

Stuart & Associates

Governmental Consultants

TO: Dr. Joe Ovick

FROM: Susan Stuart

DATE: April 13, 2006

RE: April 6, 2006 – SAB Implementation Committee Meeting

SAB IMPLEMENTATION COMMITTEE MEETING OF APRIL 6, 2006

The date and location of the future meetings were noted as follows:

Date	Location	Date	Location
1-5-06	Sacramento	7-7-06	Sacramento
2-3-06	Sacramento	8-4-06	Sacramento
3-3-06	Sacramento	9-8-06	Sacramento
4-6-06	Sacramento	10-6-06	Sacramento
5-5-06	Sacramento	11-3-06	Sacramento
6-2-06	Sacramento	12-1-06	Sacramento

ADDITIONAL GRANT FOR REPLACED FACILITIES USING MULTI- STORY STRUCTURES AB 1631 (SALINAS) – STATUTES OF 2003

Background

SFP regulation 1859.73.2 allows for additional new construction grants to school districts when single story facilities are replaced with new multi-story construction. The intent was to provide districts with financial wherewithal to improve facilities configuration at impacted school sites and increase capacity to house students. Participation has been limited in this program. To qualify for the additional grant a district must meet these requirements:

- ◆ A site must be less than 75 percent of CDE recommended site size.
- ◆ A district must construct the greater of 8 classrooms (i.e. 200 pupil grants) or the number of classrooms needed to house pupil grants equal to 20 percent of the existing capacity of the school.

- ◆ CDE must affirm that the multi-story replacement is the best alternative for housing pupils on the site.
- ◆ A cost benefit analysis must establish that the new construction and demolition of the old buildings is less expensive than acquiring a site and constructing a new campus for the additional pupils housed.
- ◆ The district must replace all of the excluded portables for which the district was provided an increase in eligibility to qualify a non-permanent building for multi-story replacement.

In practice, the requirement of adding capacity for more than 200 new pupils renders the regulation ineffective for districts. Candidate sites already fall within Critical Overcrowded Schools (COS) standards and, as such, have little ability to absorb the increased populations. The incentive for participation would be the opportunity to improve site usage by making the building footprint more efficient.

Recommendations for Change

Staff examined shortcomings of the regulation and suggested changes that could expand opportunities for participation within the law:

- ◆ Eliminate portable classrooms from the calculations. This would require districts to add fewer new classrooms to meet the 20 percent test.

Discussion with the Committee and audience introduced another perspective for consideration:

- ◆ By definition, eligible sites are impacted severely. The additional classroom space should be limited to the *lesser of* 200 pupils or an increase of 20 percent in capacity.

As discussion concluded, staff requested that any districts contemplating use of this regulation contact OPSC to discuss how current or revised regulation would affect potential projects. Staff will work further on the issue and report back to the Implementation Committee.

SFP PORTABLE CLASSROOM CHARGEABILITY

Introduction

The issue of portable classroom eligibility was first introduced last year as

legislation in SB 362 (Torlakson). It then was referred by members of the SAB to the Implementation Committee at its February meeting. The discussion generated nine specific areas for discussion.

Current regulations provide that if the district adds a new classroom (with local or state funds), whether portable or permanent, the district's capacity to serve pupils would have a corresponding increase. However, regulations have no provision to make a corresponding reduction in the district's capacity if a district either elects to demolish a classroom that has been "replaced" or if it simply removed from service. Staff took past committee and audience comments under advisement and responded to those issues.

Issues

1. Districts have the option of using two calculations when establishing their new construction eligibility baseline. In option "B" districts may exclude all portables that exceed 25 percent of the number of permanent classrooms. Currently interim housing portables are counted as adequate housing when calculating the 25 percent exemption. The issue is -- should interim housing portables be excluded in the calculation of school building capacity under option B?

Although members of the audience disagreed, OPSC stated that there is no provision in law for OPSC to exclude interim housing portables completely from calculations of capacity.

2. This issue was the one that generated the entire discussion and is supported by districts throughout the state. If a district replaces classrooms using local dollars with no net gain in classroom capacity, it is unreasonable for both the replaced and new classrooms to be included in the capacity. In other words, is it possible to remove classrooms from the new construction eligibility baseline if those classrooms are replaced with classrooms obtained or constructed with local funds?

