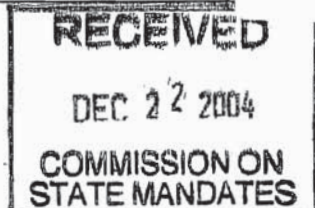


State of California
COMMISSION ON STATE MANDATES
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562
CSM 2 (1/91)

For Official Use Only Exhibit A



TEST CLAIM FORM

Claim No. 04-TC-01

Local Agency or School District Submitting Claim

LOS ANGELES UNIFIED SCHOOL DISTRICT

Contact Person

Telephone Number

Keith B. Petersen, President
SixTen and Associates
5252 Balboa Ave, Suite 807
San Diego, CA 92117

Voice: 858-514-8605
Fax: 858-514-8645
E-mail: Kbpsixten@aol.com

Claimant Address

Los Angeles Unified School District
333. South Beaudry, 26th floor (125-1)
Los Angeles, CA 90017

Representative Organization to be Notified

Robert Miyashiro, Consultant, Education Mandated Cost Network
c/o School Services of California
121 L Street, Suite 1060
Sacramento, CA 95814

Voice: 916-446-7517
Fax: 916-446-2011
E-mail: robertm@SSCal.com

This claim alleges the existence of a reimbursable state mandated program within the meaning of section 17514 of the Government Code and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551 (a) of the Government Code.

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code citation(s) within the chaptered bill, if applicable.

| | | |
|----------------------------------|--------------------------------|--------------------------------|
| CLEAN SCHOOL RESTROOMS | Statutes of 2003, Chapter 358 | Statutes of 2003, Chapter 909 |
| Education Code Section 17070.755 | Education Code Section 17584.3 | Education Code Section 35292.5 |

The Executive Orders of the: Office of Public School Construction, State Allocation Board, and State Department of General Services: SAB Forms 40-21, 50-04, 892, 892R

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING TEST CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative

Telephone No.

Ruben Rojas, Interim Director
Revenue Enhancement

Voice: (213) 241-3859
Fax: (213) 241-6818
E-mail: ruben.rojas@lausd.net

Signature of Authorized Representative

Date

X 

December 17, 2004

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Claim Prepared By:
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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

| | | |
|-------------------------------------|---|---|
| Test Claim of: |) | No. CSM _____ |
| |) | |
| |) | Statutes of 2003, Chapter 358 (AB 1124) |
| |) | Statutes of 2003, Chapter 909 (SB 892) |
| |) | |
| |) | Education Code Section 17070.755 |
| |) | Education Code Section 17584.3 |
| |) | Education Code Section 35292.5 |
| Los Angeles Unified School District |) | |
| |) | The Executive Orders of the Office of |
| |) | Public School Construction, State |
| |) | Allocation Board, and State Department |
| |) | of General Services: |
| |) | |
| Test Claimant |) | SAB Forms 40-21, 50-04, 892, 892R |
| |) | |
| |) | <u>Clean School Restrooms</u> |
| _____ |) | |

TEST CLAIM FILING

PART 1. AUTHORITY FOR THE CLAIM

The Commission on State Mandates has the authority pursuant to Government Code section 17551(a) to " . . . hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the

1 state for costs mandated by the state as required by Section 6 of Article XIII B of the
2 California Constitution." The Los Angeles Unified School District is a "school district" as
3 defined in Government Code section 17519.¹

4 PART II. LEGISLATIVE HISTORY OF THE CLAIM

5 This test claim alleges mandated costs reimbursable by the state for school
6 districts and county offices of education ("school districts") to at all times clean, fully
7 stock, and maintain restrooms.

8 SECTION 1. LEGISLATIVE HISTORY PRIOR TO JANUARY 1, 1975

9 Prior to January 1, 1975, there were no statutes, codes, or regulations which
10 required school districts to at all times clean, fully stock, and maintain restrooms as
11 set forth in this test claim. Section 3 of Statutes of 2003, Chapter 909 (SB 892) states
12 that:

13 "... a principal purpose of this act is to clarify the preexisting requirements of
14 Section 17576 of the Education Code by specifying the minimum requirements
15 necessary to provide sufficient patent flush water closets for the use of pupils in
16 a manner that is consistent with those requirements that apply to other public
17 and private persons or agencies pursuant to Section 118505 of the Health and
18 Safety Code. Because the local mandate established pursuant to Section
19 17576, which was enacted on January 1, 1948, was enacted prior to January 1,
20 1975, no reimbursement is required under this act pursuant to Section 6 of
21 Article XIII B of the California Constitution."
22

¹ Government Code Section 17519, as added by Chapter 1459/84:

"School District" means any school district, community college district, or county superintendent of schools."

Test Claim of Los Angeles Unified School District
Statutes 2003/ Chapter 909 - Clean School Restrooms

1 The Governor's signature message for Statutes of 2003, Chapter 909 states:

2 " A Legislative Council [sic] opinion states that SB 892 does not impose a
3 state-mandated local program on school districts for which the State must
4 provide reimbursement, as current law already requires schools to provide,
5 furnish and repair water closets (restrooms) that are available and sufficient for
6 pupil use. It is reasonable to interpret current laws to apply to requirements that
7 restrooms be open, clean, operational and supplied with water, soap, toilet
8 paper and a method for hand drying. Therefore, SB 892 does not create a new
9 program or establish a higher level of service and therefore does not create a
10 reimbursable state mandate."

11 Education Code Section 17576 (as renumbered and added by Statutes of 1996,
12 Chapter 277) states:

13 "The governing board of every school district shall provide, as an integral
14 part of each school building, or as part of at least one building of a group of
15 separate buildings, sufficient patent flush water closets for the use of pupils. In
16 school districts where the water supply is inadequate, chemical water closets
17 may be substituted for patent flush closets by the board.

18 This section shall apply to all buildings existing on September 19, 1947,
19 or constructed after such date."

20 The language of Section 17576 requires water closets or chemical toilets to be
21 provided as part of the construction and operation of school facilities, but the language
22 makes no requirements regarding the maintenance and operation of the restrooms,
23 notwithstanding the Governor's interpretation of the law. Similarly, Health and Safety
24 Code Section 118505 (as added by Statutes of 1995, Chapter 415) which lists the
25 requirements for the maintenance and operation of public restrooms, at subdivision (e),
26 paragraph (3) specifically exempts public or private elementary or secondary school

Test Claim of Los Angeles Unified School District
Statutes 2003/ Chapter 909 - Clean School Restrooms

1 facilities from the requirements of Section 118505. Further, the Legislature's attempt to
2 disclaim reimbursement in this manner is merely a transparent attempt to do indirectly
3 that which cannot lawfully be done directly, which was the holding on the same issue in
4 *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521,
5 which states:

6 "B. Legislative Disclaimers, Findings and Budget Control Language Are No
7 Defense to Reimbursement.
8

9 As a general defense against the order to reimburse, State insists that the
10 Legislature has itself concluded that the claimed costs are not reimbursable.
11 This determination took the combined form of disclaimers, findings and budget
12 control language. State interprets this self-serving legislation, as well as the
13 legislative and gubernatorial deletions, as forever sweeping away State's
14 obligation to reimburse the state-mandated costs at issue. Consequently, any
15 order that ignores these restrictions on payment would amount to a court-
16 ordered appropriation. As we shall conclude, these efforts are merely
17 transparent attempts to do indirectly that which cannot lawfully be done directly."
18

19 Notwithstanding the attempt of the Legislature to assert otherwise, there were no
20 legal requirements prior to 1975 relevant to the scope of the costs mandated by
21 Education Code section 35292.5.

22 SECTION 2. LEGISLATIVE HISTORY AFTER DECEMBER 31, 1974

23 Statutes of 2003, Chapter 909 added Education Code Section 35292.5, which
24 states:

- 25 "(a) Every public and private school maintaining any combination of classes
26 from kindergarten to grade 12, inclusive, shall comply with all of the following:
27 (1) Every restroom shall at all times be maintained and cleaned

Test Claim of Los Angeles Unified School District
Statutes 2003/ Chapter 909 - Clean School Restrooms

1 regularly, fully operational and stocked at all times with toilet paper, soap,
2 and paper towels or functional hand dryers.

3 (2) The school shall keep all restrooms open during school hours
4 when pupils are not in classes, and shall keep a sufficient number of
5 restrooms open during school hours when pupils are in classes.

6 (b) Notwithstanding subdivision (a), a school may temporarily close any
7 restroom as necessary for pupil safety or as necessary to repair the facility.

8 (c) Any school district that operates a public school that is in violation of this
9 section as determined by the State Allocation Board, is ineligible for state
10 deferred maintenance fund matching apportionments pursuant to Section 17584
11 (Statutes of 2003, Chapter 909) if the school district has not corrected the
12 violation within 30 days after receipt of a written notice of the violation from the
13 board. Prior to determining that the school district is ineligible, the board shall
14 provide the school district with a reasonable opportunity to cure the violation.
15 The board shall notify the Superintendent of Public Instruction regarding a
16 school district found to be in violation of this section. The Superintendent of
17 Public Instruction shall notify the Controller to withhold apportionments
18 otherwise due the school district under Section 17584.”
19

20 Beginning in February 2004, the State Allocation Board (SAB) adopted
21 rules and forms to implement the public complaint and facility deficiency resolution
22 process. These procedures are fully discussed in the agenda materials for the March
23 5, 2004, State Allocation Board Implementation Committee, which are incorporated into
24 this test claim as executive orders.

25 ANNUAL APPLICATION FOR FUNDS SAB 50-04

26 Annual applications (SAB 50-04, revised in April 2004) for deferred maintenance
27 matching funds require as part of the school district certification that: “Pursuant to
28 Education Code Section 17070.755, the district has made a priority of the funds in the
29 restricted maintenance account, established pursuant to Education Code Section

1 17070.75, to ensure that facilities are functional and meet local hygiene standards”

2 SAB 40-21, revised in April 2004, requires as a certification of the deposits of
3 deferred maintenance funds, that: “Pursuant to Education Code Section 17584.3, the
4 district has made a priority of the deferred maintenance basic grant, appropriated
5 pursuant to Education Code Section 17584, to ensure that facilities are functional and
6 meet local hygiene standards;...”

7 These requirements are more fully described in the April 1, 2004
8 “Implementation Committee Minutes” of the State Allocation Board, which are
9 incorporated into this test claim as executive orders.

10 PART III. STATEMENT OF THE CLAIM

1 SECTION 1. COSTS MANDATED BY THE STATE

12 The statutes, Education Code sections and the executive orders ² of the Office of

² Government Code Section 17516, as added by Chapter 1459/84:

“Executive order” means any order, plan, requirement, rule, or regulation issued by any of the following:

- (a) The Governor.
- (b) Any officer or official serving at the pleasure of the Governor.
- (c) Any agency, department, board, or commission of state government.

“Executive order” does not include any order, plan, requirement, rule, or regulation issued by the State Water Resources Control Board or by any regional water quality control board pursuant to Division 7 (commencing with Section 13000) of the Water Code. It is the intent of the Legislature that the State Water Resources Control Board and regional water quality control boards will not adopt enforcement orders against publicly owned dischargers which mandate major waste water treatment facility construction costs unless federal financial assistance and state financial assistance pursuant to the Clean Water Bond Act of 1970 and 1974, is simultaneously made available. “Major” means either a new treatment facility or an addition to an existing facility, the cost of which is in excess of 20 percent of the cost of replacing the facility.

Test Claim of Los Angeles Unified School District
Statutes 2003/ Chapter 909 - Clean School Restrooms

1 Public School Construction, State Allocation Board, and State Department of General
2 Services referenced in this test claim result in school districts (which maintain classes
3 for grades kindergarten through twelve) incurring costs mandated by the state, as
4 defined in Government Code section 17514³, by creating new state-mandated duties
5 related to the uniquely governmental function of providing services to the public and
6 these statutes apply to school districts and do not apply generally to all residents and
7 entities in the state.⁴

8 The new duties mandated by the state upon school districts and county offices of
9 education require state reimbursement of the direct and indirect costs of labor,
10 materials and supplies, data processing services and software, contracted services and
11 consultants, equipment and capital assets, staff and student training and travel to

³ Government Code section 17514, as added by Chapter 1459/84:

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

⁴ Public schools are a Article XIII B, Section 6 "program," pursuant to Long Beach Unified School District v. State of California, (1990) 225 Cal.App.3d 155, 172; 275 Cal.Rptr. 449:

"In the instant case, although numerous private schools exist, education in our society is considered to be a peculiarly government function. (Cf. Carmel Valley Fire Protection Dist. v. State of California (1987) 190 Cal.App.3d at p.537) Further, public education is administered by local agencies to provide service to the public. Thus public education constitutes a 'program' within the meaning of Section 6."

Test Claim of Los Angeles Unified School District
Statutes 2003/ Chapter 909 - Clean School Restrooms

1 implement the following activities:

2 A. Restroom Maintenance and Access

3 Under the penalty of the loss of state deferred maintenance funds, pursuant to
4 Education Code Section 35292.5, subdivision (a): maintain and regularly clean all
5 restrooms; keep all restrooms fully operational and stocked at all times with toilet
6 paper, soap, and paper towels or functional hand dryers; keep all restrooms open
7 during school hours when pupils are not in classes, and, keep a sufficient number of
8 restrooms open during school hours when pupils are in classes.

9 B. Restroom Maintenance Complaints

10 Under the penalty of the loss of state deferred maintenance funds, pursuant to
11 regulations, forms, and procedures of the Office of Public School Construction, State
12 Allocation Board, and State Department of General Services: respond to restroom
13 maintenance complaints lodged by members of the public either directly with the district
14 or submitted by the complainant to the Office of Public School Construction. In the
15 case of a direct complaint to the district, responding directly to the person complaining
16 and resolving the deficiency. In the case of a member of the public who submits a SAB
17 form 892 to the OPSC, responding to the OPSC notice by providing a response on SAB
18 form 892R. Should the district responses prove insufficient to any published or
19 unpublished criteria of the OPSC, the district must participate in further resolution
20 procedures including hearing of the matter before the SAB, take subsequent steps to
21 resolve the alleged violations, and comply with appeal procedures which may be

Test Claim of Los Angeles Unified School District
Statutes 2003/ Chapter 909 - Clean School Restrooms
provided for by the SAB.

