final Plan Approval

Once the district makes any modifications necessary to meet Title 5, it can request a CDE final plan review by submitting the following:

- Plan review application
- Final construction plans (site plan, floor plan, and elevations, plus demolition plan for modernization projects)
- Special studies (if applicable – for example, physical education plan, small site worksheet, risk analyses for site hazards)
- Total construction cost estimate
- Phase I Environmental Assessment (if applicable) [New construction only]
- Educational Specifications (if applicable)
- Plan Summary - New or Addition (if applicable)

After the CDE has confirmed that the project meets the design requirements in law and regulation, it issues a final plan approval letter to the district. The approval is valid for two years. The CDE plan approval letter cites the number of classrooms, the type of support facilities provides, and the acreage of the school site. The OPSC uses the project information in the CDE plan approval letter to verify eligibility for supplemental grants, such as small size project, urban/security/ impacted sites, multilevel classrooms, and Special Day Class therapy and toilet area.

Other Reviews

In addition to reviewing sites and project plans, the CDE conducts other certifications and reviews for SFP projects:

- *Environmental and Financial Hardship "best available alternative site" certification*
 The SFP provides Financial Hardship districts and Environmental Hardship projects separate site funding before a district designs a project and obtains DSA and CDE final plan approvals. Environmental Hardship allows a district to purchase a site and begin hazardous materials removal if the cleanup process will take six months or more to complete and if the site is determined by the CDE to be the best available. The OPSC uses the CDE certification to verify that a project qualifies as an Environmental Hardship.
[EC Section 17072.13\(c\)](#)
- *Career Technical Education Facilities Program evaluations and project scoring*
 The CDE evaluates CTEFP projects according to criteria outlined in *Education Code* Section 17078.72(i) and assigns a score based on the CDE review of the district's description of the project, the Career Technical Education plan, and how the program meets state standards; projected program enrollment and future enrollment plan; feeder schools and partners (regional occupation programs, industry partners, postsecondary schools); accountability plan (certificates, related employment, postsecondary education, data collection); educational specification and equipment and space requirements; and budget justification.

 The OPSC uses the score to determine whether the project has attained the minimum 105 points required for funding and to determine the order of funding. A higher score can increase the chances that a project will receive a CTEFP grant, although other factors, such as service region and locale in an urban, suburban or rural area, also affect the funding order.
[EC Section 17078.72](#)
- *Overcrowding Relief Grant Eligibility*
 The CDE verifies site-specific eligibility for the ORG. To qualify for ORG funding, districts must obtain verification from the CDE that the number of pupils per acre (pupil density) at the site is equal to or greater than 175% of the CDE-recommended pupils per acre. The OPSC uses the CDE-verified ORG eligibility to determine the maximum number of ORG pupil grants that a district can request on their funding applications.
[EC Section 17079](#)
- *Charter School Facility Program*
 CDE provides the maximum number of acres for which the charter school may apply. The charter school uses this figure and the estimated cost in the funding application submitted to OPSC.
- *Joint Use Program*
 CDE determines the maximum square footage of a joint use project.

California Code of Regulations, Title 5 Regulations

Division 1. California Department of Education
Chapter 13. School Facilities and Equipment
Subchapter 1. School Housing

The regulation sections pertaining to the California Department of Education's school site and construction reviews are listed below and can be viewed using the following links:

Article 1. General Standards

[Section 14001. Minimum Standards](#)

Article 2. School Sites

[Section 14010. Standards for School Site Selection](#)

[Section 14011. Procedures for Site Acquisition - State-Funded School Districts](#)

[Section 14012. Procedures for Site Acquisition - Locally-Funded School Districts](#)

Article 4. Standards, Planning and Approval of School Facilities

[Section 14030. Standards for Development of Plans for the Design and Construction of School Facilities](#)

[Section 14031. Plan Approval Procedures for State-Funded School Districts](#)

[Section 14032. Plan Approval for State-Funded School Districts](#)

[Section 14033. Applicability of Plan Standards to Locally-Funded School Districts](#)

[Section 14034. Planning Guides](#)

[Section 14035. Abandonment of Inadequate Facilities](#)

[Section 14036. Integrated Facilities](#)

CDE forms available at: <http://www.cde.ca.gov/lr/fa/sf/forms.asp>

Attachment 1

Education Code

17070.50 Condition for apportionment

The board shall not apportion funds to any school district, unless the applicant school district has certified to the board that the services of any architect, structural engineer, or other design professional for any work under the project have been obtained pursuant to a competitive process that is consistent with the requirements of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the *Government Code* and has obtained the written approval of the State Department of Education that the site selection, and the building plans and specifications, comply with the standards adopted by the department pursuant to subdivisions (b) and (c), respectively, of Section 17251. (Added by Stats 1998, c. 407 (S.B.50), § 4, eff. Aug. 27, 1998. Amended by Stats. 1999, c.992 (A.B. 387), § 1.)

17070.55 Department of Education's assistance

Upon request of any school district, the State Department of Education shall provide assistance in the evaluation and utilization of existing school facilities and the justification of the need of schoolsites, new facilities, and the rehabilitation or replacement of existing facilities, in accordance with board regulations. (Added by Stats 1998, c. 407 (S.B.50), § 4, eff. Aug. 27, 1998)

17072.12 Assistance in site development and acquisition

- a. In addition to the amount provided in Section 17072.10, the board may provide funding for assistance in site development and acquisition if all of the following are met:
 1. The amount of the site acquisition and development assistance does not exceed 50 percent of the cost of site development to the school district, plus the lesser of the following:
 - A. 50 percent of the site cost to the school district
 - B. 50 percent of the appraised value of the site within six months of the time the complete application is submitted
 2. The school district certifies that there is no alternative available site, or that the district plans to sell an available site in order to use the proceeds of the sale for the purchase of the new site.
- b. Notwithstanding subdivision (a), the board may provide funding for assistance in site development and acquisition to a school district that uses land previously acquired by the school district in an amount equal to 50 percent of the cost of the site development to the school district, plus 50 percent the site's appraised value at the time the application for site acquisition and development is submitted, provided all of the following are met:
 1. The site was acquired no less than five years prior to the date the application is submitted.
 2. The site had been productively used by the school district as other than a schoolsite for the five years immediately preceding the date the application is submitted.
 3. The board determines that the nonschool function currently taking place on the site must be discontinued or relocated in order to utilize the site as a schoolsite.
- c. A school district that receives assistance pursuant to subdivision (b) shall, within one year after the completion of the project, certify in writing to the board that the nonschool function was in fact relocated as set forth in paragraph (4) of subdivision (b).
- d. Pursuant to subdivision (b), an applicant school district shall include in its application to the board a cost-benefit analysis performed by the school district demonstrating how utilizing existing nonschoolsite district property pursuant to this section would be a more effective method of solving the school district's pupil housing problems than any other method of funding under this chapter. The board shall review and approve the analysis if the board agrees with the findings and shall consider the analysis and findings in approving the project pursuant to this section. (Added by Stats 1998, c. 407 (S.B.50), § 4, eff. Aug. 27, 1998. Amended by Stats. 2001, c.647 (A.B. 401), § 1.)

17072.13 Funding of Hazardous Site Assessments and Cleanup

In addition to the amounts provided pursuant to Sections 17072.10 and 17072.12, the board may provide site acquisition and hazardous materials evaluation and response action funding for proposed new schoolsites as follows:

- a. (1) For 50 percent of the cost of the evaluation of hazardous materials at a site to be acquired by a school district and for 50 percent of the other response action costs of the removal of hazardous waste or solid waste, the removal of hazardous substances, or other response action in connection with hazardous substances at that site. Except as provided in subdivision (b), the funding provided pursuant to this section may not exceed 50 percent of the total evaluation and response action costs, including, but not limited to, the costs of the removal of hazardous waste or solid waste, the removal of hazardous substances, or other response action, as determined by the Department of Toxic Substances Control, in connection with hazardous substances at that site, pursuant to standards adopted by the board.

(2) For projects eligible for funding under this subdivision, the total state share of the site acquisition costs, including evaluation and response action, shall not exceed 50 percent of 11/2 times the appraised value of the uncontaminated site. However, the board may exceed this maximum for projects that demonstrate circumstances of extreme need.
- b. (1) The board may provide funding for up to 100 percent of the cost of the evaluation of hazardous materials at a site to be acquired by a school district eligible for financial hardship assistance pursuant to Article 8 (commencing with Section 17075.10) and for up to 100 percent of the other response costs for the site. The funding provided pursuant to this subdivision may not exceed 100 percent of the total evaluation and response costs, including, but not limited to, the costs of the removal of hazardous waste or solid waste, the removal of hazardous substances, or other response action, as determined by the Department of Toxic Substances Control, in connection with hazardous substances at that site, pursuant to standards adopted by the board.

(2) The board may provide funding pursuant to this subdivision only if the State Department of Education certifies that the site is the best available site considering all of the following factors in relation to other available sites:

 - A. The total costs of the project, including, but not limited to, costs of evaluation and response action.
 - B. The desirability of the site, considering its proximity to pupils and suitability for meeting the educational and safety needs of the school district.
 - C. The time required to fully complete the project in relation to the current and projected need for school facilities.

(3) For projects eligible for funding under this subdivision, the total state share of the site acquisition costs, including evaluation and response action, shall not exceed 100 percent of 11/2 times the appraised value of the uncontaminated site. However, the board may exceed this maximum for projects that demonstrate circumstances of extreme need.
- c. A school district with a proposed site that meets environmental hardship criteria set forth in paragraph (1) may apply to the board for site acquisition, including, but not limited to, evaluation and response action, funding for that site prior to having construction plans for that site approved by the Division of the State Architect and State Department of Education.
 1. A project is eligible for environmental hardship site acquisition funding if both of the following apply:
 - A. The preparation and implementation of a response action for the site, to be approved by the Department of Toxic Substances Control pursuant to Section 17213, is estimated by the Department of Toxic Substances Control to take six months or more to complete.
 - B. The State Department of Education determines that the site is the best available alternative site.
 2. The initial site-specific reservation pursuant to this subdivision shall be for a period of one year. Extension may be approved in one-year intervals upon demonstration to the State Allocation Board of progress toward acquisition, including, but not limited to, evaluation or response, as the case may be. In the event there is not demonstrable progress, the State Allocation Board shall have the option of rescinding the reservation.

3. Environmental hardship site acquisition funds approved by the State Allocation Board can be used only for the site identified in the response action approved by the Department of Toxic Substances Control.
4. The date that the State Allocation Board approves the environmental hardship site acquisition funding will become the State Allocation Board approval date for the project's construction funding for that site.
5. A school district may apply to the State Allocation Board for construction funding for the environmental hardship site when the project has received final Division of the State Architect plan approval and final State Department of Education site and plan approval.

d. The cost incurred by the school districts when complying with any requirement identified in this section are allowable costs for purposes of an applicant under this chapter and may be reimbursed in accordance with this section.

e. The State Allocation Board shall develop regulations that allow school districts with financial hardship site acquisition, including, but not limited to, evaluation and response action, funding prior to ownership of the site or evidence that the site is in escrow.

17072.14 Adjustments to new construction grants for hazardous materials evaluation and removal.

Notwithstanding Section 17070.63, the board may allow adjustments to a new construction grant if, as a result of additional requirements imposed by the Department of Toxic Substances Control, the actual amount paid by a school district for allowable costs of hazardous materials evaluation and removal, including associated fees, exceeds the amount of the grant apportionment for those purposes. The combined amount of the initial apportionment for these purposes and the adjustment pursuant to this section may not exceed the amount permitted pursuant to Section 17072.13.

17072.18 Funding of Hazardous Site Assessments and Cleanup

- a. (1) The board may provide evaluation and response action funding for response action funding for response costs of the removal of hazardous waste or solid waste, the removal of hazardous substances, or other response action in connection with hazardous substances at an existing schoolsite, in the same manner as provided in Section 17072.13.

(2) Funding as set forth in paragraph (1) may be provided to a school district that has applied for, or received, funds from the board for the acquisition of a new schoolsite, but which has incurred, or will incur, response costs necessary for the development of the existing schoolsite, if the school district is otherwise eligible for funding under this chapter.
- b. A school district may apply for funding pursuant to this section prior to having construction plans for that site approved by the Division of the State Architect or by the State Department of Education if the school district is otherwise eligible for funding under this chapter.

17210 Environmental Assessment of School Sites

As used in this article, the following terms have the following meanings:

- a. "Administering agency" means any agency designated pursuant to Section 25502 of the *Health and Safety Code*.
- b. "Environmental assessor" means a class II environmental assessor registered by the Office of Environmental Health Hazard Assessment pursuant to Chapter 6.98 (commencing with Section 25570) of Division 20 of the *Health and Safety Code*, a professional engineer registered in this state, a geologist registered in this state, a certified engineering geologist registered in this state, or a licensed hazardous substance contractor certified pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the *Business and Professions Code*. A licensed hazardous substance contractor shall hold the equivalent of a degree from an accredited public or private college or university or from a private postsecondary educational institution approved by the Bureau for Private Postsecondary and Vocational Education with at least 60 units in environmental, biological, chemical, physical, or soil science; engineering; geology; environmental or public health; or a directly related science field. In addition, any person who conducts Phase I environmental assessments shall have at least two years' experience in the preparation of those assessments and any person who conducts a preliminary endangerment assessment shall have at least three years' experience in conducting those assessments.
- c. "Handle" has the meaning the term is given in Article 1(commencing with Section 25500) of Chapter 6.95 of Division 20 of the *Health and Safety Code*.

