

OFFICE OF PUBLIC SCHOOL CONSTRUCTION
STAKEHOLDER MEETING
January 10, 2020

FACILITY HARDSHIP AND SEISMIC MITIGATION PROGRAMS

PURPOSE

Discuss and receive input regarding regulatory changes to the Facility Hardship Program for purposes of providing clarity, consistency, and improve user readability of School Facility Program Regulation Section 1859.82.

AUTHORITY

See Attachment B.

BACKGROUND

The Facility Hardship Program began in 1998 with the creation of the School Facility Program. In 2006, California voters approved Proposition 1D which provided funding to create the Seismic Mitigation Program.

The Facility Hardship Program provides funding assistance in cases of extraordinary circumstances that have caused an imminent health and safety threat to students and staff. Extraordinary circumstances may include seismic mitigation of the Most Vulnerable Category 2 facilities. Qualified projects may receive Facility Hardship funding to repair, replace, or construct School Buildings or related required components.

The current regulations for the Facility Hardship and Seismic Mitigation Program are included as Attachment C.

OVERVIEW OF PROPOSED CHANGES

To provide increased clarity to school districts, expand flexibility in the program, and increase funding for some areas of the Program, the following improvements to the Program are being presented for consideration:

Funding Changes

1. Cost estimates for mitigation costs can be based on the higher F3 cost outlined in the Current Construction for Remodeling and Repair in accordance to Sierra West, rather than F2.
2. Ability for projects that receive rehabilitation funding to request the Geographic Percentage Factor in accordance with SFP Regulation Section 1859.83(a).
3. Replacement funding may be used for either replacement or rehabilitation work at the discretion of the district without an appeal to the State Allocation Board.
4. Differentiation between standard classrooms and specialized classrooms when considering school capacity and funding.

OVERVIEW OF PROPOSED CHANGES (cont.)

Funding Changes cont.

5. Replacement funding for classrooms based on square footage guidelines in Title 5.
6. Addition of a minimum square footage amount for replacement for Library area.
7. Flexibility in enrollment reporting years used to calculate replacement grant amount.
8. Clarification that funding is available for Portable Classrooms and the addition of a proportionate funding calculation.

Program Criteria

1. Increased clarification on what types of projects qualify for the Program in accordance with Facility Hardship criteria outlined in Education Code 17075.10 as compared to modernization or routine maintenance projects.
2. Focus funding on current health and safety threats rather than project reimbursement.
3. Increased clarification on what is needed for applications requesting funding for mold, lead, or friable asbestos mitigation.
4. Clarify that only applications for the mitigation of School Buildings require the submittal of a Cost Benefit Analysis.
5. Clarification for when funding of a Facility Hardship application will influence the district's modernization or new construction eligibility.
6. Provide clarified criteria for what to include in detailed cost estimates to maximize efficiency in application processing and approval of funding.
7. Clarification on application submittal criteria and funding calculations for Facility Hardship applications requesting advanced funding for design costs.

Organization

1. Combining Facility Hardship replacement and rehabilitation application criteria under one Section of the regulations rather than two (School Facility Program Regulation Sections 1859.82 and 1859.83(e)).
2. The separation of the Facility Hardship and Seismic Mitigation Program criteria into two different Sections.
3. Increased enumeration for clarification on Section references.
4. Provide a clear outline of all the documents that are necessary for a complete application submittal.

Proposed regulation text has been included as Attachment A. The language will be finalized after feedback from stakeholders.

TOPICS FOR NEXT MEETING

- Seismic Mitigation Program draft regulations.
- Updates to Facility Hardship regulations based on stakeholder feedback.
- Clarification on application submittal requirements for mold mitigation.
- Funding amounts for portable replacement.
- Cost estimate form.

ATTACHMENT B

AUTHORITY REFERENCE

Education Code Section 17075.10.