C. Certification of the Use of Funds

Take the actions necessary to be able to certify in the annual applications for state deferred maintenance funds, and other forms as required by the State Allocation Board, that the district has made a priority of the use of funds in the restricted maintenance account to ensure that facilities are functional and meet local hygiene standards, and that the district has made a priority use of the deferred maintenance basic grant to ensure that facilities are functional and meet local hygiene standards.

SECTION 2. EXCEPTIONS TO MANDATE REIMBURSEMENT

None of the Government Code Section 17556⁵ statutory exceptions to a finding

⁵ Government Code section 17556, as last amended by Chapter 589, Statutes of 1989:

"The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts.

(c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

1 of costs mandated by the state apply to this test claim. Note, that to the extent school
2 districts may have previously performed functions similar to those mandated by the
3 referenced code sections, such efforts did not establish a preexisting duty that would
4 relieve the state of its constitutional requirement to later reimburse school districts
5 when these activities became mandated.⁶

6 SECTION 3. FUNDING PROVIDED FOR THE MANDATED PROGRAM

7 Education Code Section 17070.75 requires school districts to establish a
8 restricted general fund account to fund the maintenance and repairs of school
9 buildings. Education Code Section 17584 requires school districts to provide dollar-
10 for-dollar matching funds to obtain State School Deferred Maintenance funds for the
purposes of facility maintenance and repairs.

12 Statutes of 2003, Chapter 358, effective January 1, 2004, added Education

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.”

⁶ Government Code section 17565, added by Chapter 879, Statutes of 1986:

“If a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.”

Test Claim of Los Angeles Unified School District
Statutes 2003/ Chapter 909 - Clean School Restrooms
Code Section 17070.755, which states:

"A priority for the use of funds in the restricted account established pursuant to Section 17070.75, shall be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities."

Statutes of 2003, Chapter 358, also added Education Code Section 17584.3, which states:

(a) A priority for use of funds appropriated pursuant to Section 17584 shall be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities.

(b) This section does not authorize the use of funds apportioned pursuant to Section 17584 for regular operational and maintenance costs of restrooms and other facilities. The funds apportioned pursuant to Section 17584 may only be used for the deferred maintenance of those facilities consistent with subdivision (a) of Section 17582. "

Education Code Section 17582, subdivision (a) describes the purposes and uses of the deferred maintenance funds, none of which includes cleaning and supplies:

(a) The governing board of each school district may establish a restricted fund to be known as the "district deferred maintenance fund" for the purpose of major repair or replacement of plumbing, heating, air conditioning, electrical, roofing, and floor systems, the exterior and interior painting of school buildings, the inspection, sampling, and analysis of building materials to determine the presence of asbestos-containing materials, the encapsulation or removal of asbestos-containing materials, the inspection, identification, sampling, and analysis of building materials to determine the presence of lead-containing materials, the control, management, and removal of lead-containing materials, and any other items of maintenance approved by the State Allocation Board. Funds deposited in the district deferred maintenance fund may be received from any source whatsoever, and shall be accounted for

Test Claim of Los Angeles Unified School District
Statutes 2003/ Chapter 909 - Clean School Restrooms

1 separately from all other funds and accounts and retained in the district deferred
2 maintenance fund for purposes of this section. The term "school building" as
3 used in this article includes a facility that a county office of education is
4 authorized to use pursuant to Article 3 (commencing with Section 17280) of
5 Chapter 3."
6

7 Section 17584.3 specifically prohibits uses of deferred maintenance funds for
8 purposes other than those stated in Section 17582. Neither Section 17070.755 nor
9 17584.3 provides new funds to meet the requirements of Section 35292.5, but merely
10 indicate that repair and maintenance of restroom facilities is now a "priority" for school
11 districts. Therefore, Chapter 358 does not provide new revenues to fund the mandate,
12 but in fact, reduces the funds available for purposes other than restroom repair and
13 maintenance, thus further burdening local government to meet other existing deferred
14 maintenance needs from existing funding sources.

15 However, to the extent any funds are actually appropriated and received in the
16 future for the specific purposes of this mandate, they would reduce the costs claimed
17 herein.
18

19 PART IV. ADDITIONAL CLAIM REQUIREMENTS

20 The following elements of this claim are provided pursuant to Section 1183, Title
21 2, California Code of Regulations:

22 Exhibit 1: Declaration of Bruce Kendall
23 Director of Maintenance and Operations
24 Los Angeles Unified School District
25

Test Claim of Los Angeles Unified School District
Statutes 2003/ Chapter 909 - Clean School Restrooms

1 Exhibit 2: Copies of Statutes Cited

2 Statutes of 2003, Chapter 358

3 Statutes of 2003, Chapter 909

4 Exhibit 3: Copies of Code Sections Cited

5 Education Code Section 17070.75

6 Education Code Section 17070.755

7 Education Code Section 17576

8 Education Code Section 17582

9 Education Code Section 17584

10 Education Code Section 17584.3

11 Education Code Section 35292.5

12 Health and Safety Code Section 118505

13 Exhibit 4: The Executive Orders of the: Office of Public School Construction, State
14 Allocation Board, and State Department of General Services

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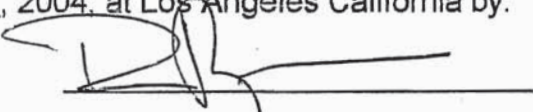
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PART V. CERTIFICATION

I certify under the penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge, information, or belief.

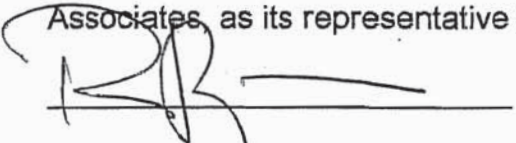
Executed on December 17, 2004, at Los Angeles California by:


Ruben Rojas, Interim Director
Revenue Enhancement

Los Angeles Unified School District
333. South Beaudry, 26th floor (125-1)
Los Angeles, CA 90017
Voice: (213) 241-3859
Fax: (213) 241-6818
E-mail: ruben.rojas@lausd.net

PART VI. APPOINTMENT OF REPRESENTATIVE

The Los Angeles Unified School District appoints Keith B. Petersen, SixTen and Associates, as its representative for this test claim.


Ruben Rojas, Interim Director
Revenue Enhancement
Los Angeles Unified School District

Date

17 DEC '04

Exhibit 1: Declaration of Bruce Kéndal, Director of Maintenance and Operations
Test Claim of Los Angeles Unified School District
909/03 Clean School Restrooms

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DECLARATION OF BRUCE KENDALL

Los Angeles Unified School District

RE: Test Claim of Los Angeles Unified School District

- Statutes of 2003, Chapter 358
- Statutes of 2003, Chapter 909
- Education Code Section 17070.755
- Education Code Section 17584.3
- Education Code Section 35292.5

The Executive Orders of the Office of Public School Construction, State Allocation Board, and State Department of General Services:

SAB Forms 40-21, 50-04, 892, 892R

Clean School Restrooms

I, Bruce Kendall, Director of Maintenance and Operations for the Los Angeles Unified School District, make the following declaration and statement.

In my capacity as Director of Maintenance and Operations, I am responsible for implementing requirements of the clean school restrooms program. I am familiar with the requirements of the Education Code Sections and executive orders of the state agencies listed above which require, under the penalty of the loss of state deferred maintenance funds, the Los Angeles Unified School District to implement the following activities:

DECLARATION OF Bruce Kendall, Los Angeles Unified School District
Test Claim of Los Angeles Unified School District
Statutes of 2003, Chapter 909
Clean School Restrooms

1 A. Restroom Maintenance and Access

2 1. Maintain and regularly clean all restrooms. Additional custodians and restroom
3 attendants have been hired. Restrooms are now routinely cleaned as often as
4 every night and spot-cleaned and restocked twice per day. Service logs are
5 maintained at each site.

6 2. Keep all restrooms fully operational and stocked at all times with toilet paper,
7 soap, and paper towels or functional hand dryers. A daily inventory of fixtures
8 needing repair is prepared and a "trouble call" system is in place to respond to
9 reports of needed repairs. School plant managers randomly monitor restrooms
10 daily.

11 3. Keep all restrooms open during school hours when pupils are not in classes, and
12 keep a sufficient number of restrooms open during school hours when pupils are
13 in classes. Restrooms previously closed and used for storage have been
14 reopened and storage containers obtained. 309 restrooms have been renovated
15 and 553 restrooms repainted.

16 B. Restroom Maintenance Complaints

17 1. Respond to restroom maintenance complaints lodged by members of the public
18 either directly with the district or submitted by the complainant to the Office of
19 Public School Construction. Staff, students, and visitors are urged to report
20 needed repairs to site administrators using our Clean Restroom Hotline website.

DECLARATION OF Bruce Kendall, Los Angeles Unified School District
Test Claim of Los Angeles Unified School District
Statutes of 2003, Chapter 909
Clean School Restrooms

- 1 2. In the case of a direct complaint to the district, responding directly to the person
2 complaining and resolving the deficiency.
- 3 3. In the case of a member of the public who submits a SAB form 892 to the OPSC,
4 responding to the OPSC notice by providing a response on SAB form 892R.
- 5 4. Should the district responses prove insufficient to any published or unpublished
6 criteria of the OPSC, the district must participate in further resolution procedures
7 including hearing of the matter before the SAB, taking subsequent steps to
8 resolve the alleged violations, and complying with appeal procedures which may
9 be provided for by the SAB.

10 C. Certification of the Use of Funds

11 Take the actions necessary to be able to certify in the annual applications for
12 state deferred maintenance funds, and other forms as required by the State Allocation
13 Board, that the district has made a priority of the use of funds in the restricted
14 maintenance account to ensure that facilities are functional and meet local hygiene
15 standards, and that the district has made a priority use of the deferred maintenance
16 basic grant to ensure that facilities are functional and meet local hygiene standards.

17 COSTS MANDATED BY THE STATE: It is estimated that the District incurred more
18 than \$8.9 million in increased labor costs and \$13.7 million in repair and renovation
19 costs during the calendar year 2004 to implement these new duties mandated by the
20 state and for which it cannot otherwise obtain complete funding or reimbursement.

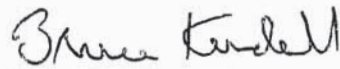
DECLARATION OF Bruce Kendall, Los Angeles Unified School District
Test Claim of Los Angeles Unified School District
Statutes of 2003, Chapter 909
Clean School Restrooms

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Certification

The foregoing facts are known to me personally and if so required, I could testify to the statements made herein. I hereby declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge, information, or belief.

Executed on December 17, 2004, at Los Angeles, California by:



Bruce Kendall
Director of Maintenance and Operations
Facilities Services Division
Los Angeles Unified School District

Exhibit 2: Statutes Cited
Test Claim of Los Angeles Unified School District
909/03 Clean School Restrooms

reational vessels to public agencies for disposal in lieu of abandonment. The bill would require the Director of Boating and Waterways to appoint an Abandoned Vessel Advisory Committee to assist the department in preparing these recommendations. The bill would specify the membership of the committee and would require the committee to serve without compensation and without reimbursement by the state for expenses. The bill would require the department to assist the committee in carrying out its duties.

The people of the State of California do enact as follows:

SECTION 1. Section 525.5 is added to the Harbors and Navigation Code, to read:

525.5. (a) On or before January 1, 2005, the department shall submit recommendations to the Legislature on strategies to prevent recreational vessels from being abandoned and to facilitate the ability of owners to turn in their recreational vessels to public agencies for disposal in lieu of abandonment.

(b) The recommendations shall be based on the expertise and data available to the department in relation to the existing abandoned watercraft abatement program administered by the department.

(c) The recommendations shall consider all of the following:

(1) The needs and desires of the recreational boating community in being able to properly and economically dispose of recreational vessels in lieu of abandoning them.

(2) Any environmental, economic, safety, or practical problems that need to be addressed before initiating a program to allow recreational vessels to be turned in to a public agency in lieu of abandonment, and the associated benefits of that program or any program that can prevent recreational vessels from being abandoned.

(3) An estimate of the number of vessels that may be turned in to local agencies in lieu of abandonment.

(d)(1) The director shall appoint an Abandoned Vessel Advisory Committee to assist the department in preparing recommendations.

(2) The membership of the committee shall include, but need not be limited to, representatives of all of the following:

(A) Boating law enforcement agencies.

(B) Entities that engage in the salvage or disposal of recreational vessels.

(C) Boat dealers.

(D) Boating, sailing, and yachting organizations.

(E) Owners and operators of public and private marina facilities.

(3) The members of the committee shall serve without compensation and may not be reimbursed by the state for expenses.

(4) The department shall assist the committee in carrying out its duties.

SCHOOL BUILDINGS AND GROUNDS—MAINTENANCE AND REPAIRS—FUNDING

CHAPTER 358

A.B. No. 1124

AN ACT to add Sections 17070.755 and 17584.3 to the Education Code, relating to public schools.

[Filed with Secretary of State September 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1124, Nunez. School facilities maintenance and repair.

Additions or changes indicated by underline; deletions by asterisks * * *

2383

(1) Existing law, the Leroy F. Greene School Facilities Act of 1998, requires the State Allocation Board to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition.

Existing law requires the board to require a participating school to keep state-funded facilities in good repair, to establish a restricted facilities maintenance account within the school district's general fund, and to deposit an amount equal to 3% of the school district's general fund into the fund for maintenance of the facility pursuant to a prescribed priority.

This bill would require that a priority for the use of that maintenance funding be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities.

(2) Existing law authorizes a school district to establish a restricted fund known as the "district deferred maintenance account" for the purpose of major repair or replacement of school facilities systems.

Existing law requires the State Allocation Board to allocate, within prescribed limits, matching state funding from the State School Deferred Maintenance Fund to applicant school districts for this purpose.

This bill would require that a priority for use of the state funds be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities.

The people of the State of California do enact as follows:

SECTION 1. Section 17070.755 is added to the Education Code, immediately following Section 17070.75, to read:

17070.755. A priority for the use of funds in the restricted account established pursuant to Section 17070.75, shall be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities.

SEC. 2. Section 17584.3 is added to the Education Code, to read:

17584.3. (a) A priority for use of funds appropriated pursuant to Section 17584 shall be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities.

(b) This section does not authorize the use of funds apportioned pursuant to Section 17584 for regular operational and maintenance costs of restrooms and other facilities. The funds apportioned pursuant to Section 17584 may only be used for the deferred maintenance of those facilities consistent with subdivision (a) of Section 17582.