- d. "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the *Health and Safety Code*.
- e. "Hazardous material" has the meaning the term is given in subdivision (d) of Section 25260 of the *Health and Safety Code*.
- f. "Operation and maintenance," removal action work plan," "respond," "response," "response action" and "site" have the meanings those terms are given in Article 2 (commencing with Section 25310) of the state act.
- g. "Phase I environmental assessment" means a preliminary assessment of a property to determine whether there has been or may have been a release of a hazardous material, or whether a naturally occurring hazardous material is present, based on reasonably available information about the property and the area in its vicinity. A Phase I environmental assessment may include, but is not limited to, a review of public and private records of current and historical land uses, prior releases of a hazardous material, data base searches, review of relevant files of federal, state, and local agencies, visual and other surveys of the property, review of historical aerial photographs of the property and the area in its vicinity, interviews with current and previous owners and operators, and review of regulatory correspondence and environmental reports. Sampling or testing is not required as part of the Phase I environmental assessment. A Phase I environmental assessment conducted pursuant to the requirements adopted by the American Society for Testing and Materials for due diligence for commercial real estate transactions and that includes a review of all reasonably available records and data bases regarding current and prior gas or oil wells and naturally occurring hazardous materials located on the site or located where they could potentially effect the site, satisfies the requirements of this article for conducting a Phase I environmental assessment unless and until the Department of Toxic Substances Control adopts final regulations that establish guidelines for a Phase I environmental assessment for purposes of schoolsites that impose different requirements from those imposed by the American Society for Testing and Materials.
- h. "Preliminary endangerment assessment" means an activity that is performed to determine whether current or past hazardous material management practices or waste management practices have resulted in a release or threatened release of hazardous materials, or whether naturally occurring hazardous materials are present, which pose a threat to children's health, children's learning abilities, public health or the environment. A preliminary endangerment assessment requires sampling and analysis of a site, a preliminary determination of the type and extent of hazardous material contamination of the site, and a preliminary evaluation of the risks that the hazardous material contamination of a site, may pose to children's health, public health, or the environment, and shall be conducted in a manner that complies with the guidelines published by the Department of Toxic Substances Control entitled "Preliminary Endangerment Assessment: Guidance Manual," including any amendments that are determined by the Department of Toxic Substances Control to be appropriate to address issues that are unique to schoolsites.
- i. "Proposed schoolsite" means real property acquired or to be acquired or proposed for use as a schoolsite, prior to its occupancy as a school.
- j. "Regulated substance" means any material defined in subdivision (g) of Section 25532 of the *Health and Safety Code*.
- k. "Release" has the same meaning the term is given in Article 2 (commencing with Section 25310) of Chapter 6.8 of Division 20 of the *Health and Safety Code*, and includes a release described in subdivision (d) of Section 25321 of the *Health and Safety Code*.
- l. "Remedial action plan" means a plan approved by the Department of Toxic Substances Control pursuant to Section 25356.1 of the *Health and Safety Code*.
- m. "State act" means the Carpenter-Presley-Tanner Hazardous Substance Account Act (Chapter 6.8 (commencing with Section 25300) of Division 20 of the *Health and Safety Code*). *Added by Stats. 1999, c. 1002 (S.B. 162), § 1. Amended by Stats. 2000, c. 135 (A.B. 2539), § 31; Stats 2000, c. 443 (A.B. 2644), § 2, eff. Sept. 14, 2000; Stats 2001, c. 159 (S.B. 662), § 56.)*

17210.1 Application of state act; hazardous materials; risk assessments; compliance with other laws

- a. Notwithstanding any other provision of law:
1. For sites addressed by this article for which school districts elect to receive state funds pursuant to Chapter 12.5 (commencing with Section 17070.10), the state act applies to schoolsites where naturally occurring hazardous materials are present, regardless of whether there has been a release or there is a threatened release of a hazardous material.

2. For sites addressed by this article for which school districts elect to receive state funds pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10, all references in the state act to hazardous substances shall be deemed to include hazardous materials and all references in the state act to public health shall be deemed to include children's health.
3. All risk assessments conducted by school districts that elect to receive state funds pursuant to Chapter 12.5 (commencing with Section 17070.10) at sites addressed by this article shall include a focus on the risks to children's health posed by a hazardous materials release or threatened release, or the presence of naturally occurring hazardous materials, on the schoolsite.
4. The response actions selected under this article shall, at a minimum, be protective of children's health, with an ample margin of safety.

b. In implementing this article, a school district shall provide a notice to residents in the immediate area, prior to the commencement of work on a preliminary endangerment assessment utilizing a format developed by the Department of Toxic Substances Control.

c. Nothing in this article shall be construed to limit the authority of the Department of Toxic Substances Control or the State Department of Education to take any action otherwise authorized under any other provision of law.

d. Unless the Legislature otherwise funds its costs for overseeing actions taken pursuant to this article, the Department of Toxic Substances Control shall comply with Chapter 6.66 (commencing with Section 25269) of Division 20 of the *Health and Safety Code* when recovering its costs incurred in carrying out its duties pursuant to this article.

e. Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the *Health and Safety Code* does not apply to schoolsites at which all necessary response actions have been completed. (*Added by Stats. 1999, c 1002 (S.B. 162), § 2. Amended by Stats. 2000, c. 443 (A.B. 2644), § 3, eff. Sept. 14, 2000, Stats. 2001, c. 865 (A.B. 972), § 1, eff. Oct. 14, 2001.*)

17211 Public hearing for evaluation prior to acquisition in accordance with site selection standards

Prior to commencing the acquisition of real property for a new schoolsite or an addition to an existing schoolsite, the governing board of a school district shall evaluate the property at a public hearing using the site selection standards established by the State Department of Education pursuant to subdivision (b) of Section 17251. The governing board may direct the district's advisory committee established pursuant to Section 17388 to evaluate the property pursuant to those site selection standards and to report its findings to the governing board at the public hearing. (*Added by Stats. 1996, c. 277 (S.B. 1562), § 3, operative Jan. 1, 1998.*)

17212 Investigation of prospective school site; inclusion of geological and engineering studies

The governing board of a school district, prior to acquiring any site on which is proposes to construct any school building as defined in Section 17283 shall have the site, or sites, under consideration investigated by competent personnel to ensure that the final site selection is determined by an evaluation of all factors affecting the public interest and is not limited to selection on the basis of raw land cost only. If the prospective school site is located within boundaries of any special studies zone or within an area designated as geologically hazardous in the safety element of the local general plan as provided in subdivision (g) of Section 65302 of the *Government Code*, the investigation shall include any geological and soil engineering studies by competent personnel needed to provide an assessment of the nature of the site and potential for earthquake or other geologic hazard damage.

The geological and soil engineering studies of the site shall be of such a nature as will preclude siting of a school in any location where the geological and site characteristics are such that the construction effort required to make the school building safe for occupancy is economically unfeasible. No studies are required to be made if the site or sites under consideration have been the subject of adequate prior studies. The evaluation shall also include location of the site with respect to population, transportation, water supply, waste disposal facilities, utilities, traffic hazards, surface drainage conditions, and other factors affecting the operating costs, as well as the initial costs, of the total project.

For the purposes of this article, a special studies zone is an area which is identified as a special studies zone on any map, or maps, compiled by the State Geologist pursuant to Chapter 7.5 (commencing with Section 2621) of Division 2 of the *Public Resources Code*. (*Added by Stats. 1996, c. 277 (S.B. 1562), § 3, operative Jan. 1, 1998.*)

17212.1 Legislative intent; safety assessment

It is the intent of the Legislature that corporations, public utilities, local publicly owned utilities, governmental agencies, and school districts work collaboratively in assessing the safety of a proposed schoolsite or addition to an existing schoolsite.

17212.2 Written requests for safety information; scope of information sought; resolution of disputes

- a. The governing board of a school district may make a written request upon a person, corporation, public utility, local publicly owned utility, or governmental agency for information necessary or useful to assess and determine the safety of a proposed schoolsite or an addition to an existing schoolsite, pursuant to Section 17251 and this chapter, including pipelines, electric transmission and distribution lines, railroads, and storage tanks. The written request shall identify the physical location of the schoolsite for which information is being sought, describe the information sought, and contain a statement as to why the information is needed or useful. Information requested may include all of the following:
 1. Railroad operations involving hazardous or toxic materials, as reported to a governmental agency; frequency, speed, and schedule of railroad traffic; grade, curves, and condition of railroad tracks; and railroad accident occurrence.
 2. Whether there are existing pipelines, planned pipelines, or easements for pipelines on, or in proximity to, as specified pursuant to regulations adopted pursuant to Section 17251, the schoolsite, including the location of the pipeline, the age of the pipeline, the pipeline material, the class of pipeline, the diameter of the pipeline, the depth at which the pipeline is buried, the wall thickness of the pipeline, the product or products transported by the pipeline, the operating pressure of the pipeline, the history of spills or leaks of material being transported by the pipeline, as reported to a governmental agency, and the location of the shutoff valves for the pipeline that are capable of preventing or halting the transport of product or products to the schoolsite.
 3. Whether there are easements for planned or existing lines for the transmission of distribution of electricity, electrical transformers, or electrical substations on or in proximity to, as specified pursuant to regulations adopted pursuant to Section 17251, the schoolsite, the location of easements for, planned, or existing lines, transformers, or substations, the voltages currently handled or planned to be handled by the line, transformer, or substation, the ground clearance, if applicable, of a line, transformer, or substation, and the depth of burial, if applicable, of the line, transformer, or substation as specified by the Public Utilities Commission.
 4. The location, age, construction type, safety record, and product stored in a storage tank.
- b. A person, corporation, public utility, local publicly owned utility, or governmental agency receiving a written request for information pursuant to this section shall provide a written response within 30 calendar days of receipt of the request, that provides the requested information, identifies available public information or an available report to a governmental agency, or provides written justification why the requested information is not being provided. A claim that the requested information is proprietary or confidential is a legitimate justification for the requested information to not be provided. The governing board of a school district may grant additional time to respond to a request for information pursuant to this section.
- c. A school district may file a complaint with the appropriate regulatory agency or legislative body for a violation of the requirements of this section. The regulatory agency or legislative body may appoint a representative to work toward informally resolving the complaint. (Added by Stats 2004, c. 578 (A.B.2485), § 2. Amended by Stats.2005, c. 22 (S.B. 1108), § 27.)

17212.5 Geological and soils engineering studies

Geological and soil engineering studies as described in Section 17212 shall be made, with the boundaries of any special studies zone, for the construction of any school building as defined in Section 17283, or if the estimated cost exceeds twenty-five thousand dollars (\$25,000), for the reconstruction or alteration of or addition to any such school building for work which alters structural elements. The Department of General Services may require similar geological and soil engineering studies for the construction or alteration of any school building on a site located outside of the boundaries of any special studies zone. No such studies need be made if the site under construction has been the subject of adequate prior studies.

No school building shall be constructed, reconstructed, or relocated on the trace of a geological fault along which surface rupture can reasonably be expected to occur within the life of the school building.

A copy of the report of each investigation conducted pursuant to this section shall be submitted to the Department of General Services pursuant to Article 3 (commencing with Section 17280) of this chapter and to the Department of Education. The cost of geological and soil engineering studies and investigations conducted pursuant to this section may be treated as a capital expenditure. The dollar amount set forth in this section shall be increased on an annual basis, according to a construction costs inflation index recognized and selected by the department. (*Added by Stats, 1996, c. 277 (S.B. 1562), § 3, operative Jan. 1, 1998. Amended by Stats, 2001, c. 422 (A.B. 1478), § 1.*)

17213 Approval of site acquisition; hazardous or solid waste disposal sites or hazardous substance release site; hazardous air emissions; findings

The governing board of a school district may not approve a project involving the acquisition of a schoolsite by a school district, unless all of the following occur:

- a. The school district, as the lead agency, as defined in Section 21067 of the *Public Resource Code*, determines that the property purchased or to be built upon is not any of the following:
 1. The site of a current or former hazardous waste disposal site or solid waste disposal site, unless if the site was a former solid waste disposal site, the governing board of the school district concludes that the wastes have been removed.
 2. A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the *Health and Safety Code* for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the *Health and Safety Code*.
 3. A site that contains one or more pipelines, situated underground or aboveground, that carries hazardous substances, extremely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood.
- b. The school district, as the lead agency, as defined in Section 21067 of the *Public Resources Code*, in preparing the environmental impact report or negative declaration has consulted with the administering agency in which the proposed schoolsite is located, pursuant to Section 2735.3 of Title 19 of the *California Code of Regulations*, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways and other busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed schoolsite, that might be reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or extremely hazardous materials, substances, or waste. The school district, as the lead agency, shall include a list of the locations for which information is sought.
- c. The governing board of the school district makes one of the following written findings:
 1. Consultation identified none of the facilities or significant pollution sources specified in subdivision (b).
 2. The facilities or other pollution sources specified in subdivision (b) exist, but one of the following conditions applies:
 - A. The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the school.
 - B. The governing board finds that corrective measures required under an existing order by another governmental entity that has jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes this finding, the governing board shall also make a subsequent finding, prior to the occupancy of the school, that the emissions have been mitigated to these levels.
 - C. For a schoolsite with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the governing board of the school district determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the *Health and Safety Code*, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

D. The governing board finds that neither of the conditions set forth in subparagraph (B) or (C) can be met, and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section 17213. If the governing board makes this finding, the governing board shall adopt a statement of Overriding Considerations pursuant to Section 15093 of Title 14 of the California *Code of Regulations*.

d. As used in this section:

1. "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the *Health and Safety Code*.
2. "Hazardous substance" means any substance defined in Section 25316 of the *Health and Safety Code*.
3. "Extremely hazardous material" means any material defined pursuant to paragraph (2) of subdivision (g) of Section 25532 of the *Health and Safety Code*.
4. "Hazardous waste" means any waste defined in Section 25117 of the *Health and Safety Code*.
5. "Hazardous waste disposal site" means any site defined in Section 25114 of the *Health and Safety Code*.
6. "Administering agency": means any agency designated pursuant to Section 25502 of the *Health and Safety Code*.
7. "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the *Health and Safety Code*.
8. "Facilities" means any source with a potential to use, generate, emit or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the California Air Resources Board.
9. "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area as defined in Section 50101 of the *Health and Safety Code*, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the *Health and Safety Code*

17213.1 Environmental assessment of proposed school site; preliminary endangerment assessment; costs; liability

As a condition of receiving state funding pursuant to Chapter 12.5 (commencing with Section 17070.10), the governing board of a school district shall comply with subdivision (a), and is not required to comply with subdivision (a) of Section 17213, prior to the acquisition of a schoolsite, or if the school district owns or leases a schoolsite, prior to the construction of a project.

