



# CSFC Connection

## CSFC Defends Counties on Financial Hardship Facility Issues Before the SAB

The County School Facilities Consortium (CSFC) has successfully defended county offices statewide on school facilities issues before the State Allocation Board (SAB) over the past few months.

Recently, three items were moved forward in our favor at the May 26 SAB meeting.

### 180-Day Financial Hardship Re-Review Issue

Late last summer, OPSC began announcing that they would be re-reviewing Financial Hardship (FH) projects that had been waiting for funding over 180 days through no fault of their own. According to staff, this re-review was required by regulation.

CSFC quickly became involved in the issue as it was clear that project time in the queue had been lengthened due to the state's funding freeze in response to the larger fiscal crisis. FH projects were left out when rules were suspended last year to hold other school projects in the queue harmless. FH projects should have been included in the "held harmless" group.

CSFC and others testified that this was an inequitable result and the SAB was persuaded that further action was needed to also exclude FH projects.

The SAB voted on a recommendation to staff that would hold harmless those projects in FH that have

remained on an unfunded list due to the state's fiscal crisis.

Although there were quite a few discussions that revolved around whether the SAB could go back and do this retroactively, the SAB asked staff to provide language to wave the re-review requirement for those FH projects that occurred at the same time as the other SFP projects that received this treatment.

The SAB approved the following staff recommendations based on a motion made by Kathleen Moore at the April SAB meeting:

- Waive the unfunded financial hardship re-review requirement for projects added to the unfunded list due to the State's inability to provide AB 55 loans. This unfunded list was created in March 2009 and references any projects added to that list since. These regulations will sunset January 1, 2011, at which time, the SAB will have the option to declare the fiscal crisis has ended or extend this and all emergency School Facility Program (SFP) regulations for another year.

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### CSFC Annual Summit: Dates Announced

CSFC is pleased to announce the dates for the CSFC Annual Summit! The Summit will take place on September 20-21 at the Sheraton Grand Hotel in Sacramento.

This year's agenda will be focused on county problem solving with more time built in for practical how-to discussions with your county office peers on issues of importance to COE facility management, planning and construction.

Some of the COE issues we plan to cover:

- *The Future of School Facility Funding in California*
- *County Office of Education Asset Management*
- *Successful Planning and Siting of Special Education Facilities*
- *What Technology Works Best for County Students?*
- *Building Green COE Facilities*

Agenda details and registration materials will be sent out soon. Please join us for another successful CSFC Summit!

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• Adopt the proposed related emergency regulations and begin the regulatory process and authorize the Executive Officer to file these emergency regulations with the Office of Administration Law on an emergency basis.

**Priority in School Funding**

The SAB discussed options to change the current First-in, First-Out (FIFO) process for school facility funding to move school projects forward that are “ready-to-go” in order to create jobs and stimulate the economy.

With status quo presented as Option 1, staff presented the SAB with two additional options for moving projects forward in an expedited manner.

Under staff’s Option 2, the SAB would grant conditional apportionments to all projects currently on the unfunded list. Ready projects would then move forward with fund releases until the bond funds are exhausted.

Option 3 would prioritize apportionments to projects that are ready to submit fund releases within 60 days after an apportionment. The objective was to make apportionments only to those projects that would be able to submit a fund release within a specified time.

To discuss these options, an SAB “Priorities in Funding” Subcommittee was established by the SAB to develop a plan. The subcommittee was made up of Chair Cynthia Bryant, Scott Harvey and Kathleen Moore of CDE to discuss the three

options and specific issues such as FH.

Although not really comfortable with changes to the current FIFO process, CSFC agreed that the need for moving projects and creating jobs was very important given the state’s current financial condition.

In a letter subsequent to the SAB, CSFC articulated a preference for Option 3 with a 90-day time period – a more realistic time period for financial hardship districts. We asked also that this time period be applied to all projects equally, not just for those on FH.

CSFC stressed, however, that any changes to the process should not result in a disadvantage to those Local Education Agencies (LEAs) operating under financial hardship rules. As CSFC members know well, FH projects often require more time for every step leading up to approval.

In addition, CSFC argued, that there should be consideration given to the design and site acquisition portion of these funds and separate allocations should be made for this purpose.

During the Subcommittee discussion of the options, member Scott Harvey expressed his strong opinion that design was not a job creator – that only the project construction portion of the project would truly create jobs – and, therefore, he could not agree to the design piece having a separate apportionment. He also expressed his belief that in order to move the projects forward in the most expedited way, a 75-day

period was best.

In the end, when the issue came up before the SAB at their May meeting, it voted to provide the 90-day period for all projects and agreed that separate allocations should be made for site and design purposes.

**High-Performing Schools Incentive Grant**

Changes were proposed to the High-Performing (HP) program for incentive grants to encourage schools to apply for those funds under the SFP.

Throughout the discussions regarding the HP schools incentivize funding, CSFC asked that FH districts be allowed to participate. CSFC and others raised the issue of up-front costs for HP projects being

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**CSFC Executive Committee**

**Andrea Sullivan, Chair**  
Orange County Dept. of Ed.

**Jenny Hannah**  
Kern County  
Supt. of Schools

**Kathy Lasiter**  
Stanislaus COE

**Mamie Starr**  
San Joaquin COE

**Lindsay Currier**  
Riverside COE

**Jeff Becker**  
Fresno COE

**Dave Keil**  
San Luis Obispo COE

## Legislative Update

**Senate Bill 1432 (Hancock):** Special Education Facilities. The intent is to demonstrate that applicant parties have conferred with their County Office of Education (COE) and district counterparts with regard to plans for special education facilities and required acreage needs.