(10) The signatures of all parties, and the date the contract or agreement was signed.

(e)(1) To qualify for the rebuttable presumption set forth in subdivision (b), a material change to the terms and conditions of a contract or agreement between a person or entity and a construction, farm labor, garment, janitorial, or security guard contractor must be in writing, in a single document, and contain all of the provisions listed in subdivision (d) that are affected by the change.

(2) If a provision required to be contained in a contract or agreement pursuant to paragraph (7) or (9) of subdivision (d) is unknown at the time the contract or agreement is executed, the best estimate available at that time is sufficient to satisfy the requirements of subdivision (d). If an estimate is used in place of actual figures in accordance with this paragraph, the parties to the contract or agreement have a continuing duty to ascertain the information required pursuant to paragraph (7) or (9) of subdivision (d) and to reduce that information to writing in accordance with the requirements of paragraph (1) once that information becomes known.

(f) A person or entity who enters into a contract or agreement referred to in subdivisions (d) or (e) shall keep a copy of the written contract or agreement for a period of not less than four years following the termination of the contract or agreement.

(g)(1) An employee aggrieved by a violation of subdivision (a) may file an action for damages to recover the greater of all of his or her actual damages or two hundred fifty dollars (\$250) per employee per violation for an initial violation and one thousand dollars (\$1,000) per employee for each subsequent violation, and, upon prevailing in an action brought pursuant to this section, may recover costs and reasonable attorney's fees. An action under this section may not be maintained unless it is pleaded and proved that an employee was injured as a result of a violation of a labor law or regulation in connection with the performance of the contract or agreement.

(2) An employee aggrieved by a violation of subdivision (a) may also bring an action for injunctive relief and, upon prevailing, may recover costs and reasonable attorney's fees.

(h) The phrase "construction, farm labor, garment, janitorial, or security guard contractor" includes any person, as defined in this code, whether or not licensed, who is acting in the capacity of a construction, farm labor, garment, janitorial, or security guard contractor.

(i)(1) The term "knows" includes the knowledge, arising from familiarity with the normal facts and circumstances of the business activity engaged in, that the contract or agreement does not include funds sufficient to allow the contractor to comply with applicable laws.

(2) The phrase "should know" includes the knowledge of any additional facts or information that would make a reasonably prudent person undertake to inquire whether, taken together, the contract or agreement contains sufficient funds to allow the contractor to comply with applicable laws.

(3) A failure by a person or entity to request or obtain any information from the contractor that is required by any applicable statute or by the contract or agreement between them, constitutes knowledge of that information for purposes of this section.

SCHOOL BUILDINGS AND GROUNDS—RESTROOMS
AND TOILETS—OPERATION

CHAPTER 909

S.B. No. 892

AN ACT to add Section 35292.5 to the Education Code, relating to schools.

[Filed with Secretary of State October 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 892, Murray. School restrooms.

5192

Additions or changes indicated by underline; deletions by asterisks * * *

Existing law exempts public and private schools from provisions relating to the sufficiency of public facility restrooms, and provides for the maintenance and repair of public school facilities by school districts.

This bill would, with certain exceptions, require every public and private school to have restroom facilities that are open as prescribed during school hours, and at all times to keep every restroom maintained and cleaned regularly, fully operational, and stocked with soap and paper supplies.

This bill would make a school district ineligible for prescribed state school facilities deferred maintenance matching funding if, after a 30-day notice period and a reasonable opportunity to cure the violation, a public school it operates remains in violation of this bill.

The people of the State of California do enact as follows:

SECTION 1. Section 35292.5 is added to the Education Code, to read:

35292.5. (a) Every public and private school maintaining any combination of classes from kindergarten to grade 12, inclusive, shall comply with all of the following:

(1) Every restroom shall at all times be maintained and cleaned regularly, fully operational and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.

(2) The school shall keep all restrooms open during school hours when pupils are not in classes, and shall keep a sufficient number of restrooms open during school hours when pupils are in classes.

(b) Notwithstanding subdivision (a), a school may temporarily close any restroom as necessary for pupil safety or as necessary to repair the facility.

(c) Any school district that operates a public school that is in violation of this section as determined by the State Allocation Board, is ineligible for state deferred maintenance fund matching apportionments pursuant to Section 17584 if the school district has not corrected the violation within 30 days after receipt of a written notice of the violation from the board. Prior to determining that the school district is ineligible, the board shall provide the school district with a reasonable opportunity to cure the violation. The board shall notify the Superintendent of Public Instruction regarding a school district found to be in violation of this section. The Superintendent of Public Instruction shall notify the Controller to withhold apportionments otherwise due the school district under Section 17584.

SEC. 2. It is the intent of the Legislature that a school employee who performs maintenance or repair functions related to restroom facilities that are subject to Section 35292.5 of the Education Code not be subject to discipline if the employee performs his or her responsibilities as required by his or her employer.

SEC. 3. The Legislature finds and declares that, as regards public schools, a principal purpose of this act is to clarify the preexisting requirements of Section 17576 of the Education Code by specifying the minimum requirements necessary to provide sufficient patent flush water closets for the use of pupils in a manner that is consistent with those requirements that apply to other public and private persons or agencies pursuant to Section 118505 of the Health and Safety Code. Because the local mandate established pursuant to Section 17576, which was enacted on January 1, 1948, was enacted prior to January 1, 1975, no reimbursement is required under this act pursuant to Section 6 of Article XIII B of the California Constitution.

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GENERAL PROVISIONS

Title 1

(c) Notwithstanding Section 17009.5, construction or modernization funds made available pursuant to this chapter may be expended upon property that is leased to the applicant school district only if the project qualified for and received approval by the board, prior to November 4, 1998, pursuant to Article 4 (commencing with Section 17055), of Chapter 12.

(Added by Stats.1998, c. 407 (S.B.50), § 4, eff. Aug. 27, 1998. Amended by Stats.2000, c. 127 (A.B.2866), § 7, eff. July 10, 2000; Stats.2002, c. 33 (A.B.16), § 7, eff. April 29, 2002.)

Historical and Statutory Notes

Appropriation, effective date and ballot information relating to Stats.2002, c. 33 (A.B.16), eff. April 29, 2002, see Historical and Statutory Notes under Education Code § 17070.15.

requirements for provisions in Stats.1998, c. 407, see Historical and Statutory Notes under Education Code § 100400.

Legislative declarations, operative effect, provisions subject to voter approval, and ballot

Cross References

Kindergarten-University Public Education Facilities Bond Act of 2002, see Education Code § 100600 et seq.

Kindergarten-University Public Education Facilities Bond Act of 2004, see Education Code § 100800 et seq.

§ 17070.71. Funding on construction or modernization upon real property leased by school district; conditions

(a) Notwithstanding subdivision (a) of Section 17070.70, new construction or modernization funded pursuant to this chapter may be upon real property leased to the applicant school district if all of the following conditions are met:

(1) The property is leased from another governmental entity.

(2) The term of the lease is for at least 40 years after approval of the project under this chapter, or the school district has a lease for at least 25 years on federal property. The board may authorize a lesser term, of not less than 30 years only if the board finds that granting an exception to this requirement would be in the state's best interest.

(b) The applicant school district, and the facility on leased land, if any, shall comply with all laws pertaining to the construction, reconstruction, or alteration of, or addition to, schoolsites and school buildings.

(c) Lease costs are not eligible project or site acquisition costs under this chapter.

(Added by Stats.2000, c. 530 (A.B.2408), § 1, eff. Sept. 19, 2000.)

Cross References

School districts,

Generally, see Education Code § 35000 et seq.

Governing boards, see Education Code § 35100 et seq.

Reorganization, see Education Code § 35500 et seq.

§ 17070.75. Maintenance of facilities

(a) The board shall require the school district to make all necessary repairs, renewals, and replacements to ensure that a project is at all times kept in good

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repair, working order, and condition. All costs incurred for this purpose shall be borne by the school district.

(b) In order to ensure compliance with subdivision (a) and to encourage school districts to maintain all buildings under their control, the board shall require an applicant school district to do all of the following prior to the approval of a project:

(1) Establish a restricted account within the school district's general fund for the exclusive purpose of providing moneys for ongoing and major maintenance of school buildings, according the highest priority to funding for the purposes set forth in subdivision (a).

(2) Agree to deposit into the account established pursuant to paragraph (1), in each fiscal year for 20 years after receipt of funds under this chapter, a minimum amount equal to or greater than 3 percent of the applicant school district's total general fund expenditures, including other financing uses, for that fiscal year. For the 1998-99 fiscal year and the 1999-2000 fiscal year, a school district may phase in this requirement by agreeing to certify the deposit of no less than 2 percent for the 1998-99 fiscal year and no less than 2½ percent for the 1999-2000 fiscal year. Annual deposits to the fund established pursuant to paragraph (1) in excess of 2½ percent of the district general fund budget may count towards the district's matching funds requirement necessary to receive apportionments from the State School Deferred Maintenance Fund pursuant to Section 17584 to the extent that funds are used for purposes that qualify for funding under that section. In addition, any district contribution to this fund may be provided in lieu of meeting the ongoing maintenance requirements pursuant to Section 17014 to the extent the funds are used for purposes established in that section. A school district that serves as the administrative unit for a special education local plan area may elect to exclude from its total general fund expenditures, for purposes of this paragraph, the distribution of revenues that are passed through to participating members of the special education local plan area. This paragraph is applicable only to the following school districts:

(A) High school districts with an average daily attendance greater than 300 pupils.

(B) Elementary school districts with an average daily attendance greater than 900 pupils.

(C) Unified school districts with an average daily attendance greater than 1,200 pupils.

(3) Certify that it has publicly approved an ongoing and major maintenance plan that outlines the use of the funds deposited, or to be deposited, pursuant to paragraph (2). The plan may provide that the district need not expend all of its annual allocation for ongoing and major maintenance in the year in which it is deposited if the cost of major maintenance requires that the allocation be carried over into another fiscal year. However, any state funds carried over into a subsequent year shall not be counted toward the annual minimum contribution by the district. A plan developed in compliance with this section shall be deemed to meet the requirements of Section 17585.

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(c) A district to which paragraph (2) of subdivision (b) does not apply shall certify to the board that it can reasonably maintain its facilities with a lesser level of maintenance.

(d) For the purposes of calculating a county office of education requirement pursuant to this section, the 3 percent maintenance requirement shall be calculated based upon the county office of education general fund less any restricted accounts.

(Added by Stats.1998, c. 407 (S.B.50), § 4, eff. Aug. 27, 1998. Amended by Stats.1999, c. 858 (A.B.695), § 5; Stats.2001, c. 734 (A.B.804), § 10, eff. Oct. 11, 2001.)

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§ 17070.76

§ 17070.51. Falsely certified eligibility or funding applications relating to information; notification to board; penalties

Code of Regulations References

Facility program requirements, material inaccuracy penalties, see 2 Cal. Code of Regs. § 1859.104.1.

Facility program requirements, self-certification prohibition, see 2 Cal. Code of Regs. § 1859.104.2.

Facility program requirements, self-certification prohibition processing fee, see 2 Cal. Code of Regs. § 1859.104.3.

Program accountability for district-owned situation cost, see 2 Cal. Code of Regs. § 1859.105.2.

§ 17070.63. State's full and final contribution

Cross References

Adjustments to new construction grants for hazardous materials evaluation and removal, see Education Code § 17072.14.

§ 17070.73. Pupil attendance of charter school; inclusion in per-pupil eligibility calculation; application of section

(a) A school district may claim the entire pupil attendance of a charter school that is physically located within its geographical jurisdiction, within the per-pupil eligibility calculation in support of a project for school facilities pursuant to this chapter.

(b) A school district shall not include the attendance of pupils attending a charter school that is physically located outside of the geographical jurisdiction of the school district, within the per-pupil eligibility calculation in support of an application for a project pursuant to this chapter.

(c) The requirements and conditions for funding charter school facilities in this section and in Article 12 (commencing with Section 17078.50) are intended to regulate only the funding of facilities under this chapter, and are not intended to expand, narrow, or raise any inference regarding, the nature or scope of any other law that is applicable to charter school governance, organization, or operation.

(d) Subdivisions (a) and (b) apply only to projects funded with the proceeds of state bonds approved by the voters after January 1, 2002.

(Added by Stats.2002, c. 935 (A.B.14), § 2.)

Historical and Statutory Notes

2002 Legislation

Severability of provisions of Stats.2002, c. 935 (A.B.14), see Historical and Statutory Notes under Education Code § 17070.46.

§ 17070.75. Maintenance of facilities

Code of Regulations References

District deposit of matching share, see 2 Cal. Code of Regs. § 1866.4.3.

§ 17070.755. Priority for use of funds in restricted account established pursuant to § 17070.75

A priority for the use of funds in the restricted account established pursuant to Section 17070.75, shall be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities.

(Added by Stats.2003, c. 358 (A.B.1124), § 1.)

§ 17070.76. 2003-04 maintenance requirement

Notwithstanding Section 17070.75, for the 2003-04 fiscal year, the board shall only require a school district to deposit into the account established pursuant to paragraph (1) of subdivision (b) of Section 17070.75 an amount equal to 2 percent of the total expenditures by a district from its general fund in the 2003-04 fiscal year.

(Added by Stats.2003, c. 227 (A.B.1754), § 8, eff. Aug. 11, 2003.)

Additions or changes indicated by underline; deletions by asterisks * * *

§ 17575

GENERAL PROVISIONS

Div. 1

§ 17575. Duration of leases

The governing board of any school district, when leasing a building for housing of school district employees, may lease such building for any period they deem necessary.

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998.)

Historical and Statutory Notes

Subordination of legislation by Stats.1996, c. 277 (S.B.1562), to other 1996 legislation, severability of provisions, and nonsubstantive nature of changes made by that Act, see Historical and Statutory Notes under Education Code § 17211.

For the source of this section's subject matter, see the Derivation Table preceding Education Code § 17210.

Cross References

"Any school district", "all school districts", defined, see Education Code § 80.

§ 17576. Provision of water closets for pupils

The governing board of every school district shall provide, as an integral part of each school building, or as part of at least one building of a group of separate buildings, sufficient patent flush water closets for the use of the pupils. In school districts where the water supply is inadequate, chemical water closets may be substituted for patent flush water closets by the board.

This section shall apply to all buildings existing on September 19, 1947, or constructed after such date.

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998.)