- a. Prior to acquiring a schoolsite, the governing board shall contract with an environmental assessor to supervise the preparation of, and sign, a Phase I environmental assessment of the proposed schoolsite unless the governing board decides to proceed directly to a preliminary endangerment assessment, in which case it shall comply with paragraph (4).
 1. The Phase I environmental assessment shall contain one of the following recommendations:
 - A. A further investigation of the site is not required.
 - B. A preliminary endangerment assessment is needed, including sampling or testing, to determine the following:
 - i. If a release of hazardous material has occurred and, if so, the extent of the release.
 - ii. If there is the threat of a release of hazardous materials.
 - iii. If a naturally occurring hazardous material is present.

2. If the Phase I environmental assessment concludes that further investigation of the site is not required, the signed assessment, proof that the environmental assessor meets the qualifications specified in subdivision (b) of Section 17210, and the renewal fee shall be submitted to the Department of Toxic Substances Control. The Department of Toxic Substances Control shall conduct its review and approval, within 30 calendar days of its receipt of that assessment, proof of qualifications, and the renewal fee. In those instances in which the Department of Toxic Substances Control requests additional information after receipt of the Phase I environmental assessment pursuant to paragraph (3), the Department of Toxic Substances Control shall conduct its review and approval within 30 calendar days of its receipt of the requested additional information. If the Department of Toxic Substances Control concurs with the conclusion of the Phase I environmental assessment that a further investigation of the site is not required, the Department of Toxic Substances Control shall approve the Phase I environmental assessment and shall notify, in writing, the State Department of Education and the governing of the school district of the approval.
3. If the Department of Toxic Substances Control determines that the Phase I environmental assessment is not complete or disapproves the Phase I environmental assessment, the department shall inform the school district of the decision, the basis for the decision, and actions necessary to secure department approval of the Phase I environmental assessment. The school district shall take actions necessary to secure the approval of the Phase I environmental assessment, elect to conduct a preliminary endangerment assessment, or elect not to pursue the acquisition or the construction project. To facilitate completion of the Phase I environmental assessment, the information required by this paragraph may be provided by telephonic or electronic means.
4. (A) If the Department of Toxic Substances Control concludes after its review of a Phase I environmental assessment pursuant to this section that a preliminary endangerment assessment is needed, the Department of Toxic Substances Control shall notify, in writing, the State Department of Education and the governing board of the school district of that decision and the basis for that decision. The school district shall submit to the State Department of Education the Phase I environmental assessment and requested additional information, if any, that was reviewed by the Department of Toxic Substances Control pursuant to that subparagraph. Submittal of the Phase I assessment and additional information, if any, to the State Department of Education shall be prior to the State Department of Education issuance of final site or plan approvals affect by that Phase I assessment.

B. If the Phase I environmental assessment concludes that a preliminary endangerment assessment is needed, or if the Department of Toxic Substances Control concludes after it reviews a Phase I environmental assessment pursuant to this section that a preliminary endangerment assessment is needed, the school district shall either contract with an environmental assessor to supervise the preparation of, and sign, a preliminary endangerment assessment of the proposed schoolsite and enter into an agreement with the Department of Toxic Substances Control to oversee the preparation of the preliminary endangerment assessment or elect not to pursue the acquisition or construction project. The agreement entered into with the Department of Toxic Substances Control may be entitled an "Environmental Oversight Agreement" and shall reference this paragraph. A school district may, with the concurrence of the Department of Toxic Substances Control, enter into an agreement with the Department of Toxic Substances Control to oversee the preparation of a preliminary endangerment assessment without first having prepared a Phase I environmental assessment. Upon request from the school district, the Director of the Department of Toxic Substances Control shall exercise its authority to designate a person to enter the site and inspect and obtain samples pursuant to Section 25358.1 of the *Health and Safety Code*, if the director determines that the exercise of that authority will assist in expeditiously completing the preliminary endangerment assessment. The preliminary endangerment assessment shall contain one of the following conclusions:
 - i. A further investigation of the site is not required.
 - ii. A release of hazardous materials has occurred, and if so, the extent of the release, that there is the threat of a release of hazardous materials, or that a naturally occurring hazardous material is present, or any combination thereof.

5. The school district shall submit the preliminary endangerment assessment to the Department of Toxic Substances Control for its review and approval and to the State Department of Education for its files. The school district may entitle a document that is meant to fulfill the requirements of a preliminary endangerment assessment a "preliminary environmental assessment" and that document shall be deemed to be a preliminary endangerment assessment if it specifically refers to the statutory provisions whose requirements it intends to meet and the document meets the requirements of a preliminary endangerment assessment.
6. At the same time a school district submits a preliminary endangerment assessment to the Department of Toxic Substances Control pursuant to paragraph (5), the school district shall publish a notice that the assessment has been submitted to the department in a local newspaper of general circulation, and shall post the notice in a prominent manner at the proposed schoolsite that is the subject of that notice. The notice shall state the school district's determination to make the preliminary endangerment assessment available for public review and comment pursuant to subparagraph (A) or (B):

A. If the school district chooses to make the assessment available for public review and comment pursuant to this subparagraph, it shall offer to receive written comments for a period of at least 30 calendar days after the assessment is submitted to the Department of Toxic Substances Control, commencing on the date the notice is originally published, and shall hold a public hearing to receive further comments. The school district shall make all of the following documents available to the public upon request through the time of the public hearing:

- i. The preliminary endangerment assessment.
- ii. The changes requested by the Department of Toxic Substances Control for the preliminary endangerment assessment, if any.
- iii. Any correspondence between the school district and the Department of Toxic Substances Control that relates to the preliminary endangerment assessment.

For the purposes of this subparagraph, the notice of the public hearing shall include the date and location of the public hearing, and the location where the public may review the documents described in clauses (i) to (iii), inclusive. If the preliminary endangerment assessment is revised or altered following the public hearing, the school district shall make those revisions or alterations available to the public. The school district shall transmit a copy of all public comments received by the school district on the preliminary endangerment assessment to the Department of Toxic Substances Control. The Department of Toxic Substances Control shall complete its review of the preliminary endangerment assessment and public comments received thereon and shall either approve or disapprove the assessment within 30 calendar days of the close of the public review period. If the Department of Toxic Substances Control determines that it is likely to disapprove the assessment prior to its receipt of the public comments, it shall inform the school district of that determination and of any action that the school district is required to take for the Department of Toxic Substances Control to approve the assessment.

- B. If the school district chooses to make the preliminary endangerment assessment available for public review and comment pursuant to this subparagraph, the Department of Toxic Substances Control shall complete its review of the assessment within 60 calendar days of receipt of the assessment and shall either return the assessment to the school district with comments and requested modifications or requested further assessment or concur with the adequacy of the assessment pending review of public comment. If the Department of Toxic Substances Control concurs with the adequacy of the assessment, and the school district proposes to proceed with site acquisition or a construction project, the school district shall make the assessment available to the public on the same basis and at the same time it makes available the draft environmental impact report or negative declaration pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the *Public Resources Code*) for the site, unless the document developed pursuant to the California Environmental Quality Act (Division 13

(commencing with Section 21000) of the *Public Resources Code*) will not be made available until more than 90 days after the assessment is approved, in which case the school district shall, within 60 days of the approval of the assessment, separately publish a notice of the availability of the assessment of public review in a local newspaper of general circulation. The school district shall hold a public hearing on the preliminary endangerment assessment and the draft environmental impact report or negative declaration at the same time, pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the *Public Resources Code*). All public comments pertaining to the preliminary endangerment assessment shall be forwarded to the Department of Toxic Substances Control immediately. The Department of Toxic Substances Control shall review the public comments forwarded by the school district and shall approve or disapprove the preliminary endangerment assessment within 30 days of the district's approval action of the environmental impact report or the negative declaration.

6. The school district shall comply with the public participation requirements of Sections 25358.7 and 25358.7.1 of the *Health and Safety Code* and other applicable provisions of the state act with respect to those response actions only if further response actions beyond a preliminary endangerment assessment are required and the district determines that it will proceed with the acquisition or construction project.
7. If the Department of Toxic Substances Control disapproves the preliminary endangerment assessment, it shall inform the district of the decision, the basis for the decision, and actions necessary to secure the Department of Toxic Substances Control approval of the assessment. The school district shall take actions necessary to secure the approval of the Department of Toxic Substances Control of the preliminary endangerment assessment or elect not to pursue the acquisition or construction project.
8. If the preliminary endangerment assessment determines that a further investigation of the site is not required and the Department of Toxic Substances Control approves this determination, it shall notify the State Department of Education and the school district of its approval. The school district may then proceed with the acquisition or construction project.
9. If the preliminary endangerment assessment determines that a release of hazardous material has occurred, that there is the threat of a release of hazardous materials, that a naturally occurring hazardous material is present, or any combination thereof, that requires further investigation, and the Department of Toxic Substances Control approves this determination, the school district may elect not to pursue the acquisition or construction project. If the school district elects to pursue the acquisition or construction project, it shall do all of the following:
 - B. Prepare a financial analysis that estimates the cost response action that will be required at the proposed schoolsite.
 - C. Assess the benefits that accrue from using the proposed schoolsite when compared to the use of alternative schoolsites, if any.
 - D. Obtain the approval of the State Department of Education that the proposed schoolsite meets the schoolsite selection standards adopted by the State Department of Education pursuant to subdivision (b) of Section 17251.
 - E. Evaluate the suitability of the proposed schoolsite in light of the recommended alternative schoolsite locations in order of merit if the school district has requested the assistance of the State Department of Education, based upon the standards of the State Department of Education, pursuant to subdivision (a) of Section 17251.
10. The school district shall reimburse the Department of Toxic Substances Control for all of the department's response costs.
 - b. The costs incurred by the school districts when complying with this section are allowable costs for purposes of an applicant under Chapter 12.5 (commencing with Section 17070.10) of Part 10 and may be reimbursed in accordance with Section 17072.13.
 - c. A school district that releases a Phase I environmental assessment, a preliminary endangerment assessment, or information concerning either of these assessments, any of which is required by this section, may not be held liable in any action filed against the school district for making either of these assessments available for public review.
 - d. The changes made to this section by the act amending this section during the 2001 portion of the 2001-02 Regular Session do not apply to a schoolsite acquisition project or a school construction project, if either of the following occurred on or before the effective date of the act amending this section during the 2001 portion of the 2001-02 Regular Session:

5. The final preliminary endangerment assessment for the project was approved by the Department of Toxic Substances Control pursuant to this section as this section read on the date of the approval.
6. The school district seeking state funding for the project completed a public hearing for the project pursuant to this section, as this section read on the date of the hearing.

Added by Stats. 1999, c. 1002 (S.B. 162), § 3. Amended by Stats. 2000, c. 443 (A.B. 2644), § 4, eff. Sept. 14, 2000, Stats. 2001, c. 865 (A.B. 972), § 2, eff. Oct. 14, 2001.)

17213.2 Conditions of State Funding

As a condition of receiving state funds pursuant to Chapter 12.5 (commencing with Section 17070.10), all of the following apply:

- a. If a preliminary endangerment assessment prepared pursuant to Section 17213.1 discloses the presence of a hazardous materials release, or threatened release, or the presence of naturally occurring hazardous materials, at a proposed schoolsite at concentrations that could pose a significant risk to children or adults, and the school district owns the proposed schoolsite, the school district shall enter into an agreement with the Department of Toxic Substances Control to oversee response action at the site and shall take response action pursuant to the requirements of the state act as may be required by the Department of Toxic Substances Control.
- b. Notwithstanding subdivision (a), a school district need not take action in response to a release of hazardous material to groundwater underlying the schoolsite if the release occurred at a site other than the schoolsite and if the following conditions apply:
 1. The school district did not cause or contribute to the release of a hazardous material to the groundwater.
 2. Upon the request of the Department of Toxic Substances Control or its authorized representative the school district provides the Department of Toxic Substances Control or its authorized representative with access to the schoolsite.
 3. The school district does not interfere with the response action activities.
- c. If at any time during the response action the school district determines that there has been a significant increase in the estimated cost of the response action, the school district shall notify the State Department of Education.
- d. A school district that is required by the Department of Toxic Substances Control to take response action at a proposed schoolsite is subject to both of the following prohibitions:
 1. The school district may not begin construction of a school building until the Department of Toxic Substances Control determines all of the following:
 - A. That the construction will not interfere with the response action.
 - B. That site conditions will not pose a significant threat to the health and safety of workers involved in the construction of the school building.
 - C. That the nature and extent of any release or threatened release of hazardous materials or the presence of any naturally occurring hazardous materials have been fully characterized.
 2. The school district may not occupy a school building following construction until it obtains from the Department of Toxic Substances Control a certification that all response actions, except for operation and maintenance activities, necessary to ensure that hazardous materials at the schoolsite no longer pose a significant risk to children and adults at the schoolsite have been completed and that the response action standards and objectives established in the final removal action work plan or remedial action plan have been met and are being maintained. After a school building is constructed and occupied, a school district may continue with ongoing operation and maintenance activities if the Department of Toxic Substances Control certifies before occupancy that neither site conditions nor the ongoing operation and maintenance activities pose a significant risk to children or adults at the schoolsite.
- e. If, at any time during construction at a schoolsite, a previously unidentified release or threatened release of a hazardous material or the presence of a naturally occurring hazardous material is discovered, the school district shall cease all construction activities at the sites notify the Department of Toxic Substances Control, and take actions required by subdivision (a) that are necessary to address the release or threatened release or the presence of any naturally occurring hazardous materials. Construction may be resumed if the Department of Toxic Substances Control determines that the construction will not interfere with any response action necessary to address the hazardous material release or threatened release or the presence of a naturally occurring hazardous material, determines that the site conditions will not pose a significant threat to the health and safety of workers involved in the

construction of the schoolsite, and certifies that the nature and extent of the release, threatened release, or presence of a naturally occurring hazardous material have been fully characterized.

f. Construction may proceed at any portions of the site that the Department of Toxic Substances Control determines are not affected by the release or threatened release of hazardous materials, or presence of any naturally occurring hazardous materials, provided that all of the following apply:

1. Those portions of the site have been fully characterized.
2. The Department of Toxic Substances Control determines that the construction will not interfere with any response action necessary to address the release or threatened release of hazardous materials, or presence of any naturally occurring hazardous materials.
3. The site conditions will not pose a significant threat to the health and safety of workers involved with construction.

g. The Department of Toxic Substances Control shall notify the State Department of Education, the Division of the State Architect, and the Office of Public School Construction when the Department of Toxic Substances Control certifies that all necessary response actions have been completed at a schoolsite. The Department of Toxic Substances Control shall also notify the Division of the State Architect whenever a response action has an impact on the design of a school facility and shall specify the conditions that must be met in the design of the school facility in order to protect the integrity of the response action.

