



Proposition 51 Implementation: Recent Policy Issues September 2017

This document identifies recent Proposition 51 policy issues that have been discussed or acted upon.

Processing the OPSC Lists: New Construction Eligibility Justification

Status: Action taken by SAB on June 5, 2017. The SAB adopted "Option 1" with a 6:4 vote.

Action requires:

- OPSC shall process applications using regulations in place at the time of submittal.
- Applicants must update new construction eligibility for the enrollment year in which the application is processed by OPSC.
- Districts who may be harmed by updating eligibility can appeal to the SAB.

CASH Challenge:

- CASH challenged the SAB's action by filing an underground regulation petition with the Office of Administrative Law (OAL). The petition argues that the SAB did not adopt Option 1, which contains a significant policy change, via the regulatory process governed by the Administrative Procedures Act, constituting an underground regulation.
- CASH believes Option 1 is contrary to the bond language and statute. EC 17017.75(a)(2): "A school district shall calculate enrollment projections for the fifth year beyond the fiscal year in which the application is *made*."
- OAL declined to take up the petition for review and will not make a ruling on the underground regulation charge.
- OPSC developed a regulation package to implement Option 1; the item was pulled from the August 23 agenda and has not yet been heard.

Grant Agreement

Status: Grant Agreement (GA) template approved by SAB as regulatory amendments on June 5, 2017; amendments adopted in regulation by SAB on June 28, 2017 to conform with education budget trailer bill AB 99.

- Requested by Governor in January budget proposal.
- Projects on the True Unfunded List (submitted to OPSC prior to Nov. 1, 2012) are *exempt*.
- Intended to set forth basic terms and conditions in a project-specific agreement between the state and applicant.
- Outlines common eligible and ineligible expenditures:
 - Makes computers and printers ineligible expenditures under the SFP for state funds or local match dollars. (CSFC opposed this change.)
 - Applicants may request project-specific guidance letters from OPSC on specific expenditures not identified in the GA. Letters are incorporated by reference into the agreement.
- GA must be signed and submitted to OPSC by Fund Release request.

Local Audits

Status: Budget trailer bill AB 99 signed into law June 27, 2017. Development of content for 2018-19 K-12 Annual Audit Guide is underway.

- Requested by Governor in January budget proposal.
- Applies to projects funded after April 1, 2017.
- Adds state-funded school facility project scope to Annual K-12 Audit. Local auditors will review:
 - Detailed list of expenditures for completed projects, including state funds and local matching funds.
 - Whether expenditures are in compliance with SFP statute, regulation, and the Grant Agreement.
- OPSC will continue to perform some compliance reviews, such as Substantial Progress checks, though their role is not yet fully defined.
- Schools will repay audit exceptions using their choice of fund source (either operational or capital).
- K-12 Annual Audit Guide instructions will be adopted by Education Audit Appeals Panel (EAAP) by June 30, 2018. Official advisory committee includes DOF, CDE, auditors, CASBO, CSBA, CCSESA, and CTA.

Financial Hardship Concurrent Review

Status: Action taken by SAB as regulatory amendments on June 28, 2017.

- The SAB approved review of Financial Hardship (FH) status concurrent with processing of a funding application.
 - CSFC has advocated for this change for many years.
 - New process applies to projects submitted after SAB action on June 28, 2017; OPSC has assured us they will use a similar process for projects submitted prior to that date.
- OPSC was concerned that the size of the application backlog would prevent them from processing funding applications within 180 days of FH status approval.
- OPSC will notify a FH applicant in writing approximately 90 days before processing begins; the FH package is due within 60 days of that notification.

Small School District Three-Year Lock

Status: Proposal developed by OPSC, not yet considered by SAB.

- The SAB requested a proposal to ensure new construction funding applications submitted within a small school district's three-year eligibility lock would be processed within those three years.
- OPSC will only process new eligibility applications for updated enrollment figures (at least 2016-17).
- Regulations package was agendaized for discussion by SAB on August 23; it was removed from the agenda due to concerns that it did not protect all districts with existing three-year locks.
- Proposal would create a new prioritization category in the application review and approval process.