Historical and Statutory Notes

Subordination of legislation by Stats.1996, c. 277 (S.B.1562), to other 1996 legislation, severability of provisions, and nonsubstantive nature of changes made by that Act, see Historical and Statutory Notes under Education Code § 17211.

For the source of this section's subject matter, see the Derivation Table preceding Education Code § 17210.

§ 17577. Sewers and drains

In addition to the other powers granted the governing board of each school district may provide sewers and drains adequate to treat and/or dispose of sewage and drainage on or away from each school property. For this purpose it may construct adequate systems or acquire adequate disposal rights in systems constructed or to be constructed by others for these purposes without regard to their proximity. The cost thereof may be paid from the building fund, including any bond moneys therein.

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998.)

Historical and Statutory Notes

Subordination of legislation by Stats.1996, c. 277 (S.B.1562), to other 1996 legislation, severability of provisions, and nonsubstantive nature of changes made by that Act, see Historical and Statutory Notes under Education Code § 17211.

For the source of this section's subject matter, see the Derivation Table preceding Education Code § 17210.

Chapter 5

PROPERTY MAINTENANCE AND CONTROL

Article 1

DUTIES OF GOVERNING BOARD

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| <p>Section 17582. District deferred maintenance fund; establishment; purpose.</p> <p>17584. Certification of budgeting in deferred maintenance fund; apportionment.</p> <p>17584.2. Public hearing; requirement that governing board of school district address use of deferred maintenance funds for detection, control, management, and removal of lead-containing materials.</p> | <p>Section 17584.3. Priority for use of funds appropriated pursuant to § 17584.</p> <p>17591. Plan of maintenance needs; filing; approval; conformance.</p> <p>17592.5. Joint Powers Southern California Regional Occupational Center and Joint Powers Central County Occupational Center; school districts.</p> |
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§ 17569. Improvement of real property; acquisition of other property in proximity to school sites

Notes of Decisions

Incompatible offices 13. Municipal Water District. Op. Atty. Gen. No. 01-1007 (April 8, 2002).

3. Incompatible offices. A trustee of the Lakeside Union School District may not serve simultaneously as a director of the Padre Dam

§ 17577. Sewers and drains

Notes of Decisions

Incompatible offices: 2. Municipal Water District. Op. Atty. Gen. No. 01-1007 (April 8, 2002).

2. Incompatible offices. A trustee of the Lakeside Union School District may not serve simultaneously as a director of the Padre Dam

§ 17582. District deferred maintenance fund; establishment; purpose

(a) The governing board of each school district may establish a restricted fund to be known as the "district deferred maintenance fund" for the purpose of major repair or replacement of plumbing, heating, air conditioning, electrical, roofing, and floor systems, the exterior and interior painting of school buildings, the inspection, sampling, and analysis of building materials to determine the presence of asbestos-containing materials, the encapsulation or removal of asbestos-containing materials, the inspection, identification, sampling, and analysis of building materials to determine the presence of lead-containing materials, the control, management, and removal of lead-containing materials, and any other items of maintenance approved by the State Allocation Board. Funds deposited in the district deferred maintenance fund may be received from any source whatsoever, and shall be accounted for separately from all other funds and accounts and retained in the district deferred maintenance fund for purposes of this section. The term "school building" as used in this article includes a facility that a county office of education is authorized to use pursuant to Article 3 (commencing with Section 17280) of Chapter 3.

(b) Funds deposited in the district deferred maintenance fund shall only be expended for maintenance purposes as provided pursuant to subdivision (a).

(c) The governing board of each school district shall have complete control over the funds and earnings of funds once deposited in the district deferred maintenance fund, provided that no funds deposited in the district deferred maintenance fund pursuant to subdivision (a) or (b) of Section 17584 may be expended by the governing board for any purpose except those specified in subdivision (a) of this section.

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998; Amended by Stats.2001, c. 734 (A.B.804), § 12, eff. Oct. 11, 2001; Stats.2002, c. 1075 (S.B.21), § 4.)

Additions or changes indicated by underline; deletions by asterisks * * *

§ 17584. Certification of budgeting in deferred maintenance fund; apportionment

(a) Whenever, in any given fiscal year, a school district has budgeted, exclusive of state matching funds and district funds previously matched pursuant to subdivision (b), in its deferred maintenance fund established pursuant to Section 17582 an amount equal to, or greater than, that amount the district expended from its general fund for major maintenance, repair, or modernization of existing school buildings, as specified in Section 17582, exclusive of categorical aid funds and any proceeds from the sale of district property which were expended for the purpose of the district deferred maintenance account, in either the 1978-79 or 1979-80 fiscal year, adjusted annually to the current fiscal year in conformance with the percentage change in the district revenue limit computed pursuant to Section 42237 or 42238, the Superintendent of Public Instruction shall so certify to the State Allocation Board.

(b) The State Allocation Board shall apportion, from the State School Deferred Maintenance Fund, to school districts an amount equal to one dollar (\$1) for each one dollar (\$1) of local funds up to a maximum of $\frac{1}{2}$ percent of the district's current-year revenue limit average daily attendance multiplied by the average, per unit of average daily attendance, of the total expenditures and ending fund balances of the total general funds and adult education funds for districts of similar size and type, as defined in subdivision (b) of Section 42238.4, for the second prior fiscal year, exclusive of any amounts expended for capital outlay, debt service, or revenues that are passed through to other local education agencies, to the extent of funds available.

(c) Notwithstanding subdivision (a), in order to be eligible to receive state aid pursuant to subdivision (b), no district shall be required to budget from local district funds an amount greater than $\frac{1}{2}$ percent of the district's current-year revenue limit average daily attendance, multiplied by the average, per unit of average daily attendance, of the total expenditures and ending fund balances of the total general funds and adult education funds for districts of similar size and type, as defined in subdivision (b) of Section 42238.4 for the second prior fiscal year, exclusive of any amounts expended for capital outlay, debt service, or revenues that are passed through to other local educational agencies. (Formerly § 39619, added by Stats.1979, c. 282, p. 982, § 19, eff. July 24, 1979, operative July 1, 1980. Amended by Stats.1980, c. 40, p. 103, § 3, eff. March 14, 1980; Stats.1980, c. 1354, p. 4859, § 37.3, eff. Sept. 30, 1980; Stats.1981, c. 649, p. 2426, § 5; Stats.1981, c. 1093, p. 4208, § 3; Stats.1982, c. 525, p. 2454, § 1; Stats.1983, c. 753, § 1; Stats.1989, c. 82, § 5, eff. June 30, 1989; Stats.1989, c. 83, § 5, eff. June 30, 1989; Stats.1996, c. 1158 (A.B.2964), § 5, eff. Sept. 30, 1996; Stats.1997, c. 825 (A.B.287), § 10, eff. Oct. 9, 1997. Renumbered §.17584 and amended by Stats.1999, c. 390 (A.B.939), § 2. Amended by Stats.2001, c. 734 (A.B.804), § 13, eff. Oct. 11, 2001.)

§ 17584.1. Deferred maintenance of school district facilities; fund set aside; report; copies; purpose

Operative Effect

Section 43 of Stats.2003, c. 227 (A.B.1754) provided that subs. (b), (c) and (d) of § 17584.1 shall be inoperative for the 2003-04 fiscal year.

Historical and Statutory Notes

2003 Legislation

Section 43 of Stats.2003, c. 227 (A.B.1754), provides:

"SEC. 43. Subdivisions (b), (c), and (d) of Section 17584.1 of the Education Code shall be inoperative for the 2003-04 fiscal year."

For urgency effective provision relating to S 227 (A.B.1754), see Historical and Statutory Education Code § 2557.5.

For Governor's signing message regarding c. 227 (A.B.1754), see Historical and Statutory under Education Code § 2557.5.

Code of Regulations References

Failure to deposit matching funds, see 2 Cal. Code of Regs. § 1866.4.7.

§ 17584.2. Public hearing; requirement that governing board of school district address deferred maintenance funds for detection, control, management, and removal of lead-containing materials

At the public hearing required pursuant to Section 17584.1, the governing board of the school shall also address the use of deferred maintenance funds for the inspection, identification, sampling, and analysis of building materials to determine the presence of lead-containing materials and the control, management, and removal of lead-containing materials.

(Added by Stats.2002, c. 1075 (S.B.21), § 5.)

Historical and Statutory Notes

2002 Legislation

Legislative findings and declarations relating to Stats. 2002, c. 1075 (S.B.21), see Historical and Statutory Notes under Education Code § 17074.27.

§ 17584.3. Priority for use of funds appropriated pursuant to § 17584

(a) A priority for use of funds appropriated pursuant to Section 17584 shall be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities.

(b) This section does not authorize the use of funds apportioned pursuant to Section 17584 for regular operational and maintenance costs of restrooms and other facilities. The funds apportioned pursuant to Section 17584 may only be used for the deferred maintenance of those facilities consistent with subdivision (a) of Section 17582.

(Added by Stats.2003, c. 358 (A.B.1124), § 2.)

§ 17585. Applications for deferred maintenance funding; eligibility for additional apportionment

Code of Regulations References

Federal school renovation program, duplication of applications, see 2 Cal. Code of Regs. § 1869.220.

§ 17587. Extreme hardship; criteria; additional apportionment

Code of Regulations References

Amending and withdrawal of extreme hardship funding applications, see 2 Cal. Code of Regs. § 1866.14.

Determination of extreme hardship grant amount and district contribution, see 2 Cal. Code of Regs. § 1866.5.2.

Duplication of applications, see 2 Cal. Code of Regs. § 1866.13.

Earned interest on DMP grants, see 2 Cal. Code of Regs. § 1866.12.

Exemptions to district contribution, see 2 Cal. Code of Regs. § 1866.5.9.

Expenditure audit, see 2 Cal. Code of Regs. § 1866.9.1.

Additions or changes indicated by underline; deletions by asterisks * * *

(d) The governing board may review, at an open meeting, the approved school discipline rules and procedures for consistency with governing board policy and state statutes.
 (Added by Stats.1986, c. 87, § 2. Amended by Stats.2002, c. 1032 (A.B.3005), § 3, eff. Sept. 28, 2002.)

United States Code Annotated

School order and discipline, teacher liability protection,
 see 20 U.S.C.A. § 6731 et seq.

Notes of Decisions

Searches 1

or California constitutional and statutory standards. 75
 Op.Atty.Gen. 166, 10-6-92.

1. Searches

Reasonable application of metal detectors in schools, as a matter of law, does not violate the Fourth Amendment

§ 35292.5. Public and private school restrooms; maintenance; cleanliness; violation of section

(a) Every public and private school maintaining any combination of classes from kindergarten to grade 12, inclusive, shall comply with all of the following:

(1) Every restroom shall at all times be maintained and cleaned regularly, fully operational and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.

(2) The school shall keep all restrooms open during school hours when pupils are not in classes, and shall keep a sufficient number of restrooms open during school hours when pupils are in classes.

(b) Notwithstanding subdivision (a), a school may temporarily close any restroom as necessary for pupil safety or as necessary to repair the facility.

(c) Any school district that operates a public school that is in violation of this section as determined by the State Allocation Board, is ineligible for state deferred maintenance fund matching apportionments pursuant to Section 17584 if the school district has not corrected the violation within 30 days after receipt of a written notice of the violation from the board. Prior to determining that the school district is ineligible, the board shall provide the school district with a reasonable opportunity to cure the violation. The board shall notify the Superintendent of Public Instruction regarding a school district found to be in violation of this section. The Superintendent of Public Instruction shall notify the Controller to withhold apportionments otherwise due the school district under Section 17584.

(Added by Stats.2003, c. 909 (S.B.892), § 1.)

Historical and Statutory Notes

2003 Legislation

Sections 2 and 3 of Stats.2003, c. 909 (S.B.892), provide:

"SECTION. 2. It is the intent of the Legislature that a school employee who performs maintenance or repair functions related to restroom facilities that are subject to Section 35292.5 of the Education Code not be subject to discipline if the employee performs his or her responsibilities as required by his or her employer.

"SECTION. 3. The Legislature finds and declares that, as regards public schools, a principal purpose of this act is to clarify the preexisting requirements of Section 17576 of the Education Code by specifying the minimum requirements necessary to provide sufficient patent flush water closets for the use of pupils in a manner that is consistent with those requirements that apply to other public and private persons or agencies pursuant to Section 118506 of the Health and Safety Code. Because the local mandate established pursuant to Section 17576, which was enacted on January 1, 1948, was enacted prior to January 1, 1975, no reimbursement is required under this act pursuant to Section 6 of Article XIII B of the California Constitution."

Governor Davis issued the following signing message regarding Stats.2003, c. 909 (S.B.892):

"To the Members of the California Legislature:

"I am signing Senate Bill 892, which requires every public and private school to have restroom facilities open during school hours, and to keep every restroom maintained and cleaned regularly, fully operational, and stocked with soap and paper supplies. This bill would also specify that public schools that violate these provisions, as determined by the State Allocation Board would be ineligible for funds under the State Deferred Maintenance Program (DMP) if, after a 30-day notice period and an opportunity to cure the violation, the public school is still in violation.

"A Legislative Council opinion states that SB 892 does not impose a state-mandated local program on school districts for which the State must provide reimbursement, as current law already requires schools to provide, furnish and repair water closets (restrooms) that are available and sufficient for pupil use. It is reasonable to interpret current law to apply to requirements that restrooms be open, clean, operational and supplied with water, soap, toilet paper and a method for hand drying. Therefore, SB 892 does not create a new program or establish a higher level of service and therefore does not create a reimbursable state mandate.

"Maintenance of school restrooms is a local responsibility. Because I feel that there is no excuse for schools

Additions or changes indicated by underline; deletions by asterisks * * *

EDUCATION CODE

§§ 35294 to 35294.8
Renumbered

failing to provide school children with clean functional restrooms, I have also recently signed AB 1124 (Nunez) which specifies that keeping school restrooms fully-functional and in compliance with local public restroom hygiene standards are priorities for the use of school districts' restricted maintenance account and deferred maintenance funding.

"I applaud the leadership that Senator Murray and Assembly Member Nunez have provided on the need for clean and functional school restrooms. In championing these measures, they have raised the awareness of this issue both in Sacramento and across the State.

"Sincerely,
"GRAY DAVIS"

Additions or changes indicated by underline; deletions by asterisks * * *

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Historical and Statutory Notes

Legislative findings relating to the nonsubstantive effect of Stats.1995, c. 415 (S.B.1360), and the legislative intent not to create any new rights, see Historical and Statutory Notes under Health and Safety Code § 100100.