h. The school district shall reimburse the Department of Toxic Substances Control for all response costs incurred by the department.

i. The costs incurred by the school districts when complying with this section are allowable costs for purposes of an applicant under Chapter 12.5 (commencing with Section 17070.10) of Part 10 and may be reimbursed in accordance with Section 17072.13. (*Added by Stats. 1999, C. (A.B. 387), § 3. Amended by Stats. 2000, c. 443 (A.B. 2644), § 5, eff. Sept. 14, 2000.*)

17215 Site near airport; requirements

a. In order to promote the safety of pupils, comprehensive community planning, and greater educational usefulness of schoolsites, before acquiring title to or leasing property for a new schoolsite, the governing board of each school district, including any district governed by a city board of education, or a charter school, shall give the State Department of Education written notice of the proposed acquisition or lease and shall submit any information required by the State Department of Education if the site is within two miles, measured by air line, of that point on an airport runway or a potential runway included in an airport master plan that is nearest to the site.

b. Upon receipt of the notice required pursuant to subdivision (a), the State Department of Education shall notify the Department of Transportation in writing of the proposed acquisition or lease. If the Department of Transportation is no longer in operation, the State Department of Education shall, in lieu of notifying the Department of Transportation, notify the United States Department of Transportation or any other appropriate agency, in writing, of the proposed acquisition or lease for the purpose of obtaining from the department or other agency any information or assistance that it may desire to give.

c. The Department of Transportation shall investigate the site and, within 30 working days after receipt of the notice, shall submit to the State Department of Education a written report of its findings including recommendations concerning acquisition or lease of the site. As part of the investigation, the Department of Transportation shall give notice thereof to the owner and operator of the airport who shall be granted the opportunity to comment upon the site. The Department of Transportation shall adopt regulations setting forth the criteria by which a site will be evaluated pursuant to this section.

d. The State Department of Education shall, within 10 days of receiving the Department of Transportation's report, forward the report to the governing board of the school district or charter school. The governing board or charter school may not acquire title to or lease the property until the report of the Department of Transportation has been received. If the report does not favor the acquisition or lease of the property for a schoolsite or an addition to a present schoolsite, the governing board or charter school may not acquire title to or lease the property. If the report does favor the acquisition or lease of the property for a schoolsite or an addition to a present schoolsite, the governing board or charter school shall hold a public hearing on the matter prior to acquiring or leasing the site.

e. If the Department of Transportation's recommendation does not favor acquisition or lease of the proposed site, state funds or local funds may not be apportioned or expended for the acquisition or lease of that site, construction of any school building on that site, or for the expansion of any existing site to include that site.

f. This section does not apply to sites acquired prior to January 1, 1966, nor to any additions or extensions to those sites. (*Added by Stats. 1997, c. 893 (S.B. 161), § 96. Amended by Stats. 1999, c. 837 (A.B. 747), § 1; Stats. 2005, c. 229 (A.B. 1358), § 1.*)

17215.5 Acquisition of agricultural land; findings required; application of subdivision

a. Prior to commencing the acquisition of real property for a new schoolsite in an area designated in a city, county, or city and county general plan for agricultural use and zoned for agricultural production, the governing board of a school district shall make all of the following findings:

1. The school district has notified and consulted with the city, county, or city and county within which the prospective schoolsite is to be located.
2. The final site selection has been evaluated by the governing board of the school district based on all factors affecting the public interest and not limited to selection on the basis of the cost of the land.
3. The school district will attempt to minimize any public health and safety issues resulting from the neighboring agricultural uses that may affect the pupils and employees at the schoolsite.

b. Subdivision (a) shall not apply to any schoolsite approved by the State Department of Education prior to January 1, 1997. *(Formerly § 39006, added by Stats. 1996, c. 509 (A.B. 1724), § 1. Renumbered § 17215.5 and amended by Stats. 2000, c. 135 (A.B. 2539), § 39.)*

17251 Powers and duties concerning buildings and sites

The State Department of Education shall:

a. Upon the request of the governing board of any school district, advise the governing board on the acquisition of new school sites and, after a review of available plots, give the governing board in writing a list of the recommended locations in the order of their merit, considering especially the matters of educational merit, safety, reduction of traffic hazards, and conformity to the land use element in the general plan of the city, county, or city or county having jurisdiction. The governing board may purchase a site deemed unsuitable for school purposes, by the State Department of Education only after reviewing the department's report on proposed sites at a public hearing. The department shall charge the school district a reasonable fee for each school site reviewed not to exceed the actual administrative costs incurred for that purpose.

b. Develop standards for use by a school district in the selection of school sites, in accordance with the objectives set forth in subdivision (a). The department shall investigate complaints of noncompliance with site selection standards and shall notify the governing board of the results of the investigation. If that notification is received prior to the acquisition of the site, the governing board shall discuss the findings of the investigation in a public hearing.

c. Establish standards for use by school district to ensure that the design and construction of school facilities are educationally appropriate and promote school safety.

d. Upon the request of the governing board of any school district, review plans and specifications for school buildings in the district. The department shall charge governing boards of school district, for the review of plans and specifications, a reasonable fee not to exceed the actual administrative costs incurred for that purpose.

e. Upon the request of the governing board of any school district, make a survey of the building needs of the district, advise the governing board concerning the building needs, suggest plans for financing a building program to meet these needs. The department shall charge the district, for the costs of the survey, a reasonable fee not to exceed the actual administrative costs incurred for that purpose.

f. Provide information relating to the impact or potential impact upon any school site of hazardous substances, solid waste, safety, hazardous air emissions, and other information as the department may deem appropriate. *(Added by Stats. 1996, c. 277 (S.B. 1562), § 3, operative Jan. 1, 1998.)*

17251.5 Acquisition of potential schoolsite; use of local funds and need for approval of site by State Board of Education

Notwithstanding any law, when using exclusively local funds for acquisition of a potential schoolsite a school district is not required to receive final approval of a site by the State Department of Education prior to adopting a resolution of necessity in an eminent domain proceeding or prior to closing escrow on a site purchase through voluntary sale. *(Added by Stats 2002, c. 33 (A.B.16), § 26, eff. April 29, 2002.)*

17268 Construction of new school building; requirements for approval

- a. The governing board of a school district that elects not to receive state funds pursuant to Chapter 12.5 (commencing with Section 17070.10) may not approve a project for the construction of a new school building, as defined in Section 17283, unless the project and its lead agency comply with the same requirements specified in subdivision (a) of Section 17213 for schoolsite acquisition.
- b. As a condition to receiving state funds pursuant to Chapter 12.5 (commencing with Section 17070.10) the governing board of a school district may not approve a project for the construction of a new school building or schoolsite on leased or acquired land unless the project and the school district comply with the requirements specified in Sections 17213.1 and 17213.2.
- c. The project shall not be subject to subdivision (b) for a minor addition to a school if the project is eligible for a categorical or statutory exemption under guidelines issued pursuant to Section 21083 of the *Public Resources Code*, as set forth in the California Environmental Quality Act.
- d. "School building," as used in this section, means any building designed and constructed to be used for elementary or secondary school purposes by a school district.
- e. The requirements of Sections 17213, 17213.1 and 17213.2 shall not apply to a schoolsite if the acquisition occurred prior to January 1, 2000, to the extent a school district is subject to the requirements set forth in those sections pursuant to a judicial order or an order issued by, or an agreement with the Department of Toxic Substances Control regarding that site, and the school district is in full compliance with that order or agreement.
- f. For purposes of this section, the acceptance of construction bids shall constitute approval of the project.

35275 New school planning and design

The governing board of any school district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new school facilities and school sites or major additions to existing school facilities and recreation and park facilities in the community. Amended by Stats. 1994, c.940 (AB 3562)

Public Resources Code:**21151.2. School site proposed acquisition or addition; notice to planning commission; investigation; report**

To promote the safety of pupils and comprehensive community planning the governing board of each school district before acquiring title to property for a new school site or for an addition to a present school site, shall give the planning commission having jurisdiction notice in writing of the proposed acquisition. The planning commission shall investigate the proposed site and within 30 days after receipt of the notice shall submit to the governing board a written report of the investigation and its recommendations concerning acquisition of the site.

The governing board shall not acquire title to the property until the report of the planning commission has been received. If the report does not favor the acquisition of the property for a school site, or for an addition to a present school site, the governing board of the school district shall not acquire title to the property until 30 days after the commission's report is received. (Added by Stats. 1987, c. 1452, s. 533)

Section 16. Section 21151.3 of the Public Resources Code is repealed.

21151.4. Construction or alteration of facility within 1/4 mile of school; reasonable anticipation of air emission or handling of hazardous or acutely hazardous material; approval of environmental impact report or negative declaration

An environmental impact report shall not be certified and a negative declaration shall not be approved for any project involving the construction or alteration of a facility within 1/4 or a mile of a school that might reasonably be anticipated to emit hazardous air emissions, or that would handle an extremely hazardous air emissions, or that would handle an extremely hazardous substance or a mixture containing extremely hazardous substances in a quantity equal to or greater than the state threshold quantity specified pursuant to subdivision (j) of Section 25532 of the *Health and Safety Code*, that may pose a health or safety hazard to persons who would attend or would be employed at the school, unless both of the following occur:

- a. The lead agency preparing the environmental impact report or negative declaration has consulted with the school district having jurisdiction regarding the potential impact of the project on the school.
- b. The school district has been given written notification of the project not less than 30 days prior to the proposed certification of the environmental impact report or approval of the negative declaration.

21151.8. School site acquisition or construction; approval of environmental impact report or negative declaration; conditions

- a. An environmental impact report or negative declaration may not be approved for any project involving the purchase of a school site or the construction of a new elementary or secondary school by a school district unless all of the following occur:
 - 1. The environmental impact report or negative declaration includes information that is needed to determine if the property proposed to be purchased, or to be constructed upon, is any of the following:
 - A. The site of a current or former hazardous waste disposal site or solid waste disposal site and, if so, whether the wastes have been removed.
 - B. A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the *Health and Safety Code* for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the *Health and Safety Code*.
 - C. A site which contains one or more pipelines, situated underground or aboveground, that carries hazardous substance, extremely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood or other nearby schools.
 - D. A site that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.
 - 2. The school district, as the lead agency, in preparing the environmental impact report or negative declaration has notified in writing and consulted with the administering agency in which the proposed school site is located, pursuant to Section 2735.3 of Title 19 of the California *Code of Regulations*, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways and busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed school site, that might reasonably be anticipated to emit hazardous emissions or handle hazardous materials or extremely hazardous substances or waste. The notification by the school district, as the lead agency, shall include a list of the location for which information is sought.
 - 3. The governing board of the school district makes one of the following written findings:
 - A. Consultation identified no such facilities of this type or other significant pollution sources specified in paragraph (2).
 - B. The facilities or other pollution sources specified in paragraph (2) exist, but one of the following conditions applies:
 - i. The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who attend or be employed at the proposed school.
 - ii. Corrective measures required under an existing order by another agency having jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes a finding pursuant to this clause, it shall also make a subsequent finding, prior to occupancy of the school, that the emissions have been so mitigated.
 - iii. For a school site with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the governing board of the school district determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360

of the *Health and Safety Code*, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

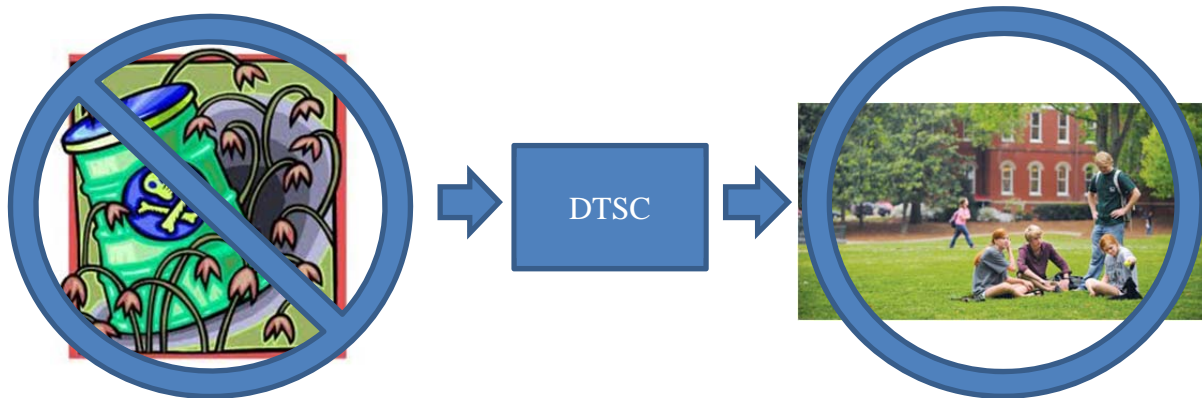
- C. The facilities or other pollution sources specified in paragraph (2) exist, but conditions in clause (i), (ii) or (iii) of subparagraph (B) cannot be met, and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section 17213 of the *Education Code*. If the governing board makes this finding, the governing board shall adopt a statement of Overriding Considerations pursuant to Section 15093 of Title 14 of the *California Code of Regulations*.
4. Each administering agency, air pollution control district, or air quality management district receiving written notification from a lead agency to identify facilities pursuant to paragraph (2) shall provide the requested information and provide a written response to the lead agency within 30 days of receiving the notification. The environmental impact report or negative declaration shall be conclusively presumed to comply with this section as the area of responsibility of any agency that does not respond within 30 days.
- b. If a school district, as a lead agency, has carried out the consultation required by paragraph (2) of subdivision (a), the environmental impact report or the negative declaration shall be conclusively presumed to comply with this section, notwithstanding any failure of the consultation to identify an existing facility or other pollution source specified in paragraph (2) of subdivision (a).
- c. As used in this section and Section 21151.4, the following definitions shall apply:
 1. "Hazardous substance" means any substance defined in Section 25316 of the *Health and Safety Code*.
 2. "Extremely hazardous material" means any material defined pursuant to subdivision (a) of Section 25532 of the *Health and Safety Code*.
 3. "Hazardous waste" means any waste defined in Section 25117 of the *Health and Safety Code*.
 4. "Hazardous waste disposal site" means any site defined in Section 25114 of the *Health and Safety Code*.
 5. "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substances identified in subdivisions (a) to (f), inclusive, of Section 44321 of the *Health and Safety Code*.
 6. "Administering agency" means an agency designated pursuant to Section 25502 of the *Health and Safety Code*.
 7. "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the *Health and Safety Code*.
 8. "Facilities" means any source with a potential to use, generate, emit, or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the California Air Resources Board.
 9. "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in Section 50101 of the *Health and Safety Code*, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the *Health and Safety Code*. (Added by Stats. 2002, c. 668)

Department of Toxic Substance Control

Overview

The mission of the Department of Toxic Substance Control (DTSC) is to protect California's people and environment from harmful effects of toxic substances through the restoration of contaminated resources, enforcement, regulation, and pollution prevention.