Staff recommended in favor of this proposal, stating that districts could replace classrooms with local dollars and adjust their baseline eligibility, with proof that the classrooms had been removed. Staff stated that this policy would encourage locals to maintain the best quality educational

environment for students. Staff expressed concerns on the potential impact on the Financial Hardship Program, stating that this new policy could result in a district qualifying for Financial Hardship. They offered some preventative language including a 10 year limitation on the ability for a district to encumber local funds and also suggested that any local funds expended to replace classrooms would not be counted in the 60 percent indebtedness level required for qualification in the Financial Hardship Program.

Since the current time limitation is three years to encumber local funds for the Financial Hardship Program, many in the audience objected, in part, because this issue had been discussed thoroughly last year and there was consensus that the Financial Hardship Program should not be changed. There were also concerns regarding the proposal to change the 60 percent bond indebtedness level. Staff was open to the concerns and will come back with a new proposal next month.

Cautionary note: OPSC advised districts that if local dollars are used to demolish and replace facilities (permanent or portable) an adjustment would have to be made in modernization eligibility – if the buildings that were removed were to receive modernization grants. There was minimal discussion as to how staff would expect this reduction to occur. More information will be provided by staff when draft regulations are brought forward in the coming months.

3. Leased portables are non-chargeable if leased for five years. At the start of year six, the portable becomes chargeable. Many districts are concerned that there are legitimate situations when these buildings are needed for more than five years, i.e., interim housing portables acquired for new construction. Many districts are forced to terminate a lease, remove the portable and replace it with a new lease for as little as a year or two. Districts were requesting a one-time extension on portables under specified conditions.

Staff stated that this requirement is in law, not regulation, so it would need statutory change. They recognized that it was a valid issue and stated they would support an effort to change the law. We spoke to the representative from Department of Finance after the meeting and will be submitting bill language for their consideration.

4. Districts have had an ongoing concern that modernization grants are inadequate, in particular to meet compliance with the American with Disabilities Act (ADA). Districts asked for an adjustment to the modernization grants to accommodate ADA.

Staff stated that this would require a statutory change and that grant adequacy was being addressed in bond negotiations.

5. Can portable classrooms be removed from service through sale or due to substandard condition and then be removed from the baseline?

Staff stated that this is not allowable under law. They expressed grave concern that this would create exponential eligibility statewide.

6. Can districts remove Class Sizes Reduction Portables (CSRP) from inventory if they are no longer required?

Staff stated that this is not allowable under law. They expressed grave concern that this would create exponential eligibility statewide.

7. If the *Preschool for All* Initiative is approved, additional capacity will be needed to house the pupils. Districts asked if unused portables or classrooms could be used for preschool and/or if new classrooms could be purchased for this use?

Staff commented that unless a classroom, portable or permanent, which is already in the baseline was originally purchased for preschool and with funds specifically intended for preschool, the classroom would remain in the baseline inventory. There is no means to remove it from the baseline due to a change in use. Classrooms added for preschool are excludable if acquired for that purpose. If the initiative is passed, OPSC will issue an advisory on preschool facilities.

8. Under what circumstances must portables be reported on the new construction baseline eligibility when they are smaller than 700 sq. ft. or acquired for preschool or adult education?

Staff recognized the need for more specific guidelines. OPSC will provide an Advisory Actions newsletter article for districts and include this information in the SFP Handbook.

9. One of the questions brought forward was the issue of adjusting eligibility when a new portable is acquired as a result of the Emergency Repair Program (ERP).

It is possible but extremely unlikely that a portable would be replaced through ERP. If it did occur, the district would take the portable out of service and would make the replacement similar to the process used under the Facility Hardship Program.

It appears that one of the most critical issues on portable replacement is recognized by OPSC and will be resolved. In addition, another will be supported by OPSC in legislation. However, there remain several areas of portable classroom policy that require attention, including earlier modernization of portables that get more use – those used for MTYRE, and the continued use of DOH portables (addressed in SB 1324 [Lowenthal]). We will continue to pursue legislation or regulatory change to address areas of concern.