Article 1

PUBLIC RESTROOMS

Section

118500. Availability without charge; public agencies.
118505. Facilities where public congregates; restrooms to meet needs at peak hours; standards for enforcement; date of application; exemptions.

Article 1 was added by Stats.1995, c. 415 (S.B.1360), § 6.

§ 118500. Availability without charge; public agencies

Every public agency that conducts an establishment serving the public or open to the public and that maintains therein restroom facilities for the public, shall make every water closet for each sex maintained within the facilities available without cost or charge to the patrons, guests, or invitees of the establishment. "Public agency" as used in this section means only the state and any agency of the state and a city, a county, and a city and county. (Added by Stats.1995, c. 415 (S.B.1360), § 6.)

Historical and Statutory Notes

Derivation: Former § 3980, added by Stats. 1974, c. 1349, § 1.

Library References

Health and Environment ¶20, 32.
WESTLAW Topic No. 199.

C.J.S. Health and Environment §§ 2 to 6, 28 to 64; 106, 125 to 137.

§ 118505. Facilities where public congregates; restrooms to meet needs at peak hours; standards for enforcement; date of application; exemptions

(a) Publicly and privately owned facilities where the public congregates shall be equipped with sufficient temporary or permanent restrooms to meet the needs of the public at peak hours.

(b) In conformity with the State Plumbing Code, and except as otherwise provided in this section, standards shall be adopted in order to enforce this section, as follows:

(1) The State Building Standards Commission shall adopt standards with respect to all state-owned or state-occupied facilities where the public congregates and over which it has jurisdiction pursuant to Section 18934.5.

(2) The Office of the State Architect shall adopt standards with respect to all facilities where the public congregates and that are not covered by paragraph (1), unless exempt from coverage pursuant to this section.

§ 118505

ENVIRONMENTAL HEALTH

Div. 104

(c) The standards adopted pursuant to subdivision (b) shall be published in the State Building Standards Code contained in Title 24 of the California Code of Regulations.

(d) This section shall apply to facilities where the public congregates that commence construction, or that undertake structural alterations, repairs, or improvements exceeding 50 percent of the entire facility, on or after January 1, 1989.

(e) For the purposes of this section, "facilities where the public congregates" means sports and entertainment arenas, stadiums, community and convention halls, specialty event centers, amusement facilities, and ski resorts.

For purposes of this section, "facilities where the public congregates" also means specialty event centers in public parks.

(f) This section shall not apply to the following:

(1) Any hotel. For purposes of this section, "hotel" means an establishment in which there exists the relationship of guests and innkeeper between the occupants and the owner or operator of the establishment. The existence of some other legal relationship between the occupants and owner or operator shall be immaterial.

(2) Any restaurant or food facility, as defined in Section 113785.

(3) Any public or private elementary or secondary school facility.

(4) Any qualified historic building, defined as qualifying under provisions in the State Historical Building Code contained in Part 8 (commencing with Section 8-100) of Title 24 of the California Code of Regulations.

(g) It is the intent of the Legislature that, in order to ensure that standards are both viable and efficacious, the Office of the State Architect and the State Building Standards Commission hold a series of public meetings with representatives of affected industries and state and local agencies prior to adopting standards under this section.

(Added by Stats.1995, c. 415 (S.B.1360), § 6.)

Exhibit 4: The Executive Orders of the: Office of Public School Construction, State Allocation Board, and State Department of General Services
Test Claim of Los Angeles Unified School District
909/03 Clean School Restrooms

GENERAL INFORMATION

In order for each school district to be able to receive available State Deferred Maintenance funds, each County Superintendent of Schools (CSS) must certify the amount each district deposits in its Deferred Maintenance Fund for the fiscal year indicated on the form. The district's deposit must be a cash contribution from any non-restricted fund, unmatched carryover pursuant to Section 1866.4.4, or from the district's restricted Ongoing and Major Maintenance Account. This form is due to the OPSC no later than 60 days after the State Allocation Board (SAB) apportions the Basic Grant.

INSTRUCTIONS – (Refer to Title 2, California Code of Regulations, Sections 1866.4.3 through 1866.4.6.)

- Column 1 District Code Number Enter the "40" and the five digit District Code number. See the California Public School Directory.
- Column 2 School District Enter the name of the school district.
- Column 3 Unmatched Carryover (EC Section 17583) Report any unexpended balances not matched by the State in prior fiscal years that are being applied towards the district's current year deposit. Carryover that has previously been reported on the Form is considered matched and therefore cannot be applied as carryover in subsequent fiscal years. (Refer to Section 1866.4.4)
- Column 4 Ongoing and Major Maintenance Account Report annual deposits in the Ongoing and Major Maintenance Account established under the provisions of EC Section 17070.75(b)(1), in excess of 2½ percent that are being used towards the district matching share. (Refer to Section 1866.4.3(a))
- Column 5 Transfers In Report the amount of funds transferred into the District Deferred Maintenance Fund for the purpose of matching the Basic Grant apportioned by the SAB.
- Column 6 Total Amount of Deposit (EC Section 17584) Report total amount shown in Columns 3, 4 and 5.
- Column 7 Total General Fund Budget for Current Year Enter the total year General Fund Budget amount approved by the district's.
- Column 8 Three Percent Amount for Current Year Enter three percent of General Fund Budgeted amount required to be earmarked for Ongoing and Major Maintenance purposes as required by Education Code 17070.75 and 17070.77.
- Column 9 Amount Budgeted for Current Year Enter the Current Year Amount budgeted/earmarked for Ongoing and Major Maintenance purposes supported by a publicly approved Ongoing and Major Maintenance Plan as required by Education Code 17070.75(b)(2) and 17070.77.
- Column 10 Actual Amount Expended During Prior Fiscal Year Enter actual amount expended in prior Fiscal Year for Ongoing and Major Maintenance purposes.

Submit completed form to: Office of Public School Construction
 Attn.: Accounting
 1130 K Street, Suite 400
 Sacramento, CA 95814

STATE CALIFORNIA
CERTIFICATION OF DEPOSITS
DEFERRED MAINTENANCE PROGRAM
SAB 40-21 (Rev. 6-1992 REV. 04/04)

Certification by the County Superintendent of Schools to the State Allocation Board regarding deposits of district funds under the State School Deferred Maintenance Law Education Code Sections 17592 through 17592 and Title 2, California Code of Regulation Sections 1866.4.3 through 1866.4.6.

| FISCAL YEAR | PREPARER'S NAME (TYPED) | | | | | | | | | | PREPARER'S TITLE | | TELEPHONE NUMBER | E-MAIL |
|-------------|-------------------------|-----------------|--|---|--------------|--|----------------------------------|---------------------------------------|----------------------------------|---|------------------|--------|------------------|--------|
| | COLUMN 1 | COLUMN 2 | COLUMN 3 | COLUMN 4 | COLUMN 5 | COLUMN 6 | COLUMN 7 | COLUMN 8 | COLUMN 9 | COLUMN 10 | TELEPHONE NUMBER | E-MAIL | | |
| 40/ | District Code Number | School District | Unmatched Carryover (EC Section 17583) | Ongoing Major Maintenance Account (EC Section 17070.75) | Transfers In | Total Amount of Deposit For Current Year | Total General Fund Budget Amount | Three Percent Amount For Current Year | Amount Budgeted For Current Year | Actual Amount Expended During Prior Fiscal Year | | | | |

DRAFT

Certifications:

- I certify, as the County Superintendent of Schools or authorized representative designated by the governing board of the above-named county, that:
 - The school districts herein named and/or the Treasurer of said county has, as required by Law, and pursuant to Education Code Section 17582 through 17592, and Title 2 of the California Code of Regulations Sections 1866.14, placed on deposit in the District Deferred Maintenance Fund or as appropriate set aside funds pursuant to Education Code Section 17070.75 and 17070.77 the amounts listed above for expenditure only as specified by said Education Code Sections and the SAB Regulations and/or such amendments thereto, and that said funds are not derived from funds apportioned under any program by the SAB; and,
 - Pursuant to Education Code Section 17584.3, the district has made a priority of the deferred maintenance basic grant, appropriated pursuant to Education Code Section 17584, to ensure that facilities are functional and meet local hygiene standards; and,
 - This Form is an exact duplicate (verbatim) of the form provided by the OPSC. In the event a conflict should exist, then the language in the OPSC form will prevail; and,
 - I certify under penalty of perjury under the laws of the State of California that the statements

SIGNATURE OF AUTHORIZED REPRESENTATIVE _____ DATE _____

APPLICATION FOR FUNDING**SCHOOL FACILITY PROGRAM**

SAB 50-04 (REV 04/03 04/04)

GENERAL INFORMATION

Once the Board has determined or adjusted the district's eligibility for either new construction or modernization funding on Form SAB 50-03 the district may file an application for funding by use of this form. If the district has a pending reorganization election that will result in the loss of eligibility for the proposed project, the district may not file an application for funding until the Board has adjusted the district's new construction baseline eligibility as required in Section 1859.51. This may be accomplished by completion of Form SAB 50-01, Form SAB 50-02 and Form SAB 50-03.

For purposes of Education Code Section 17073.25, the California Department of Education (CDE) is permitted to file modernization applications on behalf of the California Schools for the Deaf and Blind.

Requests for funding may be made as follows:

A separate apportionment for site acquisition for a new construction project for environmental hardship pursuant to Section 1859.75.1. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):

- Form 50-01, Form SAB 50-02 and Form SAB 50-03 (if not previously submitted).
- Contingent site approval letter from the CDE.
- Preliminary appraisal of property.
- Approval letter from the Department of Toxic Substances Control.

A separate apportionment for site acquisition and/or design costs for a new construction project pursuant to Section 1859.81.1. This apportionment is available only to districts that meet the financial hardship criteria in Section 1859.81. Districts may apply for a separate apportionment for the design and for site acquisition on the same project. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):

- Form SAB 50-01, Form SAB 50-02, and Form SAB 50-03 (if not previously submitted).
- Contingent site approval letter from the CDE (site apportionment only).
- Preliminary appraisal of property (site apportionment only).

A separate apportionment for district-owned site acquisition cost pursuant to Section 1859.81.2. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):

- Form SAB 50-01, Form 50-02, and Form SAB 50-03 (if not previously submitted).
- Site approval letter from the CDE.
- Appraisal of district-owned site.
- Cost benefit analysis as prescribed in Section 1859.74.6 or a copy of the Board finding that the non-school function on the district-owned site must be relocated.

A separate apportionment for design cost for a modernization project pursuant to Section 1859.81.1. This apportionment is available only to districts that meet the financial hardship criteria in Section 1859.81. For purposes of this apportionment, the Form SAB 50-03 must accompany this form (if not previously submitted).

A New Construction Adjusted Grant pursuant to Section 1859.70. If the funding request includes site acquisition, the proposed site must either be owned by the district, in escrow, or the district has filed condemnation proceedings and received an order of possession of the site. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):

- Form SAB 50-01, Form SAB 50-02 and Form SAB 50-03 (if not previously submitted).
- Site/plan approval letter from the CDE.
- Appraisal of property if requesting site acquisition funds.

- Plans and specifications (P&S) for the project that were approved by the DSA. Submittal of plans may be on CD-ROM or "Zip Drive" readable in AutoCAD 14. The specifications may be provided on a diskette that is IBM compatible.
- Cost estimate of proposed site development, if requesting site development funding.
- School board resolution if requesting more grants than the capacity of the project or to use grant eligibility at another grade level. Refer to Section 1859.77.2.
- If the site apportionment is requested pursuant to Regulation Section 1859.74.5, a cost benefit analysis as prescribed in Regulation Section 1859.74.6 or a copy of the Board finding that the non-school function on the district-owned site must be relocated.

Modernization Adjusted Grant pursuant to Section 1859.70. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):

- Form SAB 50-03 (if not previously submitted).
- P&S for the project that were approved by the DSA.
- DSA approval letter for elevator to meet handicapped compliance, if funding is requested.
- Plan approval letter from the CDE.
- Districtwide enrollment data on Form SAB 50-01 when requesting project assistance (if not previously submitted).

Prior to acceptance of an application for funding that includes a financial hardship request, the district must have its financial hardship status "pre-approved" by the Office of Public School Construction (OPSC). To apply for a financial hardship "pre-approval", consult the OPSC Web site at www.opsc.dgs.ca.gov.

If the district is requesting New Construction funding after the initial baseline eligibility was approved by the Board and the district's current CBEDS enrollment reporting year is later than the enrollment reporting year used to determine the district's baseline eligibility or adjusted eligibility, the district must complete a new Form SAB 50-01 based on the current year CBEDS enrollment data, and submit it to the OPSC with this form. A small district with 2,500 or less enrollment as defined in Section 1859.2 will not have its eligibility reduced for a period of three years from the date the district's baseline eligibility was approved by the Board as a result of reduction in projected enrollment.

For a list of the documents that must be submitted in order for the OPSC to deem a funding request for new construction or modernization complete and ready for OPSC processing, consult the OPSC Web site at www.opsc.dgs.ca.gov.

For purposes of completing this form for a Final Charter School Apportionment, a charter school shall be treated as a school district.

SPECIFIC INSTRUCTIONS

The district must assign a Project Tracking Number (PTN) to this project. The same PTN is used by the OPSC, the DSA and the CDE for all project applications submitted to those agencies to track a particular project through the entire state application review process. If the district has already assigned a PTN to this project by prior submittal of the P&S to either the DSA or the CDE for approval, use that PTN for this application submittal. If no PTN has been previously assigned for this project, a PTN may be obtained from the OPSC Web site at www.opsc.dgs.ca.gov "PT Number Generator."

1. Check the appropriate box that indicates the type of School Facility Program (SFP) grant the district is requesting for purposes of new construction, modernization, a separate design and/or site apportionment, site apportionment as an environmental hardship or New Construction (Final Apportionment). If the application is for modernization of a California School for the Deaf or Blind, the CDE shall check

APPLICATION FOR FUNDING**SCHOOL FACILITY PROGRAM**

SAB 50-04 (REV 04/03 04/04)

the box identified as Modernization of California Schools for the Deaf/Blind. If the request is for a separate design apportionment, the CDE shall check the appropriate box. If the eligibility for this project was established as a result of the need for new or replacement facilities pursuant to Section 1859.82 (a) and (b), or rehabilitation pursuant to Section 1859.83 (e), check the appropriate box.