The DTSC is responsible for assessing, investigating and cleaning up proposed and expanding school sites. The DTSC ensures that selected properties are free of contamination or, if the properties were previously contaminated, that they have been cleaned up to a level that protects the students and staff who will occupy the new school. All proposed school sites that will receive State funding for acquisition or new construction are required to go through a rigorous environmental review and cleanup process under DTSC's oversight. Further detail can be found on the Department's website at <http://www.dtsc.ca.gov/>.



OPSC Requirements

DTSC involvement and concurrence is required whenever a school construction project involves the acquisition of new land, whether for new construction or site relocation, pursuant to Education Code 17213. A letter of concurrence from DTSC is submitted by the District to the OPSC along with the *Application for Funding* (Form SAB 50-04), listing all applicable fees and required actions. The result of the DTSC review is also given in the California Department of Education (CDE) final plan and site approval letters as applicable. If the DTSC deemed further action necessary, a Response Action is required. The district may obtain Contingent Site Approval from CDE after the Response Action has been approved by DTSC. At which point the district may pursue the site acquisition. Final Site Approval from CDE may not be obtained until the Response Action has been implemented and completed and all cleanup goals have been achieved or a Form 4.15 is completed. These project details are listed publicly at <http://www.envirostor.dtsc.ca.gov/public/>.

Authority

Education Code 17210.1. states:

(a) Notwithstanding any other provision of law:

(1) For sites addressed by this article for which school districts elect to receive state funds pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10, the state act applies to school sites where naturally occurring hazardous materials are present, regardless of whether there has been a release or there is a threatened release of a hazardous material.

(2) For sites addressed by this article for which school districts elect to receive state funds pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10, all references in the state act to hazardous substances shall be deemed to include hazardous materials and all references in the state act to public health shall be deemed to include children's health.

(3) All risk assessments conducted by school districts that elect to receive state funds pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 at sites addressed by this article shall include a focus on the risks to children's health posed by a hazardous materials release or threatened release, or the presence of naturally occurring hazardous materials, on the school site.

(4) The Response Actions selected under this article shall, at a minimum, be protective of children's health, with an ample margin of safety.

(b) In implementing this article, a school district shall provide a notice to residents in the immediate area prior to the commencement of work on a preliminary endangerment assessment utilizing a format developed by the Department of Toxic Substances Control.

(c) Nothing in this article shall be construed to limit the authority of the Department of Toxic Substances Control or the State Department of Education to take any action otherwise authorized under any other provision of law.

(d) Unless the Legislature otherwise funds its costs for overseeing actions taken pursuant to this article, the Department of Toxic Substances Control shall comply with Chapter 6.66 (commencing with Section 25269) of Division 20 of the Health and Safety Code when recovering its costs incurred in carrying out its duties pursuant to this article.

(e) Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code does not apply to school sites at which all necessary Response Actions have been completed.

Education Code 17213.1 states:

As a condition of receiving state funding pursuant to Chapter 12.5 (commencing with Section 17070.10), the governing board of a school district shall comply with subdivision (a),....

(a) Prior to acquiring a school site, the governing board shall contract with an environmental assessor to supervise the preparation of, and sign, a Phase I environmental assessment of the proposed school site unless the governing board decides to proceed directly to a preliminary endangerment assessment, in which case it shall comply with paragraph (4).

...

(b) The costs incurred by the school districts when complying with this section are allowable costs for purposes of an applicant under Chapter 12.5 (commencing with Section 17070.10) of Part 10 and may be reimbursed in accordance with Section 17072.13.

...

Process

The DTSC is responsible for determining if a proposed site is safe from hazardous materials and to oversee cleanup action, if necessary. DTSC conducts their site review in a three step process:

1. Phase One Environmental Site Assessment (POESA)
2. Preliminary Environmental Assessment (PEA)
3. Voluntary Cleanup Agreement (also known as School Cleanup Agreement)

Step One: Phase One Environmental Site Assessment (POESA)

School districts begin the process by contracting with qualified environmental consultants to prepare a POESA. The consultant reviews records to determine if the potential exists for exposure to hazardous materials; including methane, and naturally occurring hazardous substances. The school district then submits this assessment for DTSC review, comment and approval. DTSC must provide a determination on this assessment within 30 days. If the assessment identifies no potential contamination, the school district will receive a "No Action" determination letter from the DTSC, and the process is complete.

Step Two: Preliminary Environmental Assessment (PEA)

When a POESA reveals a potential environmental condition, a PEA may be required to evaluate the threat to human health or the environment. A PEA is required when there is potential contamination on the school site. Contamination can be determined through a POESA or districts may elect to proceed directly to a PEA based on existing information about the site. School districts enter into an Environmental Oversight Agreement with DTSC, then contract with a qualified environmental consultant to prepare an assessment according to DTSC guidelines. The assessment includes preparation of a work plan, collection and analysis of environmental samples, and preparation of a PEA report. The report includes results of environmental sampling and a health risk screening evaluation conducted according to DTSC guidelines. School districts must make the report available for public review and comment before DTSC's final determination. DTSC is required to approve or disapprove the PEA report within 30 days of close of public review period or within 30 days of the school district's approval of the Environmental Impact Report for the school. If the assessment identifies no significant health or environmental risks, the school district will receive a "No Further Action" determination letter from DTSC and the process is complete. If the assessment identifies potential contamination, further action will be required.

Step Three: Voluntary Cleanup Agreement

If the PEA identifies significant contamination the school district has two options:

Option 1 - Remove the proposed school site from consideration.

Option 2 - Clean up the contamination under a Voluntary Cleanup Agreement.

The cleanup agreement is required for school districts planning to obtain final site or plan approval and full funding before completion of required Response Actions. DTSC follows Health and Safety Code requirements for all Response Actions. DTSC is required to provide opportunities for public comment on the Removal Action Work Plan or Remedial Action Plan before approval of the final document. If a Response Action is required, a contingent site approval can be granted by CDE to allow continued processing of the application for funding. When all necessary cleanup activities are complete, DTSC will certify that "No Further Action" is needed. Construction cannot occur on a site until this approval has been given.

Funding

Education Code Section 17072.12 allows State funding for 50 percent of the total costs related to evaluation and Response Actions, including but not limited to, the costs of the removal of hazardous waste and substances.

For new construction projects, SFP Regulation Section 1859.74 allows for an additional grant equal to four percent of either 50 percent of the purchase price or 50 percent of the entire appraised value of the new land; whichever is less, with a minimum amount of \$25,000. The purpose of this additional grant is to help mitigate the costs of the preparation of the POESA and PEA phases of the DTSC process; as well as appraisals, escrow, survey, site testing, and California Department of Education review/approvals.

On the Form SAB 50-04 the Applicant may request grants for 50 percent of the DTSC Fee for review, approval, and oversight of the POESA and PEA. If a Response Action is necessary, the Applicant can request 50 percent of the hazardous waste/materials removal costs.

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Division of the State Architect

Overview

The Division of the State Architect (DSA) provides construction oversight for all public K-12 school facilities in the state. The DSA ensures all public school construction complies with the state building codes and provisions of the Field Act. The Field Act contains additional building requirements specifically for public school construction, including:

- Superior structural provisions for seismic safety.
- Drawings and specifications must be prepared by licensed design professionals.
- Continuous construction project oversight by inspectors certified and approved by the DSA.
- Required verified reports from the project inspector, the design professional, and contractors.

School facility project plans must be approved by the DSA before a school district can enter into a construction contract, and before a school district can submit an application for funding from the State Allocation Board (SAB).

DSA's approval process consists of three phases:

1. Plan Review
2. Construction Oversight
3. Closeout and Certification

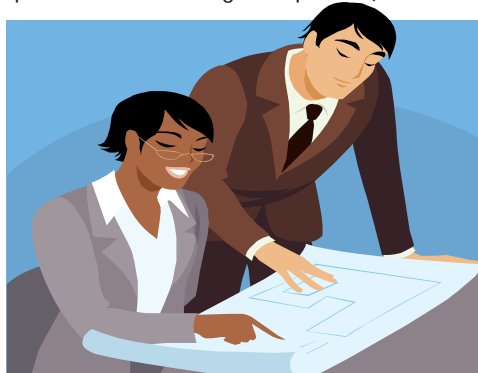
Authority

- Education Code (EC) Section 17280 defines the Field Act, and requires DSA approval for California public school construction projects.
- Government Code (GC) 4450 requires all public buildings in the State to be accessible to persons with disabilities and puts DSA in charge of developing these requirements.
- California Code of Regulations Title 24 contains the California Building Code, as well as Electrical, Mechanical, Plumbing, Fire, and Energy Codes.
- EC Section 17072.30 requires DSA approval for any new construction project seeking an SAB apportionment. It states that "the board shall apportion funds to an eligible school district only upon the approval of the project by the department of General Services [DSA] pursuant to the Field Act."
- EC Section 17074.16(a) sets the same DSA approval requirement for modernization projects. It states that "the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services [DSA] pursuant to the Field Act."

Plan Review

A school district must submit construction documentation showing all of the work to be done on the site. The construction documents must show all work, including all mechanical, electrical, and plumbing work. Once a project is submitted, DSA conducts a code compliance review for the following:

1. Structural Safety
2. Fire and Life Safety
3. Accessibility
4. Energy Efficiency (if high performance funding is requested).



Once the DSA plan review is complete, comments are sent to the school district's design professional that contain any necessary requests for revisions or clarification. After the design professional architect addresses DSA comments, a "back-check" meeting is conducted to resolve any issues. When the "back-check" is complete, DSA approves the plans by providing an approval stamp and a plan approval letter to the district. DSA approval is valid for one year, during which time the construction must begin. DSA approval may be extended on a yearly basis, for a period not to exceed four years.

The DSA does offer preliminary review for projects. The design professional may contact DSA early during the design process and prior to formal submittal of the plans in order to perform a collaborative review with DSA to identify any potential problem areas.

Construction Oversight

After plans are approved, the design professional or proposed inspector notifies DSA of the start of construction. DSA reviews the qualifications and approves the proposed project inspector. Visits to the construction site are scheduled by DSA field staff, who report on the construction and performance of the project inspector to verify compliance with the approved project plans and specifications. During site visits, DSA staff work closely with the project inspector to assure that the intent of the plans and specifications are achieved and that all required approvals are properly administered by the design professional.

DSA field staff review and approve all construction change documents, review all inspector and laboratory reports and make recommendations regarding the closeout and certification of construction. DSA also has authority to stop any construction in violation of building code. DSA staff work closely with the design professional to achieve code compliance and to administer construction certification.



Closeout and Project Certification for School Projects

DSA uses the project closeout process to determine compliance with building code and regulations governing school construction. Project closeout consists of examination of specific project documents required to be submitted before, during and after construction, and to determine if outstanding issues have been resolved. The design professional, project inspector and contractor also file verified reports with DSA indicating the work has been performed in compliance with the approved plans and specifications. After the project file and required documents are examined and approved by DSA, the project is closed and certified by DSA.

Documents Required by SAB/OPSC

DSA Plan Approval Letter

Applications for funding processed by the OPSC) must include the DSA Plan Approval Letter. This letter is issued by the DSA once its review of the project plans and specifications is completed and the DSA has determined that the project meets all of the legal requirements. This approval is ultimately needed for any construction project that receives State funding. This approval letter must be submitted with the final application for funding.

DSA Stamped Plans and Specifications

The plans submitted by the District for the OPSC application must have the DSA approval stamp, initialed by the Structural Engineer, FLS Officer, and Access Architect so that the OPSC can confirm that they are the approved plan set.

AB 127 HPI Compliance Review Verification (Form HPI-1)

Projects that include *high performance* attributes in the project and wish to receive additional funding from OPSC must submit the Form HPI-1. This confirms the HPI review and the points awarded by DSA result in the District being eligible for an OPSC grant.

DSA Fire and Life Safety and Accessibility – Plan Submittal for Modernization Projects

Modernization projects are eligible to receive an additional grant due to excessive costs associated with accessibility and fire code requirements. A district can choose whether it would like to receive 3 percent of the OPSC Base Pupil Grant or a formula driven grant based on the actual work performed. If the district is requesting the formula based grant calculation, OPSC requires submittal of forms for both fire and life safety and accessibility plans in order to verify the minimum work necessary for the project to be approved.



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Department of Industrial Relations, Division of Labor Standards Enforcement

Overview

The Department of Industrial Relations (DIR) administers and enforces the public works requirements of the California Labor Code related to prevailing wage through the Division of Labor Standards Enforcement (DLSE). The Division enforces prevailing wage requirements by investigating complaints and issuing civil wage and penalty assessments against contractors and subcontractors who violate those requirements. Through the Office of the Director, DIR also approves and oversees labor compliance programs.

The general prevailing wage rate is defined by statute as “the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft, classification or type of work within the locality and in the nearest labor market area (if a majority of such workers are paid at a single rate). If there is no single rate paid to a majority, then the single or modal rate being paid to the greater number of workers is prevailing.” It may also include employer benefit payments.

A Labor Compliance Program (LCP) refers to an entity that has been approved by the Director to monitor and enforce compliance with the state’s prevailing wage laws. The LCP informs contractors about their prevailing wage obligations, monitors compliance by obtaining and reviewing certified payroll reports, corroborating reported data, inspecting job sites, investigating complaints and other suspected violations, and taking appropriate enforcement action when violations are found.