- (a) A school district may apply for hardship assistance in cases of extraordinary circumstances. Extraordinary circumstances may include, but are not limited to, the need to repair, reconstruct, or replace the most vulnerable school facilities that are identified as a Category 2 building, as defined in the report submitted pursuant to Section 17317, determined by the department to pose an unacceptable risk of injury to its occupants in the event of a seismic event.
- (b) A school district applying for hardship state funding under this article shall comply with either paragraph (1) or (2).
 - (1) Demonstrate both of the following:
 - (A) That due to extreme financial, disaster-related, or other hardship the school district has unmet need for pupil housing.
 - (B) That the school district is not financially capable of providing the matching funds otherwise required for state participation, that the district has made all reasonable efforts to impose all levels of local debt capacity and development fees, and that the school district is, therefore, unable to participate in the program pursuant to this chapter except as set forth in this article.
 - (2) Demonstrate that due to unusual circumstances that are beyond the control of the district, excessive costs need to be incurred in the construction of school facilities. Funds for the purpose of seismic mitigation work or facility replacement pursuant to this section shall be allocated by the board on a 50-percent state share basis from funds reserved for that purpose in any bond approved by the voters after January 1, 2006. If the board determines that the seismic mitigation work of a school building would require funding that is greater than 50 percent of the funds required to construct a new facility, the school district shall be eligible for funding to construct a new facility under this chapter.
- (c) The board shall review the increased costs that may be uniquely associated with urban construction and shall adjust the per-pupil grant for new construction or modernization hardship applications as necessary to accommodate those costs. The board shall adopt regulations setting forth the standards, methodology, and a schedule of allowable adjustments, for the urban adjustment factor established pursuant to this subdivision.
(Amended by Stats. 2008, Ch. 179, Sec. 41. Effective January 1, 2009.)

ATTACHMENT C

SFP Regulation Section 1859.82. Facility Hardship.

A district is eligible for facility hardship funding to replace or construct new classrooms and related facilities if the district demonstrates there is an unmet need for pupil housing or the condition of the facilities, or the lack of facilities, is a threat to the health and safety of the pupils. A facility hardship is available for:

(a) New classrooms and/or subsidiary facilities (corridors, toilets, kitchens and other non-classroom space) or replacement facilities if either (1) or (2) are met:

(1) The facilities are needed to ensure the health and safety of the pupils if the district can demonstrate to the satisfaction of the Board that the health and safety of the pupils is at risk. Factors to be considered by the Board shall include the close proximity to a major freeway, airport, electrical facility, high power transmission lines, dam, pipeline, industrial facility, adverse air quality emission or other health and safety risks, including structural deficiencies required by the DSA to be repaired, seismic mitigation of the Most Vulnerable Category 2 Buildings as verified by the DSA, traffic safety or because the pupils reside in remote areas of the district and transportation to existing facilities is not possible or poses a health and safety risk. The total available funding for seismic mitigation related and ancillary costs for the Most Vulnerable Category 2 Buildings is \$199.5 million.

(A) If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to the OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the Current Replacement Cost of the classroom or related facility. The cost/benefit analysis may include applicable site development costs as outlined in Section 1859.76. The cost/benefit analysis shall not include increased costs associated with high performance related costs or components, with the exception of those high performance components that were pre-existing in the classroom or related facility. If the cost to remain in the classroom or related facility is less than 50 percent of the Current Replacement Cost, the district may qualify for either grant below, as applicable:

1. Modernization Excessive Cost Hardship Grant for Rehabilitation Costs pursuant to Section 1859.83(e), or 2. A grant not to exceed 50 percent of the cost estimate that has been reviewed and approved by the OPSC and approved by the board for seismic rehabilitation.

(B) If the request is for replacement facilities that included structural and/or seismic deficiencies, the cost/benefit analysis must also include a report from a licensed design professional identifying the minimum work necessary to obtain DSA approval. The report must contain a detailed cost estimate of the repairs. The cost/benefit analysis shall not include increased costs associated with high performance related costs or components, with the exception of those high performance components that were pre-existing in the classroom or related facility. The report and cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Construction Cost Publication and, at the OPSC's discretion, the DSA. For seismic deficiencies of the Most Vulnerable Category 2 Buildings, the report and the cost estimate for the minimum work necessary must be reviewed by the DSA.

(C) The seismic mitigation projects must meet all of the following requirements:

1. The construction contract was executed on or after May 20, 2006;
2. The project funding provided shall be for the minimum work necessary to obtain DSA approval;

3. The building is designed for occupancy by students and staff; and
4. The DSA concurs with a report by a structural engineer, which identifies structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event. If the unacceptable risk of injury is due to the presence of faulting, liquefaction or landslide, these hazards must be documented by a geologic hazards report prepared by an engineering geologist in accordance with California Building Code, Part 2, Chapter 18, section 1803A and with the concurrence of the California Geological Survey.

The structural engineer's report shall conform to the guidelines prepared by the DSA, in accordance with Education Code Section 17310.