Current law requires that facilities for students with special needs be designed and located so as to maximize interaction between those students and other pupils in their peer group.

CSFC reviewed the planned amendments to SB 1432 and provided input to the bill's sponsor, the Coalition for Adequate School Housing (C.A.S.H.). The new language requires, as a condition of approval of these projects by the California Department of Education (CDE), the following:

*That a school district is to certify that the project has the necessary classrooms, toilet rooms, and*

*medical therapy units for students with special needs with consideration for identifying and planning for least restrictive environment – and demonstrate that the project site has the acreage to support the construction of such classrooms – or – that the school district and COE/SELPA have conferred and determined that there are no special education facility needs.*

We will continue to work with the sponsor of the bill and currently support this legislation.

Other bills CSFC is supporting:

**Assembly Bill 1193 (Lowenthal):** High-Performing Schools Grants. This bill would provide 50% of the additional costs associated with the use of high-performing design and materials if the project exceeds nonresidential building standards by 15%. The bill limits the amount of this increase to \$3 million per school site. The State Allocation Board (SAB) would develop regu-

lations for implementation. This bill is scheduled to be heard by the Assembly Education Committee on June 30, 2010.

**Assembly Bill 2560 (Brownley):** Qualified School Construction Bonds (QSCB). This bill would provide immediate authorization, process and criteria for allocation/issuance of 2010 QSCBs to CDE and the California School Finance Authority (CSFA). This bill is scheduled to be heard by the Senate Education Committee on June 23, 2010.

**Senate Bill 1161 (Lowenthal):** Material Inaccuracy. This bill would authorize the SAB to make the prohibition against self-certification at its discretion, and would delete the exception from the prohibition for the districts repayment. This bill is scheduled to be heard by the Assembly Education Committee on June 30, 2010.

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prohibitive, and in order to incentive these projects under FH, funding was needed for design.

As a result of that discussion, staff recommended that FH projects be given a portion of the HP incentive grant – \$150,000 for new construction and \$250,000 for modernization – as a part of design only, or site and design funding request if the LEA certifies on the 50-04 that it will be pursuing HP incentive grants as part of its full-funding request.

Staff said they came to this conclusion in order to allow FH districts to more easily integrate HP building components into their project design, along with other up front costs such as commissioning and feasibility studies.

HP incentive grant funds allocated as part of a design only or separate site and design application will be offset from the New Construction Adjusted Grant when the county office or district submits a subsequent form SAB 50-04 for the project.

Match – Because the incentive grant requires a match by school districts according to OPSC legal opinion, are speculating and only cautiously optimistic that county offices could be eligible for an up to \$500k incentive grant if funded 100%.

We will stay on top of this issue and subsequent regulatory language and keep you up-to-date.

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## *Emerging Issue: Financial Hardship and ORG*

There is a potential problem with the Overcrowding Relief Grant (ORG) for Financial Hardship (FH) projects receiving reimbursement for planning and design work performed prior to actually receiving state funds for that purpose.

ORG program regulations require that approved plans be submitted with the project application. However, unlike the regular School Facility Program (SFP) the ORG program does not provide separate advance funding for plans and design work. The result is a FH project applying for ORG funds must

front the planning and design with local funds. Fronting with local funds potentially jeopardizes full state reimbursement because of SFP regulations treating those funds as available local contribution and disallowing reimbursement at time of project closeout.

According to regulations, local funding provided to perform planning and design work is considered available local contribution for FH projects, and state reimbursement is disallowed at the time of project closeout.

We will be looking closely at this issue and potential amendments to the ORG regulations to resolve this conflict and to prevent harm to any current FH project that was compelled by ORG regulations to pay for the planning and design work with local funds up front in order to meet the ORG regulations and timelines to submit an ORG application.

Please contact Anna Ferrera at [aferrera@m-w-h.com](mailto:aferrera@m-w-h.com) if you have input on this issue.

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## *CSFC 2010 Meeting Calendar*

### General Membership Meetings

October 2010  
Westin South Coast Plaza • Costa Mesa, CA  
Time: TBD

### Executive Board Meetings (open to all)

July 7, 2010 (conference call)  
August 4, 2010 (in-person)  
September 8, 2010 (conference call)  
October 6, 2010 (in-person)  
November 3, 2010 (conference call) (*Time TBD*)  
December 1, 2010 (in-person)

*Executive Board Meetings: All meetings begin at 3:30 p.m. In-person meetings will be held at the Office of Murdoch Walrath & Holmes, 1130 K Street, Suite 210, Sacramento. All meetings will be available via conference call. Meetings are also subject to change.*

### State Allocation Board Meetings

June 23, 2010 • 4:00 p.m.  
August 4 • 4:00 p.m.  
August 25 • 4:00 p.m.  
September 22 • 2:00 p.m.  
November 3 • 2:00 p.m.  
December 8 • 2:00 p.m.

*The SAB meets in different rooms within the State Capitol. Due to scheduling changes within the Legislature, some of the SAB meetings may be cancelled or changed with short notice.*

### Implementation Committee Meetings

July 8  
August 5  
September 9  
October 7  
November 4  
December TBD

*All Implementation Committee Meetings are located at the State Capitol in Room 126, unless noted. Meeting times are scheduled from 9:30 a.m. to 3:30 p.m. with a 1-hour lunch break.*

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