From 2003 to 2011 the Labor Code required awarding bodies (i.e. school districts) to initiate and enforce an LCP or to contract with a DIR-approved third party to initiate and enforce an LCP on projects that were funded in any part from the Kindergarten-University Public Education Facilities Bond Acts of 2002 and 2004, (Propositions 47 and 55 respectively). With the passage of Assembly Bill 436 (Solorio), Chapter 378, Statutes of 2011 (AB 436), the role of DIR changed. The Labor Code now requires that all State bond-funded public works projects (including school construction) whose construction contracts are awarded on or after January, 1, 2012, are subject to prevailing wage monitoring by the DIR, unless one of the following exceptions applies. The exceptions are: (1) the awarding body has a previously-approved LCP that the Director has approved for continued use in lieu of DIR monitoring (applies to three school districts, one office of education, and the UC and CSU systems); (2) the project is covered by a qualifying project labor agreement; or (3) the project receives funding from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84).

OPSC Requirements

The OPSC verifies compliance with Labor Code using the construction contract award date during the funding application review process. On the *Application for Funding* form, the Applicant provides the construction contract award date and notice to proceed date. The construction contract award date and bond funding source determines the whether the district must initiate and enforce a DIR-approved LCP or use the DIR’s prevailing wage monitoring and enforcement services.

Authority

Labor Code Section 1771.3.

- (a) (1) The Department of Industrial Relations shall monitor and enforce compliance with applicable prevailing wage requirements for any public works project paid for in whole or part out of public funds, within the meaning of subdivision (b) of Section 1720, that are derived from bonds issued by the state, and shall charge each awarding body for the reasonable and directly related costs of monitoring and enforcing compliance with the prevailing wage requirements on each project.

* * *

(3) . . . The department [of Industrial Relations], with the approval of the Director of Finance, shall determine the rate or rates, which the department may from time to time amend, that the department will charge to recover the reasonable and directly related costs of performing the monitoring and enforcement services for public works projects; provided, however, that the amount charged by the department shall not exceed one-fourth of 1 percent of the state bond proceeds used for the public works projects.

(4) The reasonable and directly related costs of monitoring and enforcing compliance with the prevailing wage requirements on a public works project incurred by the department in accordance with this section are payable by the awarding body of the public works project as a cost of construction. . . .

(b) Paragraph (1) of subdivision (a) shall not apply to any contract for a public works project paid for in whole or part out of public funds, within the meaning of subdivision (b) of Section 1720, that are derived from bonds issued by the state if the contract was awarded under any of the following conditions:

(1) The contract was awarded prior to the effective date of implementing regulations adopted by the department pursuant to paragraph (3) of subdivision (a).

(2) The contract was awarded on or after the effective date of the regulations described in paragraph (1), if the awarding body had previously initiated a labor compliance program approved by the department for some or all of its public works projects and had not contracted with a third party to conduct such program, and requests and receives approval from the department to continue to operate its existing labor compliance program for its public works projects paid for in whole or part out of public funds, within the meaning of subdivision (b) of Section 1720, that are derived from bonds issued by the state, in place of the department monitoring and enforcing compliance on projects pursuant to subdivision (a).

(3) The contract is awarded on or after the effective date of the regulations described in paragraph (1), if the awarding body has entered into a collective bargaining agreement that binds all of the contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) This section shall not apply to public works projects subject to Section 75075 of the Public Resources Code [Proposition 84].

* * *

Labor Code Section 1771.7...

(e) Because the reasonable costs directly related to monitoring and enforcing compliance with the prevailing wage requirements are necessary oversight activities, integral to the cost of construction of the public works projects, notwithstanding Section 17070.63 of the Education Code, the grant amounts as described in Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 of the Education Code for the costs of a new construction or modernization project shall include the state's share of the reasonable and directly related costs of the labor compliance program used to monitor and enforce compliance with prevailing wage requirements.

School Facility Program (SFP) Regulation Section 1859.71.4. New Construction Additional Grant Increase for Labor Compliance Program or Prevailing Wage Monitoring and Enforcement Costs....

(f) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, the school district shall return to the State any State funding received for the project, including interest, as calculated in (e), for any construction projects for which the violations occurred.

SFP Regulation Section 1859.97. Labor Compliance Program Documentation for Fund Release.

As required pursuant to Labor Code Section 1771.7 subdivisions (a) and (b), for any project funded in whole or in part from Proposition 47 or Proposition 55 for which the construction contract is awarded prior to January 1, 2012, the district shall initiate and enforce, or contract with a third party to initiate and enforce, an LCP, with respect to that project. For purposes of obtaining the release of bond funds from the Board, the following LCP requirements shall be met:

(a) The district shall submit a written finding to the OPSC and the DIR that the district has initiated and enforced, or has contracted with a third party to initiate and enforce, the LCP with respect to that project.

(b) Where the construction contract was signed either prior to the district's LCP being approved by the DIR or prior to the district entering into a contract with a third party to implement the LCP, the district shall be determined to have complied with Labor Code Section 1771.7(a),....

Process

Labor Compliance Programs - April 1, 2003 through December 31, 2011

Between 2003 and 2011, LCPs were required for projects funded by Propositions 47 and 55. DIR approved LCPs operated by school districts and other public agencies, and through July of 2010, DIR also approved private entities as "third party programs" to provide LCP services on a contract basis. Projects meeting all of the following criteria were required to initiate and enforce an LCP or contract with a DIR-approved third party to initiate and enforce an LCP:

- Construction commenced on or after April 1, 2003 as signified by the date of the Notice to Proceed;
- The initial public works construction contract was awarded before January 1, 2012; and,
- The project is apportioned by the State Allocation Board in whole or part from Proposition 47 or 55.

Prevailing Wage Monitoring – On or after January 1, 2012

The DIR performs ongoing compliance monitoring and enforcement on state-bond funded public works projects when the construction contract is awarded on or after January 1, 2012. The school district notifies the DIR by submitting the *Extract of Public Works Contract Award* (PWC 100).

Contractors will submit certified payroll records, and the DIR will review all of these records at least on a monthly basis. On both a random and targeted basis, the DIR will do follow-up investigations to confirm the accuracy of reported information or determine whether prevailing wage requirements were violated, which may include examination of other time and pay records, construction site visits, and interviews of workers or others with information about work activities and pay practices. If there is a potential violation, DIR will investigate, make a determination, and enforce any violations.

Funding

The OPSC verifies compliance with the applicable sections of the Labor Code when the Applicant submits an application for SFP funding and/or at the time of fund release as follows:

Labor Compliance Program Grant

If the construction contract was awarded prior to January 1, 2012, the Applicant may be required to enforce a DIR-approved LCP for the project if it is funded in whole or part from Proposition 47 or 55. A supplemental grant is provided for new construction or modernization projects for the reasonable and directly related costs of the LCP used to monitor and enforce compliance with prevailing wage requirements. The calculation of this grant is detailed in SFP Regulation Section 1859.71.4(b). At the time of fund release, the Applicant must provide copies of the contract with the DIR-approved third party LCP provider and the DIR approval letter for the selected school District or third party provider.

Prevailing Wage Monitoring Grant

If the construction contract was awarded on or after January 1, 2012, the DIR will provide prevailing wage monitoring and enforcement for all such projects. The school district notifies the DIR by submitting the *Extract of Public Works Contract Award* (PWC 100). The District must also submit a copy of this form to the OPSC along with an application for funding. Pursuant to SFP Regulation Section 1859.71.4, there is supplemental grant provided for prevailing wage monitoring in amount of one quarter of one percent of the total State share of the eligible project costs. This grant is for the reasonable and directly related costs of performing the specified monitoring and enforcement services.

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Office of Public School Construction

Overview

As staff to the State Allocation Board (Board), and on behalf of the Director of the Department of General Services, the Office of Public School Construction (OPSC) administers the School Facility Program (SFP) and is charged with verifying that all applicant school districts meet specific criteria based on the type of funding that is being requested. The OPSC's responsibilities also include:

- Processing and funding school facility construction grant applications
- Assisting school districts throughout the life cycle of a school facilities construction project
- Closeout review of school facility construction project expenditures
- Accounting and reconciliation functions
- Providing administrative support for the Board
- Preparing regulations, policies and procedures in order to carry out the mandates of the Board

The OPSC prepares agendas for the SAB meetings to keep record of all past and present Board actions. Stakeholders use the agenda to track the progress of specific projects and/or availability of funds. The State Controller's Office uses the agenda for the appropriate release of funds.

Authority

Education Code Section 17070.20 requires the Director of the Department of General Services to administer the SFP and provide assistance to the Board.

Government Code Section 14620 establishes the position of the Executive Officer of the OPSC within the Department of General Services.

Education Code Chapter 12.5, known as the Leroy F. Green School Facilities Act of 1998 (Chapter 407, Statutes of 1998, Senate Bill 50), gives the Board the authority to develop regulations for the purposes of apportioning voter-approved State bond funds to qualified public school construction projects. These are the SFP Regulations. The regulations provide the program-specific details for eligibility and funding.

Program Requirements

The OPSC reviews applications to verify that they meet the specific requirements for the different programs within the SFP. For example, for modernization funding, a district must demonstrate that it is eligible to receive State funding by having permanent school buildings 25 years or older, or portables 20 years or older. For the Overcrowding Relief Grant (ORG), a district must demonstrate that the project will relieve overcrowding by replacing portables at a school site that has 175 percent or greater pupils per acre than recommended by the California Department of Education (CDE). Typically, once eligibility is established and a district has designed its project and received approvals from the various State agencies; it may submit an application for funding to the OPSC to request an unfunded approval and ultimately an apportionment.

The OPSC requires the submittal of documentation from the CDE, Department of Toxic Substances Control (DTSC), Division of the State Architect (DSA), and Department of Industrial Relations (DIR) at different stages in the funding process. The documents required vary depending on the program for which the applicant is requesting funding, the project specifics and the fund source. The documentation and submittal points are listed in the chart below:

PROGRAM	REQUIRED DOCUMENTATION				
	Submitted with application for funding.				Submitted with fund release authorization.
	CDE Final/Contingent Site Approval	CDE Final Plan Approval	DTSC Determination ³	DSA Plan Approval Letter & Plans	Labor Compliance Program (LCP) ⁴ or Prevailing Wage Monitoring Documentation ⁵
New Construction	If acquiring acreage	X	If acquiring acreage	X	As applicable ⁴ or ⁵
Facility Hardship/Seismic Mitigation Program	If acquiring acreage	As applicable ¹	If acquiring acreage	As applicable ¹	
Modernization	n/a	X	n/a	X	
Rehabilitation	n/a	As applicable ¹	n/a	X	
Career Technical Education Facilities Program	n/a	As applicable ²	n/a	As applicable ¹	
Charter School Facility Program	If acquiring acreage	X	If acquiring acreage	X	
Joint Use	n/a	X	n/a	X	
Overcrowding Relief Grant	If acquiring acreage	X	If acquiring acreage	X	
Critically Overcrowded Schools	If acquiring acreage	X	If acquiring acreage	X	

¹ Applicable to projects that affect school buildings. May not be required for projects that do not involve modification to or construction of school buildings.

² Not required for equipment-only projects.

³ Districts must submit either a "No Further Action" letter or a "Further Action" letter with an approved Response Action from the DTSC.

⁴ Applicable to projects funded from Proposition 47 or 55 and with a construction contract awarded before January 1, 2012. Districts must submit a DIR approval letter of the Labor Compliance Program (LCP) provider & contracts.

⁵ Applicable to projects with construction contracts awarded on or after January 1, 2012. Districts must submit a DIR acknowledgement or receipt of notice from district.

Process

When a district submits an application for funding, the OPSC performs a complete review of the application to ensure that all necessary State agency approvals and other required documents and certifications are complete. Unlike the Lease-Purchase Program, in which the State review was much more detailed, the SFP allows districts to certify to certain requirements. The application for SFP funding and a fund release request contain a total of 64 requirements that a district may be required to certify to (see attachment). When submitting these forms, the district representative must make the certifications that apply to the project. The combination of the OPSC review and the district certifications make a project eligible to receive an unfunded approval, eventually an apportionment, and then fund release.

When applying for funding, the district may submit additional documentation to qualify for supplemental grants, such as itemized costs for site development grants, escrow documentation for site acquisition grants, invoices and reports from DTSC for hazardous materials removal, etc. However, districts are not required to submit this information if the supplemental grants are not requested.

After the OPSC reviews the complete application package, a funding item is presented to the Board for unfunded approval. A district with an unfunded approval is eligible to participate in semi-annual Priority Funding rounds, during which it may request an apportionment should bond sale proceeds become available. To participate in Priority Funding, the district must certify that it will submit a valid fund release request within 90 days of receiving an apportionment.

To request a fund release for an apportionment, a district must enter into contracts for 50 percent of the work in the DSA-approved plans and issue the Notice to Proceed. The district must also verify its compliance with the Labor Code by providing either DIR approval letters and third-party LCP provider contracts if the project is funded from Proposition 47 or 55 and the construction contract was awarded before January 1, 2012; or DIR acknowledgement of receipt of notice from the district if the contract was awarded on or after January 1, 2012.

The diagram below represents the typical flow of an application for funding from eligibility through project closeout:

OPSC APPLICATION for FUNDING CYCLE



Project Closeout

After fund release, a district must provide annual expenditure reports as well as a single substantial progress report 18 months after fund release to show that the project is moving toward completion. Elementary school projects must be completed within three years of fund release and middle and high schools must be completed within four years.

When a district submits a final expenditure report showing that the project is complete, the OPSC must complete a compliance review of the project within two years. The compliance review ensures that the project conforms to the original plans and specifications and all expenditures are eligible under the SFP. Any ineligible expenditure is deducted from the project and the district may be required to repay a portion of the grant, with interest. Under most programs, if, after deducting ineligible expenditures, a project has achieved savings, the district may keep the savings to use on a future capital outlay project. The district is required to report the use of the savings until all project funds, meaning the State share plus the District's required matching share, have been expended. However, the district must return savings from Charter School Facilities Program, the Career Technical Education Facilities Program, the Overcrowding Relief Grant Program, Facility Hardship and Seismic Mitigation Program. Districts with savings from a financial hardship project must either return the savings to the State or use the savings to offset the financial hardship apportionment of a future project within three years. After three years, any unused savings, plus interest, must be returned to the State.

