REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, September 25, 2019

PROPOSED REGULATORY AMENDMENTS FOR THE SCHOOL FACILITIES PROGRAM

PURPOSE OF REPORT

To present proposed regulatory amendments to the definitions of Suburban Area and Rural Area in the School Facility Program (SFP) Regulations.

DESCRIPTION

At the August 28, 2019 meeting, the State Allocation Board (Board) directed Staff to amend the current definitions of Suburban Area and Rural Area after Staff brought a report forward, summarizing the findings of stakeholder meetings on the subject. The change in definitions results in school sites currently classified as Town by the federal National Center for Education Statistics (NCES) to be moved from the SFP definition of Suburban Area to Rural Area.

These definitions are used by the Career Technical Education Facilities Program (CTEFP) and Charter School Facilities Program (CSFP) to determine funding order of eligible applications. This item seeks Board approval for the proposed regulatory amendments, which are included as Attachment A.

AUTHORITY

See Attachment B.

BACKGROUND

Staff presented summaries of stakeholder feedback regarding the CTEFP funding order and a brief history of the program and past funding cycles to the Board on August 28, 2019. The Board approved Staff's recommendation to amend the definitions of Suburban Area and Rural Area to move the Town designation from Suburban to Rural, and directed Staff to bring back conforming regulatory amendments to the next available meeting.

STAFF ANALYSIS/STATEMENTS

The proposed changes were presented and discussed in the context of the CTEFP funding order. Staff acknowledges that the proposed regulatory amendments to the definitions also apply to the funding order determination of applications for the CSFP. The sixth funding cycle of the CTEFP was officially opened on August 28, 2019. In order to include all applications submitted for this cycle, the proposed regulatory amendments apply to all applications received after the Board's determination on August 28, 2019.

As directed by the Board, Staff is presenting the conforming regulation amendments in Attachment A for approval.

RECOMMENDATIONS

1. Adopt the proposed regulations as shown in Attachment A, which amend the definitions of Suburban Area and Rural Area.
2. Authorize the Executive Officer to file the proposed regulations with the Office of Administrative Law and make the regulations permanent.

This Item was approved by the State Allocation Board on September 25, 2019.

ATTACHMENT A

PROPOSED REGULATORY AMENDMENTS

Section 1859.2. Definitions.
For the purposes of these regulations, the terms set forth below shall have the following meanings, subject to the provisions of the Act:
…
"Rural Area" shall be a school with a locale code of 41, 42, or 43 as classified by the National Center for Education Statistics (NCES). After August 28, 2019, the definition shall include locale codes 31, 32, and 33 as classified by the NCES.
…
"Suburban Area" shall be a school with a locale code of either 21, 22, 23, 31, 32, or 33 as classified by the NCES. After August 28, 2019, the definition shall only include locale codes 21, 22, and 23 as classified by the NCES.
…

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.
Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.75, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17073.25, 17074.10, 17074.30, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17078.72(k), 17079, 17079.10, 17280, 56026 and 101012(a)(8), Education Code; Section 53311, Government Code; and Sections 1771.3 in effect on January 1, 2012 through June 19, 2014 and 1771.5, Labor Code.

ATTACHMENT B

AUTHORITY

Education Code (EC) Section 17070.35 states in part:

> (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following:
> (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter….

EC Section 17078.72 states in part:

> (k) The Office of Public School Construction shall develop and the board shall approve regulations to implement this article on or before April 19, 2007, and the board may promulgate those regulations first on an emergency basis, which shall be effective for no more than 12 months, after which any permanent regulations shall be promulgated in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).