

**CLIENT NEWS BRIEF**

**No. 50**

**December 2009**

**NEW INCREASES TO FACILITIES FUNDING RATES WILL NOW APPLY TO BOTH GENERAL EDUCATION AND SPECIAL EDUCATION STUDENTS**

Recent changes to the Education Code require that any percentage increase to the facility funding rate for general education students will also apply to the facility funding rate for special education students. The amount of State funding for facilities under the Leroy F. Greene School Facilities Act of 1998 is based upon a district's number of unhoused pupils, multiplied by a dollar amount per pupil. The per-pupil rate of funding for students who attend special education special day classes is different than the rate for general education students.

In 2006, the Legislature authorized a one-time seven percent increase to the per-pupil funding for new construction of facilities serving general education students. The Legislature further authorized the State Allocation Board ("SAB") to make further adjustments of up to six percent annually, to reflect increases in the cost of construction. The SAB accordingly made a six percent adjustment in 2008.

However, the 2006 legislation did not authorize the percentage increases to be applied to the per-pupil funding for students who would attend special day classes. Therefore, funding for special education classrooms has not been increasing at the same rate as funding for general education classrooms.

The Governor recently signed Senate Bill 334, which amends Education Code section 17072.10. Under the amended section, beginning January 1, 2010, any increases to general education facilities funding will also apply to funding for special education facilities. Although this change does not apply retroactively to the 2006 and 2008 increases, going forward, special education facilities funding will increase at the same proportionate rate as funding for general education facilities.

If you have any questions regarding facilities funding or special education issues, please do not hesitate to contact one of our seven offices located statewide.

*As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.*



Written by Ruth Mendyk ([rmendyk@lozanosmith.com](mailto:rmendyk@lozanosmith.com)) and Daniel A. Osher ([dosher@lozanosmith.com](mailto:dosher@lozanosmith.com)). Ruth is a shareholder in our Fresno office and Dan is an associate in our Monterey office. Ruth is co-chair of our Facilities and Business Practice Group. Dan is co-chair of our Special Education Practice Group.

©2009 Lozano Smith

Join us for upcoming presentations by attorneys in our  
**Special Education and  
Facilities and Business Practice Groups:**

Mr. Osher will present "**Welcome to the Jungle: How to Avoid Being Eaten Alive by Section 504**" at the Association of California School Administrators conference in Monterey on January 14, 2010. Lozano Smith attorneys Karen Samman, Claudia Weaver, Sarah Kaatz, and Dulcinea Grantham will also conduct presentations at the conference.

Join attorneys Harold Freiman and Megan Macy for a free live Webinar on Tuesday, January 19, 2010: "**Contracting for Construction in a Tough Market.**" During these challenging economic times, districts are experiencing an increase in bid protests, change orders and similar contractor issues. During this Webinar, we will cover strategies to minimize these challenges, including prequalification, lease-leaseback, and other alternative delivery methods.

Visit our web site for Webinar registration information:  
<http://www.lozanosmith.com/LSWebinar.php>