If this request is for an addition to an existing site and advance funding for the evaluation and RA costs, check the appropriate box and refer to Section 1859.74.4.

If this request is to convert a Preliminary Apportionment or a Preliminary Charter School Apportionment to a Final Apportionment, check the New Construction (Final Apportionment or Final Charter School Apportionment) box.

If the district is requesting a separate site and/or design apportionment, complete boxes 2a, 3, 4, the site acquisition data in box 5 (d and e), and boxes 12, 13, 14, 15 and 18 only.

2. a. Select the type of project that best represents this application request and enter the number of pupils assigned to the project for each grade group. Include pupils to be housed in a new or replacement school authorized by Section 1859.82 (a). The amount entered cannot exceed the district's baseline eligibility determined on Form SAB 50-03 and will be the basis for the amount of the new construction or modernization grants provided for the project.

If this request is for a Final Apportionment, the pupils assigned to the project must be at least 75 percent, but not more than 100 percent, of the pupils that received the Preliminary Apportionment. Refer to Section 1859.147.

- b. Check the box if the project is eligible for funding for 50-year or older permanent buildings and report, at the option of the district:
- The total number of classrooms or the total square footage building area to be modernized as part of the project. Refer to Section 1859.78.6(b)(1)(A) or (b)(2)(A).
 - The total number of permanent classrooms or the total permanent square footage building area to be modernized as part of the project that is at least 50 years old. Refer to Section 1859.78.6(b)(1)(B) or (b)(2)(B).
- c. Indicate if this request is for funding of a 6-8 school.
- d. Check the box(es) if the district requests and the project qualifies for additional funding for fire code requirements authorized in Sections 1859.71.2 or 1859.78.4.
- e. Check the applicable box if the district is requesting additional pupil grants assigned to the project that exceed the capacity of the project or if the pupils assigned represent eligibility determined at another grade level and check the appropriate box to indicate under which regulation the district is applying. The pupil capacity of the project may be determined by multiplying the classrooms reported in box 3 by 25 for K-6; 27 for 7-8, 9-12 grades; 13 for non-severe and 9 for severe.
- f. If the request is for replacement facilities pursuant to Section 1859.82 (a) or (b) on the same site, check the facility hardship box.

3. Enter the:

- Number of classrooms as shown on the plans and specifications (P&S). If there was demolition at the site, report the net increase in the number of classrooms showing in the P&S.

- Master plan site size, as recommended by the California Department of Education.
- Existing Useable Acres already owned at that location (if any).
- Proposed Useable Acres that was/will be purchased as part of the application (if any).

4. Check the box if the district is requesting financial hardship assistance because it is unable to meet its matching share requirement. Refer to Section 1859.81 for eligibility criteria. Districts requesting financial assistance must have received a pre-approval for financial hardship status by the OPSC. Consult the OPSC Web site at www.opsc.dgs.ca.gov for details and necessary documentation needed in order to determine eligibility.

5. Check the appropriate box(es) if the district requests an augmentation to the new construction grant for "additional" grants for the items listed or for replacement facilities pursuant to Section 1859.82 (a) and (b). Refer to Sections 1859.72 through 1859.76 and 1859.82 (a) and (b) for eligibility criteria. Enter the:

- a. Therapy area in square feet as provided in Section 1859.72.
- b. Multilevel classrooms in the P&S pursuant to Section 1859.73.
- c. Check the box if the district is requesting project assistance pursuant to Section 1859.73.1. If the district has not submitted a request for new construction baseline eligibility on a district-wide basis, it must submit a current Form SAB 50-01 based on district-wide enrollment data with this form.
- d. Indicate the site scenario that best represents the project request. If no RA is required, refer to Section 1859.74. If a RA is required on a site that is not leased or an addition to an existing site, refer to Section 1859.74.2. If RAs are required on a leased site or an addition to an existing site, refer to Sections 1859.74.3 or 1859.74.4, respectively. The limitation of 50 percent may be exceeded when unforeseen circumstances exist, the CDE determines that the site is the best available site, and substantiation that the costs are the minimum required to complete the evaluation and RA.
 - (1) Enter 50 percent of the actual cost.
 - (2) Enter 50 percent of the appraised value of the site. If the request is made pursuant to Regulation Section 1859.74.5, enter 50 percent of the appraised value.
 - (3) Enter 50 percent of the allowable relocation cost.
 - (4) Enter two percent of the lesser of the actual cost or appraised value of the site (minimum \$25,000).
 - (5) Enter 50 percent of the Department of Toxic Substances Control (DTSC) fee for review and approval of the phase one environmental site assessment and preliminary endangerment assessment reports. Refer to Sections 1859.74, 1859.74.1, 1859.74.5, 1859.75, 1859.75.1 and 1859.81.1.

A project that received site acquisition funds under the Lease-Purchase Program (LPP) as a priority two project is not eligible for site acquisition funds under the SFP. A district-owned site acquired with LPP, SFP or Proposition 1A funds is not eligible for funding under Regulation Section 1859.74.5.

- e. Enter 50 percent of the amount allowable for hazardous materials/waste removal and/or remediation for the site acquired pursuant to Sections 1859.74.2, 1859.74.3, 1859.74.4, 1859.75.1 or 1859.81.1. If an RA is required, check the box.

- f. Enter 50 percent of eligible service-site development, off-site development including pedestrian safety paths and utilities costs allowed pursuant to Section 1859.76. Attach cost estimates of the proposed site development work which shall be supported and justified in the P&S. All cost estimates shall reflect 100 percent of the proposed work.
- g. If the district is requesting replacement facilities on the same site, enter the square footage requested as provided in Section 1859.82 (a) or (b).
- h. Enter the square feet of eligible replacement area as provided by Section 1859.73.2.
- i. If the district is requesting an Additional Grant for Energy Efficiency pursuant to Section 1859.71.3, enter the percentage of energy efficiency that exceeds Title 24 requirements as prescribed in Section 1859.71.3 (a)(3).
6. a. Check the box if the district is requesting project assistance allowance pursuant to Section 1859.78.2. If the district has not submitted a request for new construction baseline eligibility on a district-wide basis, it must submit a current Form SAB 50-01 based on district-wide enrollment data with this form.
- b. If the district is requesting an Additional Grant for Energy Efficiency pursuant to Section 1859.78.5, enter the percentage of energy efficiency that exceeds Title 24 requirements as prescribed in Section 1859.78.5 (a)(3).
- c. Check the box if the district requests an additional grant for site development utility cost necessary for the modernization of 50 years or older permanent building(s). Enter 60 percent of the eligible costs allowable pursuant to Section 1859.78.7 (a).
7. Check the appropriate box to request an augmentation to the New Construction or Modernization Grants for an excessive cost hardship for the items listed. Refer to Section 1859.83 for eligibility criteria. Requests for excessive cost grants for a new two-stop elevator(s) and for additional stops in a modernization project are allowed only if required by the Division of the State Architect (DSA). Attach copy of the DSA letter that requires that the elevator(s) be included in the project for handicapped access compliance.
- If the request is for rehabilitation mitigation, report 80 percent or 60 percent (as appropriate) of health/safety rehabilitation mitigation costs for a modernization project as authorized by Section 1859.83 (e).
8. Enter the priority order of this project in relation to other new construction applications submitted by the district on the same date. If applications are not received on the same date, the OPSC will assign a higher district priority to the application received first. Check the box(es) if the project meets the criteria outlined in Section 1859.92(c)(3),(4) and (6), as appropriate. This information is needed for purposes of priority points.
9. If the project the district is requesting SFP grants for received a Phase P, S, or C approval under the LPP, report the application number of that project, regardless if the project actually received funding or was included on an "unfunded" list. Failure to report this information may delay the processing of the application by the OPSC.
10. If the project received a separate apportionment under the SFP for either site and/or design, or site environmental hardship, enter the application number of the project. Failure to report this information may delay the processing of the application by the OPSC.
11. a. If this request is to convert a Preliminary Apportionment to a Final Apportionment, enter the application number of the Preliminary Apportionment. Failure to report this information may delay the processing of the application by the OPSC.
- b. If this request is to convert a Preliminary Charter School Apportionment to a Final Charter School Apportionment, enter the application number of the Preliminary Charter School Apportionment. Failure to report this information may delay the processing of the application by the OPSC.
12. The district must report certain alternative fees collected pursuant to Government Code Section 65995.7, as of the date of application submittal to the OPSC. Refer to Section 1859.77 for details. Districts are advised that the OPSC may perform an audit of the developer fees collected prior to application approval by the Board.
13. Complete only for new construction projects.
- Pursuant to Section 1859.51 certain adjustments to the district's new construction baseline eligibility must be made each time a district submits Form SAB 50-04, to the OPSC for SFP grants. These adjustments are made automatically by the OPSC based on information reported by the district on this form.
- a. Report all additional classroom(s) provided after the district submitted its request for determination of its new construction baseline eligibility for the grades shown, with the exception of a classroom that is/was:
- A trailer and transportable/towed on its own wheels and axles.
 - Excluded pursuant to Education Code Section 17071.30.
 - Under contract for lease, lease-purchase, or construction prior to January 1, 2000.
 - Under contract for lease, lease-purchase, or construction no more than 180 days before submittal of this form to the OPSC.
 - Included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 250 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.
 - Acquired with Joint-Use Funds pursuant to Education Code Sections 17052 or 17073.0.
- b. If the eligibility for this project was determined on a high school attendance area (HSAA) or Super HSAA pursuant to Section 1859.41, enter the number of pupils by grade level type that were included in the latest report by the CDE pursuant to Education Code Section 42268 that received operational grants in that HSAA or Super HSAA.
14. Complete only for new construction projects. Indicate if there is a pending reorganization election that will result in a loss of eligibility for this project. If the answer is "yes", the district must complete Form SAB 50-01, Form SAB 50-02 and Form SAB 50-03, to adjust the district's new construction baseline eligibility as a result of the reorganization and submit them with this form.
15. Check the box if:
- a. the facilities to be constructed/ modernized as part of this project will be for joint use by other governmental agencies.
 - b. the new construction or modernization grants will be used for facilities located or to be located on leased property.
16. The architect of record or the licensed architect must complete this section.
17. The architect of record or the appropriate design professional must complete this section.
18. The district representative must complete this section.

The school district named below applies to the State Allocation Board via the Office of Public School Construction for a grant under the provisions of Chapter 12.5, Part 10, Division 1, commencing with Section 17070.10, et seq., of the Education Code and the Regulations thereto.

| | | |
|-----------------|--|--|
| SCHOOL DISTRICT | | APPLICATION NUMBER |
| SCHOOL NAME | | PROJECT TRACKING NUMBER |
| COUNTY | DISTRICT REPRESENTATIVE'S E-MAIL ADDRESS | HIGH SCHOOL ATTENDANCE AREA (HSAA) OR SUPERVISAA (IF APPLICABLE) |

1. Type of Application (Check Only One)

- New Construction
- New Construction (Final Apportionment)
- New Construction (Final Charter School Apportionment)
- Modernization
- Modernization of California Schools for Deaf/Blind

Separate Apportionment

- Site Only – New Construction (Section 1859.81.1)
- Site Only (District owned) – New Construction (Section 1859.81.2)
- Site Only – Environmental Hardship (Section 1859.75.1)
- Design Only – New Construction (Section 1859.81.1)
- Design Only – Modernization
- Design Only – Modernization of California Schools for Deaf/Blind
- Facility Hardship (Section 1859.82 [a])
- Facility Hardship (Section 1859.82 [b])
- Rehabilitation (Section 1859.83 [e])
- Advance Funding for Evaluation and RA

2. Type of Project

- a. Elementary School Middle School High School

Pupils Assigned:

K-6 _____ 7-8 _____ 9-12 _____

Non-Severe _____ Severe _____

- b. 50 years or older building funding (Modernization only)

• Total Classrooms/Square Footage _____

• Classroom/Square Footage at least 50 years old _____

- c. Is this a 6-8 School? Yes No

If you answered yes, how many K-6 pupils reported above are sixth graders? # _____

- d. Automatic Fire Detection/Alarm System Automatic Sprinkler System

- e. Is this a use of grant request pursuant to Section 1859.77.2? Yes No

Is this request pursuant to Section 1859.77.2(c)? Yes No

If yes, enter date of successful bond election: _____

Is this a use of grant request pursuant to Section 1859.77.3? Yes No

Is this request pursuant to Section 1859.77.3(c)? Yes No

If yes, enter date of successful bond election: _____

- f. Facility Hardship (no pupils assigned)

3. Number of Classrooms

Master Plan Acreage Site Size (Useable) _____

Existing Acres (Useable) _____

Proposed Acres (Useable) _____

4. Financial Hardship Request – (Must Have Pre-Approval by OPSC)

5. New Construction Additional Grant Request (New Construction Only)

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

b. Multilevel Construction (crs) _____

- c. Project Assistance

d. Site Acquisition:

Leased Site Additional Acreage to Existing Site Addition to Existing Site

(1) 50 percent Actual Cost \$ _____

(2) 50 percent Appraised Value \$ _____

(3) 50 percent Relocation Cost \$ _____

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

(5) 50 percent DTSC Fee \$ _____

e. 50 percent Hazardous waste removal \$ _____

Response Action (RA)

f. Site Development

50 percent Service-Site \$ _____

50 percent Off-Site \$ _____

50 percent Utilities \$ _____

g. Facility Hardship Section 1859.82 (a) or (b)

Toilet (sq. ft.) _____ Other (sq. ft.) _____

h. Replacement area

Toilet (sq. ft.) _____ Other (sq. ft.) _____

i. Energy Efficiency _____ %

6. Modernization Additional Grant Request (Modernization Only)

a. Project Assistance

b. Energy Efficiency _____ %

c. Site Development – 60 percent Utilities \$ _____

18. Certification

I certify, as the District Representative, that the information reported on this form, with the exception of items 16 and 17, is true and correct and that:

I am an authorized representative of the district as authorized by the governing board of the district; and,

- 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, _____; and,
- 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); and,
- 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; and,
- 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; and,
- The district will comply with all laws pertaining to the construction or modernization of its school building; and,
- Facilities to be modernized have not been previously modernized with Lease Purchase Program, Proposition 1A Funds or School Facility Program state funds; and,
- 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; and,
- 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; and,
- If this request is for modernization 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; and,
- The district has or will comply with the Public Contract Code regarding all laws governing the use of force account labor; and,
- 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; and,
- 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; and,
- 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; and,
- 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; and,
- 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); and,
- 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); and,

- 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); and,
- The statements set forth in this application and supporting documents are true and correct to the best of my knowledge and belief; and,
- 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; and,
- 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; and,
- 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; and,
- 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; and,
- 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; and,
- 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)]
- 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; and
- If this request is for a Large New Construction Project or a Large Modernization Project, the district has consulted with the career technical advisory committee established pursuant to Education Code Section 8070 and it has considered the need for vocational and career technical facilities to adequately meet its program needs in accordance with Education Code Sections 51224, 51225.3(b) and 52336.1; and
- 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 exceeds the amount of funding otherwise available to the district.