- (D) Notwithstanding Sections 1859.93 and 1859.93.1, all applications for the seismic mitigation of the Most Vulnerable Category 2 Buildings shall be funded in the order of receipt of an Approved Application for funding.
- (E) If an Application for the seismic mitigation of the Most Vulnerable Category 2 Buildings cannot be fully apportioned or approved for placement on the Unfunded List (Lack of AB 55 Loans) because insufficient funding is available, the applicant may accept the remaining funding amount or refuse funding entirely. If partial funding is accepted, the applicant will remain eligible for the additional amount of seismic funds, up to the initial funding request, if funds become available within the Seismic Mitigation Program authority amount of \$199.5 million. If funding is refused, the Board shall consider funding the next project eligible for funding pursuant to this Section.

For any Application for the seismic mitigation of the Most Vulnerable Category 2 Buildings not apportioned or approved for placement on the Unfunded List (Lack of AB 55 Loans) pursuant to this Section, the application shall be returned to the applicant.

- (2) The classroom or related facility was lost or destroyed as a result of a disaster such as fire, flood or earthquake and the district has demonstrated satisfactorily to the Board that the classroom or related facility was uninsurable or the cost for insurance was prohibitive.

If the district qualifies for a new or replacement school pursuant to either (1) or (2) above, the district is eligible for a New Construction Grant as a new construction project for the lesser of the pupils housed in the replaced facility based on loading standards pursuant to Education Code Section 17071.25(a)(2) or the latest CBEDS enrollment at the site.

If the district qualifies for replacement facilities on the same site pursuant to either (1) or (2) above, the district is eligible for funding as a new construction project. Replacement facilities shall be allowed in accordance with the square footage amounts provided in the chart in Section (b) below. If the facility eligible for replacement is not shown in the chart in Section (b) below, the replacement facility shall be limited to the square footage replaced. The grant amount provided shall be \$173.30 per square foot for Toilet Facilities and \$96.30 per square foot for all other facilities. Additional funding may be provided for applicable site development costs pursuant to Section 1859.76, New Construction Excessive Cost Hardship Grant(s) pursuant to Section 1859.83(a), (b) or (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section 1859.73, project assistance pursuant to Section 1859.73.1,

and high performance incentive pursuant to Section 1859.77.4 provided that the high performance points attained are related to the scope of the Facility Hardship project. The amounts shown will be adjusted in the manner prescribed in Section 1859.71. For any project funded in whole or in part from any State bond funds for which the construction contract is awarded prior to January 1, 2012, the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4(a). For any project for which the construction contract is awarded on or after January 1, 2012, the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations established in Section 1859.71.4(d).

Any grants provided pursuant to either (1) or (2) above will be reduced for any space deemed available by the Board in the district, the HSAA or Super HSAA that could be used to house some or all of the displaced pupils, fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

1859.2 Definitions

“School Building” for the purposes of these regulations shall have the same definition as Education Code Section 17283, and shall also exclude any districtwide administrative facilities.

“Portable Classroom Replacement Grant” - \$

“Portable Toilet Replacement Grant” -\$

1859.82 Facility Hardship Program and Seismic Mitigation Program

A school district may apply for Facility Hardship, including Seismic Mitigation, Program assistance in cases of extraordinary circumstances that have caused an imminent health and safety threat. Districts must demonstrate that there is an existing health and safety threat to students and staff due to unusual circumstances that are beyond their control.

1859.82.1 Facility Hardship Program

A district is eligible for Facility Hardship funding to repair, replace, or construct School Buildings or related required components that are currently causing a health and safety threat to the students and/or staff. The Facility Hardship Program does not fund modernization, routine maintenance or repair, issues resulting from the deferment of routine maintenance or repair, lack of current code compliance, or the addition of components that were not previously existing.

Applications requesting Facility Hardship Program funding shall be submitted to OPSC within 12 months of DSA approval for the mitigation of the identified health and safety threat. If the project does not require DSA approval, then the Approved Application for funding must be received within the 6 months following project completion, as demonstrated by the earliest of the following: the date that the notice of completion of the project has been filed; occupancy of any portion of the project Facility; and when the School Buildings or components of the School Buildings in the project are currently being used by the district.

- (a) Districts may qualify for funding to replace or construct new School Buildings. Factors to be considered by the Board to determine eligibility for Facility Hardship program replacement funding may include, but are not limited to:
- (1) Damage or loss as a result of a natural disaster such as a fire, flood, or earthquake.
 - (2) Proximity to a major freeway, airport, electrical facility, high power transmission lines, dam, pipeline, or industrial facility.
 - (3) Adverse air quality.
 - (4) Structural deficiency to the School Building, and
 - (5) Site conditions such as faulting, toxic soil, or liquefaction.