Application for Funding (Form SAB 50-04): Certifications

Architect of Record or Licensed Architect Certifications

- The plans and specifications for this project were submitted to the OPSC by electronic medium (i.e., CD-ROM, zip disk or diskette) or as an alternative, if the request is for a modernization Grant, the plans and specifications were submitted in hard copy to the OPSC.
- Any portion of the plans and specifications requiring review and approval by the Division of the State Architect (DSA) were approved by the DSA on _____ (enter DSA approval date).
- Any portion of the plans and specifications not requiring review and approval by the DSA meets the requirements of the California Code of Regulations, Title 24, including any handicapped access and fire code requirements.
- If the request is for a Modernization or Charter School Facility Program Rehabilitation Grant, the P&S include the demolition of more classrooms than those to be constructed in the project, the difference is _____ classroom(s). (Indicate N/A if there are none.)
- If the request is for a Modernization or Charter School Facility Program Rehabilitation Grant, the P&S include the construction of more classrooms than those to be demolished in the project, the difference is _____ classroom(s). (Indicate N/A if there are none.)

Architect of Record or Design Professional Certifications

- If the request is for a New Construction Grant, not including the ORG, I have developed a cost estimate of the proposed project which indicates that the estimated construction cost of the work in the plans and specifications including deferred items (if any) relating to the proposed project, is at least 60 percent of the total grant amount provided by the State and the district's matching share, less site acquisition costs and the High Performance Base Incentive Grant. This cost estimate does not include site acquisition, planning, tests, inspection, or furniture and equipment and is available at the district for review by the OPSC.
- If the request is for a Modernization or Charter School Facility Program Rehabilitation Grant, I have developed a cost estimate of the proposed project which indicates that the estimated construction cost of the work in the P&S, including deferred items and interim housing (if any) relating to the proposed project, is at least 60 percent of the total grant amount provided by the State and the district's matching share, less the High Performance Base Incentive Grant. This cost estimate does not include planning, tests, inspection or furniture and equipment and is available at the district for review by the OPSC.

District Certifications

I certify, as the District Representative, that the information reported on this form, with the exception of items 21 [Architect of Record or Licensed Architect Certifications] and 22 [Architect of Record or Design Professional Certifications], is true and correct and that:

- I am an authorized representative of the district as authorized by the governing board of the district
- A resolution or other appropriate documentation supporting this application under Chapter 12.5, Part 10, Division 1, commencing with Section 17070.10, et. seq., of the Education Code was adopted by the school district's governing board or the designee of the Superintendent of Public Instruction on, _____
- The statements set forth in this application and supporting documents are true and correct to the best of my knowledge and belief
- This form is an exact duplicate (verbatim) of the form provided by the OPSC. In the event a conflict should exist, the language in the OPSC form will prevail;

General Requirements for Participation in the SFP

- The district has established a "Restricted Maintenance Account" for exclusive purpose of providing ongoing and major maintenance of school buildings and has developed an ongoing and major maintenance plan that complies with and is implemented under the provisions of Education Code Section 17070.75 and 17070.77 (refer to Sections 1859.100 through 1859.102)
- Pursuant to Education Code Section 17070.755, the district has made a priority of the funds in the restricted maintenance account, established pursuant to Education Code Section 17070.75, to ensure that facilities are functional and meet local hygiene standards
- This district has or will comply with Education Code Section 17076.11 regarding at least a 3 percent expenditure goal for disabled veteran business enterprises
- The district has consulted with the career technical advisory committee established pursuant to Education Code Section 8070 and the need for vocational and career technical facilities is being adequately met in accordance with Education Code Sections 51224, 51225.3(b), and 51228(b), and 52336.1
- Beginning with the 2005/2006 fiscal year, the district has complied with Education Code Section 17070.75(e) by establishing a facilities inspection system to ensure that each of its schools is maintained in good repair

Project Design

- The district has considered the feasibility of the joint use of land and facilities with other governmental agencies in order to minimize school facility costs
- All school facilities purchased or newly constructed under the project for use by pupils who are individuals with exceptional needs, as defined in Education Code Section 56026, shall be designed and located on the school site so as to maximize interaction between those individuals with exceptional needs and other pupils as appropriate to the needs of both
- The district has considered the feasibility of using designs and materials for the new construction or modernization project that promote the efficient use of energy and water, maximum use of natural light 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 the other characteristics of high performance schools

District Matching Share

- The district matching funds required pursuant to Sections 1859.77.1 or 1859.79 has either been expended by the district, deposited in the County School Facility Fund or will be expended by the district prior to the notice of completion for the project

General Project Certifications

- If this funding request is for the modernization of portable classrooms eligible for an additional apportionment pursuant to Education Code Section 17073.15, the district certifies that (check the applicable box below):
 - 1. The state modernization funds will be used to replace the portable classrooms and permanently remove the displaced portables from the classroom use within six months of the filing of the Notice of Completion for the project; or,
 - 2. It has provided documentation to the Office of Public School Construction which indicates that modernizing the portable classrooms eligible for an additional apportionment is better use of public resources than the replacement of these facilities.
- Facilities to be modernized have not been previously modernized with Lease-Purchase Program, Proposition 1A Funds or School Facility Program state funds
- Facilities to be rehabilitated under the Charter School Facility Program previously funded with School Facility Program State funds meet the requirements of Section 1859.163.6

General Project Certifications (cont.)

- The district has complied with the provisions of Sections 1859.76 and 1859.79.2 and that the portion of the project funded by the State does not contain work specifically prohibited in those Sections
- If the SFP grants will be used for the construction or modernization of school facilities on leased land, the district has entered into a lease agreement for the leased property that meets the requirements of Section 1859.22
- If this application is submitted after January 1, 2004 for modernization funding, the district has considered the potential for the presence of lead-containing materials in the modernization project and will follow all relevant federal, state, and local standards for the management of any identified lead
- If this application is submitted pursuant to Section 1859.180, the district certifies that within six months of occupancy of the permanent classrooms, it will remove the replaced portables from the eligible school site and K–12 grade classroom use with the exception of schools described in Education Code Section 17079.30(c)
- The district will comply with all laws pertaining to the construction or modernization of its school building.

State Agency Approvals

- If this request is for new construction funding, the district has received approval of the site and the plans from the CDE. Plan approval is not required if request is for separate design apportionment
- If this request is for modernization or Charter School Facility Program Rehabilitation funding, the district has received approval of the plans for the project from the CDE. Plan approval is not required if request is for separate design apportionment
- The district has received the necessary approval of the plans and specifications from the Division of the State Architect unless the request is for a separate site and/or design apportionment

Project Contracting

- All contracts entered on or after November 4, 1998 for the service of any architect structural engineer or other design professional for any work under the project have been obtained pursuant to a competitive process that is consistent with the requirements of Chapter 10 (commencing with Section 4525) of Division 5, of Title 1, of the Government Code
- The district has or will comply with the Public Contract Code regarding all laws governing the use of force account labor

Certifications for Specific Supplemental Grants

- If the district is requesting site acquisition funds as part of this application, the district has complied with Sections 1859.74 through 1859.75.1 as appropriate
- If the application contains a "Use of New Construction Grant" request, the district has adopted a school board resolution and housing plan at a public hearing at a regularly scheduled meeting of the governing board on _____ as specified in Sections 1859.77.2, or 1859.77.3, as appropriate. The district's approved housing plan is as indicated (check all that apply):
 - 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. [Applicable for Sections 1859.77.2(a) and (b) and 1859.77.3(a) and (b)]
 - 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. [Applicable for Sections 1859.77.2(a) and (b) and 1859.77.3(a) and (b)]
 - 3. The pupils requested from a different grade level will be housed in classrooms at an existing school in the district which will have its grade level changed, to the grade level requested, at the completion of the proposed SFP project. [Applicable for Sections 1859.77.2(b) and 1859.77.3(b)]

Certifications for Specific Supplemental Grants (cont.)

- If the district requested additional funding for fire code requirements pursuant to Sections 1859.71.2 or 1859.78.4, the district will include the automatic fire detection/alarm system and/or automatic sprinkler system in the project prior to completion of the project
- If the district is requesting an Additional Grant for Energy Efficiency pursuant to Sections 1859.71.3 or 1859.78.5, the increased costs for the energy efficiency components in the project
- If the district is requesting an additional grant for high performance incentive funding, the school district governing board must have a resolution on file that demonstrates support for the high performance incentive grant request and the intent to incorporate high performance features in future facilities projects

Labor Compliance Program and Prevailing Wage Monitoring

- The district has initiated and enforced an LCP that has been approved by the DIR, pursuant to Labor Code Section 1771.7, if the project is funded from Propositions 47 or 55 and the Notice to Proceed for the construction phase of the project is issued on or after April 1, 2003 and before January 1, 2012
- The district will contract or has contracted with the DIR for prevailing wage monitoring and enforcement pursuant to Labor Code Section 1771.3(a), if the construction contract is awarded on or after January 1, 2012 and the district has not obtained a waiver for the requirement, pursuant to Labor Code Section 1771.3(b). The district understands that if it fails to meet this requirement, it will be required to repay all state bond funds received including interest

Project Progress and Accountability

- With the exception of an apportionment made pursuant to Section 1859.75.1, the district understands that the lack of substantial progress toward increasing the pupil capacity or renovation of its facilities within 18 months of receipt of any funding shall be cause for the rescission of the unexpended funds (refer to Section 1859.105)
- If the apportionment for this project was made pursuant to Section 1859.75.1, the district understands that the lack of substantial progress toward increasing the pupil capacity or renovation of its facilities within 12 months of receipt of any funding shall be cause for the rescission of the unexpended funds (refer to Section 1859.105.1)
- The district understands that funds not released within 18 months of apportionment shall be rescinded and the application shall be denied (refer to Section 1859.90)
- The district understands that some or all of the State funding for the project must be returned to the State as a result of an audit pursuant to Sections 1859.105, 1859.105.1, 1859.106

Insufficient SFP Bond Authority

- If this application is submitted when there is Insufficient Bond Authority, the district has adopted a school board resolution pursuant to Section 1859.95.1;

Fund Release Authorization (Form SAB 50-05): Certifications

Part I. Preliminary Apportionment – Design Only

- The district certifies it has complied with Section 1859.149(a).
- The district certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the district for the project
 - will be expended by the district prior to the Notice of Completion for the project
- The district certifies that it currently has Financial Hardship status under the provisions of Section 1859.81.

Part II. Preliminary Charter School Apportionment

A. Design Only

Pursuant to Section 1859.164.2(a), must be able to check all boxes:

- The Charter School certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the Charter School for the project
 - will be expended by the Charter School prior to the Notice of Completion for the project
 - The Charter School certifies it has current financial soundness status from the California School Finance Authority.
- The Charter School certifies it has entered into the Charter School Agreements pursuant to Section 1859.164.2.

B. Separate Site Apportionment

Pursuant to Section 1859.164.2(b), must be able to check all boxes:

- Release site acquisition funds. The Charter School certifies the funds are needed to place on deposit in order to secure the site acquisition.
- The Charter School certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the Charter School for the project
 - will be expended by the Charter School prior to the Notice of Completion for the project
- The Charter School certifies it has current financial soundness status from the California School Finance Authority.
- The Charter School certifies it has entered into the Charter School Agreements pursuant to Section 1859.164.2.

Part III. Separate Site Apportionment

- RA on additions to existing school sites pursuant to Section 1859.74.4.
- Pursuant to Sections 1859.75.1 or 1859.81.1, district must be able to check both boxes:
- Release site acquisition funds. The district certifies the funds are needed to place on deposit in order to secure the site acquisition.
 - The district certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the district for the project
 - will be expended by the district prior to the Notice of Completion for the project.

Part IV. Overcrowding Relief Grant - Advance Site Funds

Pursuant to Section 1859.184.1, districts that have received Financial Hardship approval that are acquiring sites through condemnation must be able to check all boxes:

- Release site acquisition funds. The district certifies the funds are needed to place on deposit in order to secure the site acquisition.
- The district certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the district for the project
 - will be expended by the district prior to the Notice of Completion for the project
- The district certifies that it will produce an order of prejudgment possession once obtained from the court, and prior to any additional fund releases for the project.

Part V. New Construction/Modernization/Charter School Rehabilitation

District/Charter School must be able to check all boxes:

- The district certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the district for the project
 - will be expended by the district prior to the Notice of Completion for the project
- The district certifies it has entered into a binding contract(s) for _____ percent of the construction (must be at least 50 percent of the construction included in the plans and specifications applicable to the state funded project), which received written DSA approval on _____, and has issued the Notice(s) to Proceed on _____ for that contract(s) awarded on _____. (If the space provided is not sufficient for all applicable contract dates, please list all dates on a separate attachment to this form.)
- If the district certified compliance with Education Code Section 17070.955 on its Application for Funding (Form SAB 50-04) and if it was not previously sent with the Form SAB 50-04, then the district must submit written confirmation from the district's career technical advisory committee indicating that the need for vocational and career technical facilities is being adequately met within the district consistent with Education Code Sections 51224, 51225.3(b), 51228(b), and 52336.1.

The Charter School must also be able to check the following box:

- The Charter School certifies it has entered into the Charter School Agreements pursuant to Section 1859.164.2.
- The amount of State funds released for new construction shall be 100 percent of the total SFP New Construction Adjusted Grant, less any site acquisition funds previously released in Part III.
- The amount of State funds released for modernization shall be 100 percent of the SFP Modernization Adjusted Grant.

Part VI. New Construction—Site Acquisition Only

District must be able to check both boxes:

- The district certifies it has entered escrow for the site (attach copy of escrow instructions).
- The district certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the district for the project
 - will be expended by the district prior to the Notice of Completion for the project

The amount of State funds released shall be equal to the additional grant provided for site acquisition.

Part VII. Joint-Use Projects

- The district certifies that the Joint-Use Partners' financial contribution has either:
 - been received and deposited in the County School Facility Fund
 - has been received and expended by the district
 - will be received and expended by the district prior to the Notice of Completion for the project
- The district certifies it has entered into a binding contract(s) for _____ percent of the construction (must be at least 50 percent of the construction included in the plans and specifications applicable to the state funded project), and has issued the Notice to Proceed on _____ for that contract signed on _____.

The amount of State funds released for new construction shall be 100 percent of the Joint-Use Grant.