NAME OF DISTRICT REPRESENTATIVE

DATE

RESTROOM MAINTENANCE COMPLAINT

EDUCATION CODE SECTION 35292.5

SAB 892 (REV 02/04)

GENERAL INFORMATION

As of January 1, 2004, Section 35292.5 was added to the Education Code and contains the following requirements relating to the sufficiency and availability of restroom facilities in all public schools:

- Every restroom must be maintained and cleaned regularly, fully operational, and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
- Schools must keep all restrooms open during school hours when pupils are not in classes, and must keep a sufficient number of restrooms open during school hours when pupils are in classes (except as required for pupil safety or as necessary to repair the facility).
- Any school district that operates a public school that is in violation of this section, as determined by the State Allocation Board, is ineligible for state deferred maintenance fund matching apportionments.

This form is used to report complaints for inadequate conditions in public school restroom facilities. If the complaint involves multiple restrooms, *please use a separate form for each restroom.*

SPECIFIC INSTRUCTIONS

Please complete all requested information in order for the Office of Public School Construction to address your concerns in a timely manner.

PART I**School District**

Enter name of school district of school where complaint is located.

County

Enter name of county where school district is located.

Name of School

Enter name of school site where complaint is located.

School Site Address

Enter street address, city and ZIP code of school site where complaint is located.

Location of Restroom Facility

Name specific physical location of restroom in the complaint; use landmarks, such as "boys/girls on east side of gymnasium" for reference.

PART II**Type of Complaint**

Check the box next to all complaint codes that apply to the complaint being reported.

Observations

Provide details to further explain the type of complaints that are checked in the "Type of Complaint" form cell.

PART III**Complainant**

Print your name.

Telephone

Please provide your telephone number.

Address

Please provide your mailing address.

Signature of Complainant

Sign your name here.

Date

Please enter the date the form is submitted.

After completing the form, please submit the form by mail or FAX to the address or FAX number shown.

RESTROOM MAINTENANCE COMPLAINT

EDUCATION CODE SECTION 35292.5

SAB 892 (REV 02/04)

TO BE PROCESSED, THIS FORM MUST BE COMPLETED IN ITS ENTIRETY.**PART I**

| | |
|---|--|
| SCHOOL DISTRICT (IF KNOWN) | COUNTY |
| NAME OF SCHOOL | SCHOOL SITE ADDRESS (STREET, CITY, ZIP CODE) |
| LOCATION OF RESTROOM FACILITY (I.E., BOYS/GIRLS RESTROOM AT NORTH END OF CAMPUS NEAR GYM, CAFETERIA/RESTROOM, ETC.) | |

PART II**TYPE OF COMPLAINT (PLEASE CHECK ALL THAT APPLY):****Plumbing, Equipment and Supplies (hand soap, paper towels, etc.)**

- | | |
|---|---|
| <input type="checkbox"/> P-100 Toilet damaged/missing | <input type="checkbox"/> E-101 Lavatory Stall Doors and/or Locks missing/inoperable |
| <input type="checkbox"/> P-101 Toilet leaking/clogged | <input type="checkbox"/> E-102 Paper Towel Dispenser missing/inoperable |
| <input type="checkbox"/> P-102 Lavatory Sink damaged/missing | <input type="checkbox"/> E-103 Toilet Paper Dispenser missing/inoperable |
| <input type="checkbox"/> P-103 Faucets or Pipes damaged/leaking | <input type="checkbox"/> E-104 Soap Dispensers missing/inoperable |
| <input type="checkbox"/> P-104 Floor Drains clogged | <input type="checkbox"/> S-100 Soap Dispensers consistently empty |
| <input type="checkbox"/> P-105 Lavatory Sink clogged | <input type="checkbox"/> S-101 Paper Towel Dispensers consistently empty |
| <input type="checkbox"/> E-100 Electric Hand Dryers damaged/missing | <input type="checkbox"/> S-102 Toilet Paper missing/unusable on a consistent basis |

Condition of Restroom/Miscellaneous

- | |
|---|
| <input type="checkbox"/> C-100 Floors unclean on a consistent basis |
| <input type="checkbox"/> C-101 Walls/Ceilings unclean on a consistent basis |
| <input type="checkbox"/> C-102 Trash Receptacles not emptied consistently |
| <input type="checkbox"/> C-103 Toilets/Urinals unclean/unusable on a consistent basis |
| <input type="checkbox"/> C-104 Restroom Facility closed for an extended period |
| <input type="checkbox"/> M-100 Miscellaneous—Summarize below |

OBSERVATIONS (PLEASE EXPLAIN IN DETAIL):**PART III**

| | |
|--|---|
| COMPLAINANT (PRINT NAME) | TELEPHONE (I.e. 916 111-2222) |
| ADDRESS (NUMBER, STREET, CITY, ZIP CODE) | |
| SIGNATURE OF COMPLAINANT | DATE |
| PLEASE MAIL/FAX COMPLETED FORM TO: Office of Public School Construction 1130 K Street, Suite 400 Sacramento, CA 95814 FAX: 916.445.5526 | FOR INTERNAL USE ONLY COMPLAINT NO. |

RESPONSE TO RESTROOM MAINTENANCE COMPLAINT

EDUCATION CODE SECTION 35292.5

SAB 892R (NEW 11/04)

GENERAL INFORMATION

As of January 1, 2004, Section 35292.5 was added to the Education Code (EC) and contains the following requirements relating to the sufficiency and availability of restroom facilities in all public schools:

- Every restroom must be maintained and cleaned regularly, fully operational, and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
- Schools must keep all restrooms open during school hours when pupils are not in classes, and must keep a sufficient number of restrooms open during school hours when pupils are in classes (except as required for pupil safety or as necessary to repair the facility).
- Any school district that operates a public school that is in violation of this section, as determined by the State Allocation Board, is ineligible for state deferred maintenance fund matching apportionments.

This form is used to respond to complaints received by the Office of Public School Construction (OPSC) on the Restroom Maintenance Complaint, Form SAB 892. Failure to respond to complaints may result in the school district being ineligible for state deferred maintenance fund matching apportionments pursuant to EC Section 17584.

SPECIFIC INSTRUCTIONS**PART I**

| IN FORM FIELD... | INSTRUCTION... |
|---------------------------------------|---|
| SCHOOL DISTRICT | Enter name of school district of school where complaint was located. |
| COUNTY | Enter name of county where school district is located. |
| 5-DIGIT DISTRICT CODE | Enter California Department of Education assigned district code number. |
| COMPLAINT NUMBER | Enter complaint number from form SAB 892. |
| SCHOOL SITE WHERE DEFICIENCY OBSERVED | Enter name of school campus where complaint was located. |
| LOCATION OF RESTROOM FACILITY | Enter specific physical location of restroom in the complaint; use landmarks, such as "boys/girls on east side of gymnasium" for reference. |
| DATE OF OPSC'S LETTER | Enter date of Office of Public School Construction's letter where indicated. |

PART II

| IN FORM FIELD... | INSTRUCTION... |
|------------------|--|
| COMPLAINT CODE | Enter complaint code from the table provided. Codes have a one-letter prefix followed by three digits. |
| COMMENTS | Describe in detail how the complaint was addressed and/or repaired. |
| DATE CORRECTED | Enter date corrective action took place. |

PART III

| IN FORM FIELD... | INSTRUCTION... |
|--------------------------------------|--|
| CERTIFICATION | District Superintendent enters or prints name on line. |
| SIGNATURE OF DISTRICT SUPERINTENDENT | District Superintendent signs here. |
| DATE | Enter date signed. |

PART I

| | | | |
|---|--------|---|------------------|
| SCHOOL DISTRICT | COUNTY | 5-DIGIT DISTRICT CODE | COMPLAINT NUMBER |
| SCHOOL SITE WHERE DEFICIENCY OBSERVED | | LOCATION OF RESTROOM FACILITY (I.E., BOYS/GIRLS RESTROOM AT NORTH END OF CAMPUS NEAR GYM, CAFETERIA RESTROOM, ETC.) | |
| DATE OF OPSC'S LETTER | | | |
| This form shall indicate that corrective action has been taken to comply with Education Code Section 35292.5 as requested in the OPSC's letter dated: | | | |

PART II

| COMPLAINT CODE | COMMENTS (PLEASE EXPLAIN HOW COMPLAINT WAS ADDRESSED) | DATE CORRECTED (MM/DD/YYYY) |
|----------------|---|-----------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

Complaint Codes

Plumbing, Equipment and Supplies (hand soap, paper towels, etc.)

- | | |
|--|---|
| P-100 Toilet damaged/missing | E-102 Paper Towel Dispenser missing/inoperable |
| P-101 Toilet leaking/clogged | E-103 Toilet Paper Dispenser missing/inoperable |
| P-102 Lavatory Sink damaged/missing | E-104 Soap Dispensers missing/inoperable |
| P-103 Faucets or Pipes damaged/leaking | E-105 Trash Receptacle missing |
| P-104 Floor Drains clogged | S-100 Soap Dispensers consistently empty |
| P-105 Lavatory Sink clogged | S-101 Paper Towel Dispensers consistently empty |
| E-100 Electric Hand Dryers damaged/missing | S-102 Toilet Paper missing/unusable on a consistent basis |
| E-101 Lavatory Stall Doors and/or Locks missing/inoperable | |

Condition of Restroom/Miscellaneous

- C-100 Floors unclean on a consistent basis
- C-101 Walls/Ceilings unclean on a consistent basis
- C-102 Trash Receptacles not emptied consistently
- C-103 Toilets/Urinals unclean/unusable on a consistent basis
- C-104 Restroom Facility closed for an extended period
- M-100 Miscellaneous—summarize above

PART III

I, _____, District Superintendent for the above named school district, certify that the above restroom deficiency has been corrected and that the information provided on the form is true and correct. I further understand that school restroom facilities should be maintained in compliance with the requirements set forth in Education Code (EC) Section 35292.5. Failure to comply with EC Section 35292.5 shall result in the withholding of deferred maintenance apportionments to the school district under EC Section 17584.

 DISTRICT SUPERINTENDENT

 DATE

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
March 5, 2004

CLEAN SCHOOL RESTROOMS
(SB 892 Murray)

BACKGROUND

Senate Bill (SB) 892, chaptered on October 12, 2003, added Section 35292.5 to the Education Code (EC). With an effective date of January 1, 2004, EC Section 35292.5 contains requirements relating to the sufficiency and availability of restroom facilities in all public and private schools.

SB 892 requires the State Allocation Board (SAB) to determine a district's compliance with EC Section 35292.5, and directs the SAB to withhold state matching funds for deferred maintenance (DM) projects if, after receiving a reasonable opportunity to fix the problem and a 30-day notice of violation, the restroom facilities remain in violation of the law. In order to fulfill its responsibility to administer the law and comply with the law's effective date of January 1, 2004, the Office of Public School Construction (OPSC) expedited the development of a mechanism by which complaints could be received and processed.

DISCUSSION

This item is continued from the February 6, 2004 meeting of the Implementation Committee. In February, staff presented its proposed process for addressing restroom maintenance complaints. At that time, staff presented copies of the complaint and response forms, a flow chart illustrating the proposed complaint process, and timeline options for the withholding of deferred maintenance funds. Included with this item are the following attachments:

- Attachment A – Proposed Revised Complaint form
- Attachment B - Text of SB 892
- Attachment C - Complaint Process Flow Chart

Resolution at the Local Level

To address concerns voiced at the last meeting, staff amended the complaint form to include the following statement to encourage local resolution:

"Correction of your complaint in a timely manner is important. You are free to file your complaint with the OPSC. In addition, communicating your observations at the local level may serve to further expedite the complaint's resolution. You are encouraged to share the details of restroom deficiencies with the school's principal and your school district."

While exploring the feasibility of integrating local and OPSC processes, staff discovered that not all school districts have a formal complaint mechanism in place, and found little consistency in existing processes. Districts are encouraged to inform their constituents about existing local complaint processes that could be used to resolve restroom maintenance issues. The OPSC's role is to provide the public with a standardized, universally accessible process for complaint response.

Anonymous Complaints

The complaint form requests the identification of the complainant. However, there are some individuals who are reluctant to include their name on the complaint forms. Staff contends anonymity should not preclude a complaint from consideration.

A strong precedent has been set by state and local agencies with regard to the acceptance of anonymous complaints. Examples of governmental agencies and programs that accept anonymous complaints include the Department of Social Services, the State Whistleblower Program, and Adult Protective Services. In these programs, the complainant is provided anonymity, and allegations made by these individuals are considered legitimate until further investigation provides contrary evidence.

To invalidate complaints on the basis of anonymity diminishes an individual's lawful right to privacy and discourages the submittal of otherwise valid complaints. Each district maintains its right to defend any complaints. Ultimately, the SAB will consider the weight of the evidence before making any determination.

Complaint Notification

Since the penalty for unresolved complaints is severe and affects the entire district, the complaint notification letter is directed to the District Superintendent, with a copy to the SFP District Representative. When appropriate, the district would distribute information on the complaint form to site-specific personnel.

Screening/Prevention of Frivolous Complaints

The current process requires that the complaint form be submitted in writing, and therefore filters many frivolous complaints. Additionally, the complaint form has been revised to include a complainant certification on the signature line. (Please refer to Attachment A.)

To raise the complainant's awareness about the serious consequences associated with filing a complaint, and of the severity of the penalty imposed by law, the complaint form instructions now provide the following information regarding the use and importance of the DM funds subject to withholding.

"Deferred maintenance apportionments provide State funds to assist school districts with expenditures for major repair or replacement of existing school building components. Typically this includes roofing, plumbing, heating, air conditioning, electrical systems, interior/exterior painting, floor systems, etc."

