

Stuart & Associates

Governmental Consultants

TO: Dr. Joe Ovick

FROM: Susan Stuart

DATE: April 9, 2007

RE: April 5, 2007 SAB Implementation Committee Meeting

Meeting April 5, 2007

Agenda Items

- ◆ Transfer of Special Education Programs

Transfer of Special Education Programs

Overview

In some areas of the State, County Offices of Education (COEs) are transferring special education programs back to local districts. However, there is no regulatory ability to transfer the facilities to the district and reduce their capacity under the SFP. AB 2947 (Goldberg) – Statutes of 2006, was enacted to provide relief to the County Offices by permitting the transfer of facilities and adjust the enrollment projection. As a condition of the transfer, the district receiving the facilities may be required to reimburse the State for the funds provided under the facilities hardship provisions of the SFP.

Transfers That Occurred Prior to January 1, 2007

The first item of discussion was whether the provisions of this bill impact transfers that occurred prior to the enactment of AB 2947 – which was January 1, 2007. OPSC indicated those counties and districts that had already transferred programs may voluntarily request adjustment to their new construction baselines. In a different twist to the issue, it is now

necessary for both parties to make the request, which will trigger the repayment provisions.

Financial Hardship/Repayment Amounts

The law requires that the State be reimbursed for any financial hardship funding received for any facility that was transferred within ten years of receiving construction funding. If the recipient district is a financial hardship district, the repayment provisions would be waived because they would have also received the financial hardship funding. A more liberal provision of the regulations was approved allowing the receiving district to be defined as financial hardship either the time of transfer or the time of the adjustment request. OPSC will allow up to five years for the repayment if needed by the District.

Depreciation

It was suggested that a depreciation process should be included. One example was the full 100 percent of the financial hardship funding be repaid if the transfer occurs within the first three years following apportionment. The percentage would be reduced by 10 percent each year until the 10th year when the amount would become zero.

Disposition of Funds

The funds returned to the SAB will be returned to the funding source that originally funded the facility. Those funds will be subject to the provision of that bond measure.

Definition of Transfer

It was discussed that a ground lease agreement is considered in the definition of a transfer of title.

Facilities Inventory Adjustment

If the county acquired a portable under the SFP for 4 grants instead of the 9 grant capacity, the OPSC indicated the adjustment would be a 9 grant capacity decrease for the county and a 9 grant capacity increase for the district. This scenario may require more discussion.

Discussion

A discussion ensued as to what “consensus” of the Implementation Committee entailed. There was discussion as to whether a vote could occur to indicate to the SAB the direction that reflected the majority of the committee. It was determined that since the committee was an advisory body, a vote was not appropriate, but that the majority opinion could be reflected in the minutes and in the Chair’s report to the SAB.

On this issue, the consensus of the committee was that there should be no State remittance for transfers that occurred prior to January 1, 2007; and that the State remittance for transfers occurring on or after January 1, 2007 should be prorated based on the number of years after initial occupancy that the transfer occurs. The chair asked that the write up going to the SAB reflect that the consensus of the Implementation Committee differed from the OPSC proposal on these issues.

During this discussion, one member of the audience made note of the wording of phrase “the regulations, if adopted,” leads one to believe that the Legislature anticipated that the regulatory process would try to make sense of this law. This is perceived as an option for providing a workable solution that meets with everyone’s approval.

This item is scheduled for presentation at the April 2007 SAB meeting.

Future Items

- ◆ Labor Compliance Program
- ◆ Site Sale Proceeds of sites purchased with State funds
- ◆ Seismic
- ◆ Alternate Education Loading Standards and Funding