Part VIII. Identify District and Joint-Use Partners' Funding Sources

- Available bond funds such as general obligation, or Mello-Roos.
- Available developer fees, proceeds from the sale of surplus property, or federal grants.
- Other funds available (identify)
- Funds already expended by the district for the project.
- Funds already expended by the Joint-Use Partners for the project.
- Future revenue sources to be used for the project (identify)

Part IX. Career Technical Education Facilities Projects

- The district certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the district for the project
 - will be expended by the district prior to the Notice of Completion for the project
- If the district requested a loan for its matching share pursuant to Section 1859.194, the district certifies that it has entered into a loan agreement with the State.

Part X. Identify District's Construction Delivery Method

- Design-Bid-Build
- Design-Build
- Developer Built
- Lease Lease-Back
- Energy Performance Contract
- This project includes or will include piggyback contract(s), as defined in Section 1859.2
- Other: _____

General Certifications

- I certify, as the District Representative, that the information reported on this form is true and correct and that:
- I am an authorized representative of the district as authorized by the governing board of the district; and
- The site where buildings will be modernized or rehabilitated must comply with Education Code Sections 17212, 17212.5, and 17213; and,
- The grant amount provided by the State, combined with local matching funds or the Joint-Use Partner's financial contribution, are sufficient to complete the school construction project, unless the request is for a separate site and/or design apportionment; and,
- The district has or will comply with the Public Contract Code regarding all laws governing the use of force account labor; and,
- This project for which the grant amount is provided complies with Education Code Sections 17070.50 and 17072.30; and,
- The district shall certify at the time of a fund release for the project that it complies with Section 1859.90.4.
- This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction (OPSC). In the event a conflict should exist, then the language in the OPSC form will prevail; and,
- If required by Labor Code Section 1771.7, the district has initiated and enforced a LCP that has been approved by the DIR.
- If required by Labor Code Section 1771.3(a), the district will contract with the DIR for the required Prevailing Wage Monitoring and Enforcement, or the requirement is waived pursuant to Labor Code Section 1771.3(b). The district understands that if it fails to meet this requirement, it will be required to repay all state bond funds received including interest.

School Facility Program Forms by Number

Form SAB 50-01: *Enrollment Certification/Projection*

To determine a district's initial eligibility for new construction funding under the School Facility Program (SFP), the district must provide enrollment information for the current and previous three or seven years, as appropriate.

Form SAB 50-02: *Existing School Building Capacity*

This form is used to determine a district's existing school building capacity to house students. This one-time report and the Form SAB 50-01 are used to calculate the district's eligibility for SFP New Construction funding.

Form SAB 50-03: *Eligibility Determination*

This form is used by a district to calculate their eligibility for SFP new construction and modernization funding.

Form SAB 50-04: *Application for Funding*

Once eligibility has been established, a district can submit this form to apply for SFP funds.

Form SAB 50-05: *Fund Release Authorization*

After an SFP grant has been funded by the Board, the OPSC will release the apportioned funds to the appropriate county treasury once the district has completed and submitted this form to the OPSC.

Form SAB 50-06: *Expenditure Report (SFP)*

Districts use this form to report SFP-funded project expenditures annually to the State until project completion.

Form SAB 50-07: *Application for Joint-Use Funding*

This form is used by a district to request State funding for a project on a K-12 school site in which the district has entered into a joint-use agreement with a governmental agency, public community college, public college or public university, or a nonprofit organization approved by the board.

Form SAB 50-08: *Application for Preliminary Apportionment*

This form is used by eligible applicants for the Critically Overcrowded Schools (COS) program in advance of full compliance with all of the application requirements for final apportionment.

Form SAB 50-09: *Application for Charter School Preliminary Apportionment*

This form is used by eligible applicants to request a preliminary apportionment for the new construction or rehabilitation of charter school facilities in advance of full compliance with all the application requirements for a final apportionment.

Form SAB 50-10: *Application for Career Technical Education Facilities Funding*

This form is to be used by a school district/joint powers authority to request a Career Technical Education Facilities grant.

Form SAB 50-11: *Overcrowding Relief Grant District-Wide Eligibility Determination*

As part of the district's request for new construction funding for the Overcrowding Relief Grant (ORG), this form is used to determine the district's District-wide/High School Attendance Area pupil eligibility.

Form SAB 189: *School District Appeal Request*

School districts are required to use this form to initiate an appeal for consideration by the State Allocation Board.

Project Information Worksheet

Districts must complete the Project Information Worksheet (PIW) when submitting a fund release request and the first annual and final *Expenditure Reports* (Forms SAB 50-06) for New Construction, Facility Hardship, COS, Charter Schools, and ORG program projects. Districts receiving the high performance incentive grant as part of a project from any other SFP funding source are also required to complete the PIW, but only for high performance building components. The PIW is used to collect project cost and scope information to determine changes to the new construction per-pupil grant amount and to measure the cost of high performance components.

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Project Information Worksheet

Overview

The PIW was designed to collect data for SFP new construction projects to study the relationship between the new construction pupil grant amount and the per pupil cost of new school construction, to monitor the status of the bid climate and to meet bond accountability requirements.

Brief History

The State Allocation Board (Board) approved the PIW in September 2007 (and modified it in May 2010) for the following reasons:

- To analyze the relationship between the pupil grant eligibility and the cost of new construction pursuant to EC Section 17072.11(b).
- Bond accountability.
- To study the status of the bid climate.
- To evaluate the High Performance Incentive Grant.

The PIW is based largely on a survey developed by a new construction grant adequacy ad hoc committee¹ assembled by the Board in December 2005. The PIW incorporates the Board Implementation Committee's (Committee) input and was tested by a sample of districts prior to Board approval. At the time of development, stakeholders commented that the PIW should be independent of the *Expenditure Report* (Form SAB 50-06). Additional input was also received from the various stakeholders/districts that the collection of data for the PIW should also include all locally funded expenditures since districts only report the minimum expenditures necessary to establish compliance with the local match requirement on the Form SAB 50-06.

Submittal Process

Currently, a PIW is required for all new construction projects that receive funding based on new construction pupil grants, or for modernization projects that receive HPI grant funding.

The Districts complete and submit the PIW electronically on the OPSC website. The online submittal of the PIW is required three times:

- When the District submits the *Fund Release Authorization* (Form SAB 50-05)
- With the first *Expenditure Report* (Form SAB 50-06)
- With the final *Expenditure Report*

Board Direction for PIW Implementation Committee Discussions

At the January 2012 Board meeting, the Board directed Office of Public School Construction (OPSC) staff to take an item to the Committee to explore ways to streamline the PIW, apply the PIW to additional School Facility Program (SFP) projects beyond new construction and to reduce the number of required submittals. The Committee discussed these issues at five meetings from July 2012 to November 2012.

At the October 2012 Board meeting, the Board directed that the PIW be discussed at the Program Review Subcommittee.

¹ Grant adequacy ad hoc committee consisted of school districts, architectural, construction, and construction management firms, consultants, the Department of Finance, the California Department of Education and the Office of Public School Construction.

Implementation Committee Discussions

At the February, March and April 2012 Committee meetings, OPSC staff worked with the Committee to develop plans to streamline the PIW online submittal process through auto-population of any information already collected by the OPSC, and to develop options to reduce the number of submittals required. The Committee also discussed whether the PIW could be used for SFP project types other than new construction, such as modernization.

Streamline Submittal Process

Based on the discussions from Committee meetings as well as feedback from school districts, staff has streamlined the online submittal PIW process by making the following changes:

- The “Auto fill” feature automatically fills in the information that the OPSC already has in its database once an OPSC application number(s) is entered, including:
 - County
 - School District
 - State Funding
 - Joint-Use project information (if applicable)
 - Site Acreage
- The “Auto calculation” feature automatically calculates the totals for the project costs and square footage that are entered throughout the worksheet.

Reduce Number of Required Submittals

OPSC staff discussed options for reducing the number of required PIWs to the Committee. One option would eliminate the PIW submitted with the *Fund Release Authorization* (Form SAB 50-05). This would allow the information in the first submittal to be more accurate, but it would take longer to receive from districts. Another option would eliminate the PIW submitted with the first *Expenditure Report* (Form SAB 50-06). Under this option, the information would be received quickly (with the Form SAB 50-05) and accurately (with the final Form SAB 50-06), but it may be difficult for some districts to complete both the PIW and the Form SAB 50-05 by the 90-day Priority Funding submittal deadline. Because SFP regulations indicate when a PIW must be submitted, a regulation change is necessary in order to reduce the number of required PIWs for a project. These options have not yet been presented to the Board.

Expand to other programs

In July 2012, the Committee began an in-depth discussion of how the PIW could be expanded to modernization programs. Because the PIW was originally designed only for projects funded on the basis of new construction pupil grants, many of the questions do not apply to modernization projects. For example, the classroom square footage and building costs may not be as relevant for modernization projects as the project scope (roofing, electrical, etc.) and the costs specifically associated with Americans with Disabilities Act compliance, which are not captured on the PIW. The Committee agreed that the current PIW would not effectively gather data for these programs, and that expanding the PIW to other programs would require different questions to address the wide variety of types of work that may be funded for modernization.

Draft Versions of the PIW for Modernization Projects

At the August 2012 Committee meeting, the OPSC presented concepts for the collection of modernization project information. Concerns were expressed, including that the project information was too detailed and that providing it would be very time consuming. Using Committee input, alternatives were discussed at the September, October and November meetings. Two versions of the PIW tool for modernization data collection are presented on the following pages. The first version aims to collect detailed information on the modernization project. The second version includes changes based on Committee discussion and feedback to make completion of the document less cumbersome, but does not require as much project detail.

PROJECT INFORMATION - MODERNIZATION

School Type Total Teaching Stations on Site Total Pupils Served on Site

TYPE OF WORK	COMPONENT HARD COST AMOUNT	
	FIRST SUBMITTAL	SECOND SUBMITTAL
<input type="checkbox"/> Building Replacement	\$	\$
<input type="checkbox"/> Hazardous Materials Abatement	\$	\$
<input type="checkbox"/> Sitework	\$	\$
<input type="checkbox"/> Structural/Seismic Upgrades	\$	\$
<input type="checkbox"/> Roofing	\$	\$
<input type="checkbox"/> Site Infrastructure	\$	\$
<input type="checkbox"/> Building Interior (Wall Systems, Flooring, Casework)	\$	\$
<input type="checkbox"/> Building Exterior (Wall Systems, Windows, Doors)	\$	\$
<input type="checkbox"/> HVAC	\$	\$
<input type="checkbox"/> Plumbing	\$	\$
<input type="checkbox"/> Technology Upgrades	\$	\$
<input type="checkbox"/> Renewable Energy Systems	\$	\$
<input type="checkbox"/> Electrical	\$	\$
<input type="checkbox"/> Access Compliance/ADA	\$	\$
<input type="checkbox"/> Other (please specify)	\$	\$
Total:	\$	\$

Facilities Modernized <i>(Check all that apply)</i>		NUMBER
FACILITY		
<input type="checkbox"/> Classrooms		
<input type="checkbox"/> Administration/Support		
<input type="checkbox"/> Gym/Shower Locker Room		
<input type="checkbox"/> Multi-Purpose Room/Cafeteria		
<input type="checkbox"/> Cafeteria - Stand Alone		
<input type="checkbox"/> Kitchen		
<input type="checkbox"/> Library		
<input type="checkbox"/> Performing Arts Facility		
<input type="checkbox"/> Restroom(s)		
<input type="checkbox"/> Play/Athletic Field		
<input type="checkbox"/> Playground/Hardcourt/Turf		
<input type="checkbox"/> Track		
<input type="checkbox"/> Swimming Pool		
<input type="checkbox"/> Stadium		
<input type="checkbox"/> Parking Drop-off		
<input type="checkbox"/> Parking Structure		
<input type="checkbox"/> Other (Explain)		

Total Square Feet Modernized All Facilities	
Permanent:	
Modular:	
Portable:	
Total:	

Total Modernization Cost (Per Square Foot)	
FIRST SUBMITTAL	SECOND SUBMITTAL
\$	\$

ATTACHMENT CAUTHORITYEDUCATION CODE

Education Code (EC) Section 17072.11 (b) states, "On or after January 1, 2008, the [Board] shall increase or decrease the per-unhoused-pupil grant eligibility determined pursuant to subdivision (a) by amounts it deems necessary to cause the grants to correspond to costs of new school construction, provided that the increase in any fiscal year pursuant to this section shall not exceed 6 percent."

EC Section 17074.25 states, "(a) 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. A modernization grant may not be used for costs associated with acquisition and development of real property or for routine maintenance and repair.

(b) A modernization apportionment may also be used for 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."

EC Section 17070.35(a) states, "In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: . . . (2) Establish and publish any procedures and policies in connections with the administration of this chapter as it deems necessary."

GOVERNMENT CODE

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

SCHOOL FACILITY PROGRAM REGULATIONS

School Facility Program (SFP) Regulation Section 1859.71 states, "The new construction per-unhoused-pupil grant amount, as provided by (EC) Section 17072.10(a), may be increased by an additional amount not to exceed six percent in a fiscal year, or decreased, based on the analysis of the current cost to build schools as reported on the Project Information Worksheet (New 09/07) which shall be submitted with the Forms SAB 50-05 and 50-06 and as approved by the Board."

SFP Regulation Section 1859.104.1 states, "A school district filing a (PIW) with the best information available will not be subject to a Material Inaccuracy for that information."

SFP Regulation Section 1859.71 states, "The new construction per-unhoused-pupil grant amount, as provided by Education Code Section 17072.10(a), may be increased by an additional amount not to exceed six percent in a fiscal year, or decreased, based on the analysis of the current cost to build schools as reported on the Project Information Worksheet (New 09/07) which shall be submitted with the Forms SAB 50-05 and 50-06 and as approved by the Board."

SFP Regulation Section 1859.104 states, "A School District receiving an Apportionment for high performance incentive grants pursuant to Section 1859.71.6 or 1859.77.4 shall submit a completed Project Information Worksheet to the OPSC for all expenditures related to the additional design and construction costs of the high performance building components. In addition, the School District shall provide information related to resulting energy savings and efficiency, as well as other resulting benefits. The Project Information Worksheet shall be submitted with the Form SAB 50-05 and the District's first and final Forms SAB 50-06 pursuant to (a)(1) and (2) above."