Deficiency Codes/Descriptions

The complaint form provides descriptions and corresponding codes for various restroom deficiencies. The descriptions were derived from the specific maintenance requirements defined in SB 892. The inclusion of specific descriptions helps to ensure that complaints are confined within law's parameters. The codes serve to simplify the complaint response and tracking processes.

Complainant Notification

The proposed OPSC process includes a letter of acknowledgement to the complainant, which indicates that the complaint has been received and the school district has been notified. The complainant will also be notified as to the outcome of the complaint.

Prorating DM Funding

The provisions of SB 892 are such that a district's entire basic DM funds could be withheld due to a single violation at one school in the district. Staff conferred with SAB legal counsel regarding the language specific to the withholding process in order to determine whether the DM withholding could be prorated proportionate to the number of schools within the district that are found to be in violation. Legal counsel opined that:

- SB 892 contemplates a district's eligibility to receive matching apportionments pursuant to Education Code (EC) Section 17584.
- There is nothing in SB 892 or current law that authorizes the Board to withhold only a portion of the DM apportionment.

Proposed Timeline for DM Funds Withholding

The withholding of DM funds is district-specific. Regardless of the quantity, type, or location of a district's complaints, unresolved complaints that occur within the same fiscal year will be presented concurrently to the August SAB preceding the [December] DM Annual Funding. The exception would be made for complaints filed too late in the fiscal year to allow for SAB processing timelines and a reasonable opportunity for correction. These complaints, if unresolved, would go to the Board in August of the *following* year.










If the Board makes a determination of violation, the district will receive a 30-Day Notice referencing all complaints used as a basis for that determination. The district would have 30 days to correct the violations referenced on the notice. If the violations remain uncorrected after 30 days, the district would not receive its DM apportionment at the DM Annual funding.

Presentation to the August SAB would provide sufficient time for the 30-day notifications required by law, and would enable DM staff to identify those districts who will not receive their DM apportionment at the December Board.

For purposes of discussion, the following example illustrates history of XYZ School District's restroom maintenance complaints, and the consequences associated with the district's unresolved complaints, including the ultimate withholding of DM funds.

EXAMPLE:

Various complaints are received for the XYZ School District during the 04/05 Fiscal Year [July 1, 2004 - June 30, 2005], as follows:

| | | Complaints Received | Corrected within 60 days | Unresolved Complaints |
|---|--------|---|--|-----------------------|
| Fiscal Year 04/05 All unresolved complaints received during this period will go to August 2005 SAB. | Jul 04 |  |  | 0 |
| | Aug 04 | | | |
| | Sep 04 | | | |
| | Oct 04 |  |  | 0 |
| | Nov 04 | | | |
| | Dec 04 | | | |
| | Jan 05 |  |  | 1 |
| | Feb 05 | | | |
| | Mar 05 | | | |
| | Apr 05 |  |  | 1 |
| | May 05 | | | |
| | Jun 05 |  | | * |
| Total | | | | 2 |

- Following the expiration of their respective correction timeframes, the two unresolved complaints would be presented as informational items to the Board, and would remain on the list until they are resolved.
- If the complaints are not corrected by the August SAB, the Board will determine whether the District is in violation of SB 892.
- If the Board determines the District is in violation, the District would receive a 30-Day Notice of Violation.
- If the violation is not resolved within 30 days, the District's DM basic apportionment would be withheld from the next available DM funding cycle following the Board's determination [December 2005].
- * By August 2005, this complaint may not be able to meet SAB processing timelines and may not have received the reasonable opportunity for correction allowed by law. This complaint, if unresolved, could go to the August 2006 SAB.

ATTACHMENT A
Complaint Form

ATTACHMENT B

Senate Bill No. 892

CHAPTER 909

An act to add Section 35292.5 to the Education Code, relating to schools.

[Approved by Governor October 12, 2003. Filed
with Secretary of State October 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 892, Murray. School restrooms.

Existing law exempts public and private schools from provisions relating to the sufficiency of public facility restrooms, and provides for the maintenance and repair of public school facilities by school districts.

This bill would, with certain exceptions, require every public and private school to have restroom facilities that are open as prescribed during school hours, and at all times to keep every restroom maintained and cleaned regularly, fully operational, and stocked with soap and paper supplies.

This bill would make a school district ineligible for prescribed state school facilities deferred maintenance matching funding if, after a 30-day notice period and a reasonable opportunity to cure the violation, a public school it operates remains in violation of this bill.

The people of the State of California do enact as follows:

SECTION 1. Section 35292.5 is added to the Education Code, to read:

35292.5. (a) Every public and private school maintaining any combination of classes from kindergarten to grade 12, inclusive, shall comply with all of the following:

(1) Every restroom shall at all times be maintained and cleaned regularly, fully operational and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.

(2) The school shall keep all restrooms open during school hours when pupils are not in classes, and shall keep a sufficient number of restrooms open during school hours when pupils are in classes.

(b) Notwithstanding subdivision (a), a school may temporarily close any restroom as necessary for pupil safety or as necessary to repair the facility.

(c) Any school district that operates a public school that is in violation of this section as determined by the State Allocation Board, is ineligible

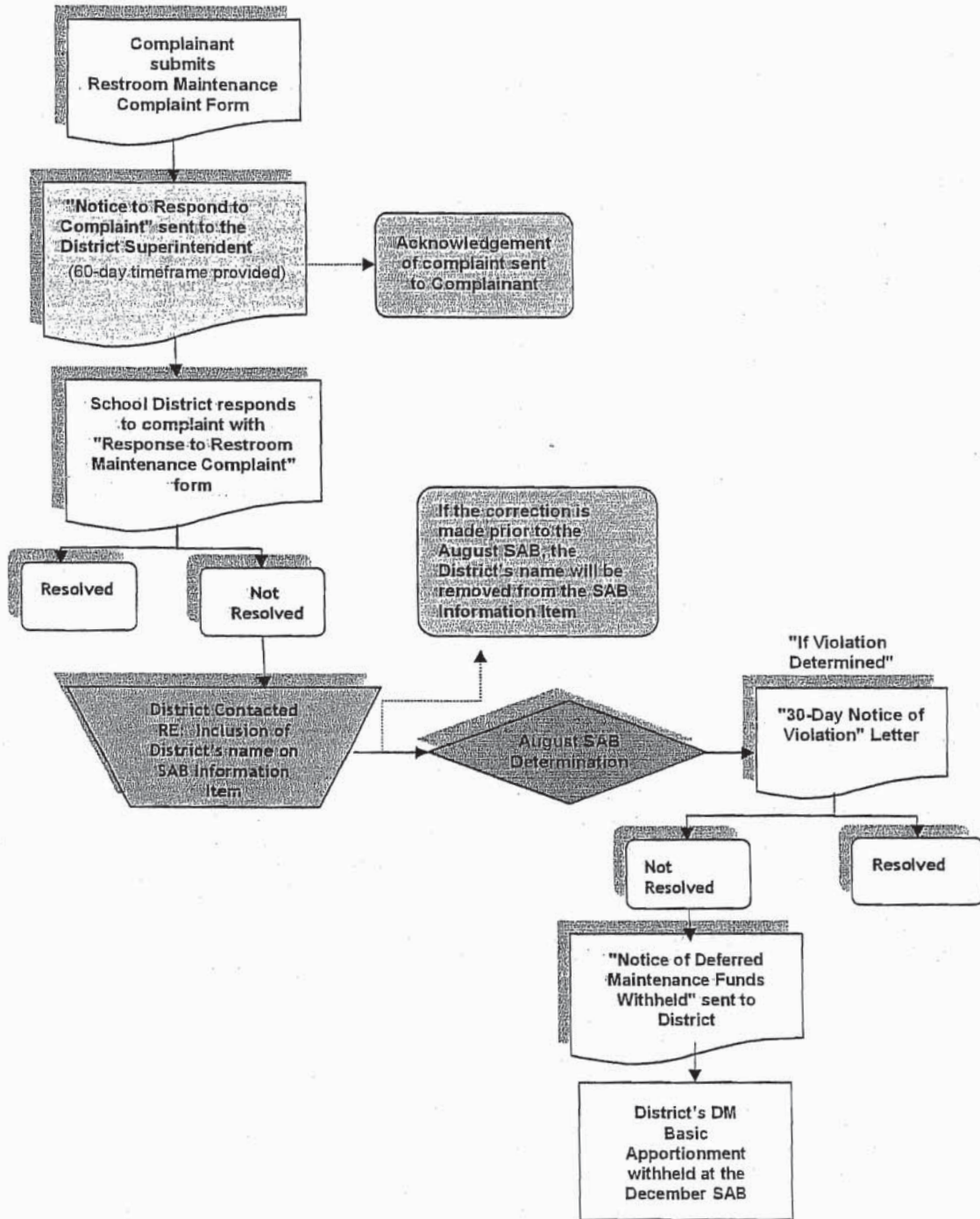
for state deferred maintenance fund matching apportionments pursuant to Section 17584 if the school district has not corrected the violation within 30 days after receipt of a written notice of the violation from the board. Prior to determining that the school district is ineligible, the board shall provide the school district with a reasonable opportunity to cure the violation. The board shall notify the Superintendent of Public Instruction regarding a school district found to be in violation of this section. The Superintendent of Public Instruction shall notify the Controller to withhold apportionments otherwise due the school district under Section 17584.

SEC. 2. It is the intent of the Legislature that a school employee who performs maintenance or repair functions related to restroom facilities that are subject to Section 35292.5 of the Education Code not be subject to discipline if the employee performs his or her responsibilities as required by his or her employer.

SEC. 3. The Legislature finds and declares that, as regards public schools, a principal purpose of this act is to clarify the preexisting requirements of Section 17576 of the Education Code by specifying the minimum requirements necessary to provide sufficient patent flush water closets for the use of pupils in a manner that is consistent with those requirements that apply to other public and private persons or agencies pursuant to Section 118505 of the Health and Safety Code. Because the local mandate established pursuant to Section 17576, which was enacted on January 1, 1948, was enacted prior to January 1, 1975, no reimbursement is required under this act pursuant to Section 6 of Article XIII B of the California Constitution.

ATTACHMENT C

Senate Bill 892
Complaint Process Flow Chart



STATE ALLOCATION BOARD

1130 K Street, Suite 400
 Sacramento, CA 95814
<http://www.dgs.ca.gov/opsc>

**IMPLEMENTATION COMMITTEE MINUTES**

April 1, 2004

1020 N Street
 Legislative Office Building, Room 100
 Sacramento, CA

Members Present

Bruce Hancock, SAB
 Lori Morgan, OPSC
 Fred Yeager, CDE
 Debra Pearson, SSDA
 Beth Hamby, LAUSD
 William Cornelison, ACS
 Gary Gibbs, CBIA

Dennis Dunston, CEFPI
 Kathleen Moore, SSD
 (alt. for Constantine Baranoff)
 Dennis Bellet, DSA
 Blake Johnson, DOF
 Brian Wiese, AIA (a.m. only)
 John Palmer, CASBO

Members Absent

Dave Doomey, CASH
 Jay Hansen, SBCTC
 Dennis Bellet, DSA

The meeting was called to order at 9:33 a.m. The minutes from the March 5, 2004 meeting were approved as written.

CHAIR REPORT

The Chair reviewed the status of the State Allocation Board (SAB) regulations impacted by the recent Executive Order (EO) and clarified that non-emergency regulations (including the 180-day tract) impacted by the EO are currently going through the normal regulatory process, which includes the appropriate sign-off process before submittal to Office of Administrative Law.

CLEAN SCHOOL RESTROOMS [Senate Bill (SB) 892 MURRAY and Assembly Bill (AB) 1124 Nunez]

This item continues from the February and March Implementation Committee meetings.

Local Level Resolution

Staff reported on additional revisions to the complaint process that would further encourage local level resolution. Final revisions to the OPSC Web site and complaint form directions now include language that more strongly encourages complainants to first communicate restroom maintenance issues to local complaint response resources.

CLEAN SCHOOL RESTROOMS (cont.)

Included on the top of the complaint form and on the Web site will be a reminder that districts found to be in violation of the restroom maintenance law would be ineligible to receive deferred maintenance funding, and information regarding how deferred maintenance dollars are utilized. There was discussion as to whether this reminder strongly enough indicated the inherent irony of the penalty.

Amendments to DM Regulations

Staff proposed amendments to the Deferred Maintenance (DM) regulations relating to the timeframe in which complaints would be presented to the SAB and the process for withholding of DM funds in the event that a district is determined by the SAB to be in violation of SB 892. Staff clarified that the district superintendent and the school board president would receive prior notification that the district is scheduled as a SAB report, and that the district's DM funding is in jeopardy. The proposed amendments provide for an annual presentation to the SAB for the purposes of determining violations of EC 35292.5. Districts who do not correct a violation within the 30 day notice period following the Board determination would not receive their basic grant, and the funds would be distributed to the other eligible districts.

Concerns were raised with regard to the timeframe for taking items to the SAB. It was suggested - to more precisely allow for the provision of the law, to achieve optimum parity among districts who have received complaints, and to ensure more timely addressing of complaints - that restroom maintenance items be taken to the Board on more of an "as needed" schedule, at least on a quarterly or twice yearly basis. The Chair pointed out that, though the OPSC has a responsibility to reasonably accommodate the law, it also must consider the most appropriate and efficient use of the SAB meeting as a public forum. Staff and members agreed to proceed with the current proposal with the stipulation to reassess its viability after a trial period of 9-12 months.

Proposed amendments to Section 1866.5.2, *Determination of Extreme Hardship Grant Amount and District Contribution* clarify that a district with an extreme hardship project, but deemed ineligible pursuant to SB 892, would be required to contribute an amount equal to the district and state share (i.e., two times the maximum basic grant). In response to a committee member request, staff will re-affirm with legal counsel on this issue.

Related Issue (AB 1124)

Recently chaptered AB 1124 requires that a priority for the use of restricted maintenance and deferred maintenance funds be to ensure facilities (not limited to restrooms) are functional and meet local hygiene standards. Staff proposed changes to the *Application for Funding*, Form SAB 50-04, and the *Certification of Deposits*, Form SAB 40-21 to include certifications that cover the law's provisions.

The proposed regulations pertaining to SB 892 and AB 1124 are scheduled to be presented at the April 28, 2004 meeting of the SAB.