- (6) Or other factors approved by the Board.
- (b) To qualify for replacement funding for School Buildings, the District must submit an Approved Application for funding and either (1) or (2) below:
 - (1) For School Buildings that are lost, destroyed, or unable to be repaired, the district must submit:
 - (A) A report from an industry specialist that states that the only way to mitigate the health and safety threat is to replace the School Building(s).
 - (B) Documentation which demonstrates that the facilities in the project must be reconstructed in order to house the current enrollment of the District.
 - (2) For permanent School Buildings where the cost to rehabilitate the School Building(s) exceeds 50 percent of the Current Replacement Cost, or for Portable Classrooms where the cost to rehabilitate exceeds the Portable Replacement Grant or Portable Toilet Replacement Grant, the district must submit:
 - (A) A report by an industry specialist that outlines the minimum work to mitigate the health and safety threat and remain in the existing School Building. If the threat is due to the presence of mold, OPSC must conduct a site visit to view the damage prior to remediation. If the remediation is done prior to a site visit, the application will be ineligible for funding. Requests for asbestos mitigation must include lab test results indicating the asbestos is currently friable, and provides the location, material, and testing methods used.
 - (B) A letter of concurrence from a governmental agency that has jurisdiction or expertise over the field in which the health and safety threat originates. The letter must concur with the industry specialist report on both 1. and 2. below:
 - 1. An imminent health and safety threat to student and/or staff exists.
 - 2. The mitigation measures outlined in the industry specialist report are the minimum measures required to mitigate the threat and allow the continued use of the School Building(s).
 - (C) Applications must include a detailed cost estimate that meets the following requirements:
 - 1. The cost estimate must use most current edition of the Current Construction for Remodeling and Repair publication by Sierra West Publishing. The cost estimate shall not include contract amounts, actual costs paid, or bid amounts, unless the scope of work is not contained in the most current edition of the Current Construction for Remodeling and Repair publication by Sierra West Publishing. OPSC may accept other supporting documentation for scopes of work not contained in the Sierra West Current Construction for Remodeling and Repair publication.
 - 2. All requested line items shall include Construction Specifications Institute reference number, description, F3 total unit cost amount, and quantity. Any line items that include amounts in lump-sum formats will not be reviewed or approved.
 - 3. The work in the cost estimate shall match the work outlined in the report provided by the licensed design specialist for the minimum work required to mitigate the health and safety threat.
 - 4. The estimate submitted to OPSC shall be for the same scope of work reviewed and concurred to by DSA, and that is referenced in the governmental concurrence letter for the project.
 - 5. The cost estimate may also include any work required by DSA to obtain plan approval.

- (D) A cost-benefit analysis that demonstrates the Current Replacement Cost of the existing Square Footage of the School Building exceeds 50 percent of the minimum work required to mitigate the health and safety threat and remain in the School Building. The minimum work required may include work required by Division of the State Architect to gain approval for the mitigation project.
- (3) Applications for Facility Hardship replacement funding that do not meet the requirements or (1) or (2) above shall be returned without review. Request for exceptions to these requirements shall not constitute a valid appeal request to the Board.
- (4) If the district qualifies for funding to replace their School Buildings, the district is eligible to receive funding for the project as follows:
- (A) If the district is required to replace all School Buildings on site, the district is eligible to receive funding as follows:
1. A New Construction Grant will be provided for the lesser of (2) or (3) below.
 2. The classroom capacity determined by multiplying the number of classrooms on the project site being replaced by:
 - a. 25 for each K-6 classroom.
 - b. 27 for each 7-12 classroom.
 - c. 13 for each Non-Severely Disabled Individuals with Exceptional Needs classroom.
 - d. 9 for each Severely Disabled Individuals with Exceptional Needs classroom.
 3. The higher of a. or b. below, or c.:
 - a. The CBEDS of the current enrollment reporting year at the existing project site.
 - b. The average CBEDS of the current and two previous enrollment reporting years at the existing project site.
 - c. If the site is closed, use the CBEDS of the last enrollment reporting year in which the site was open.
 4. Additional funding may be provided, as applicable, for:
 - a. Fire Code Requirements pursuant to 1859.71.2,
 - b. therapy room pursuant to Section 1859.72,
 - c. multilevel construction pursuant to Section 1859.73,
 - d. project assistance pursuant to Section 1859.73.1.
 - e. replacement with multistory construction pursuant to Section 1859.73.2,
 - f. site acquisition pursuant to 1859.74,
 - g. Hazardous Waste Removal pursuant to 1859.74.2,
 - h. Applicable site development costs pursuant to 1859.76, and
 - i. New Construction Excessive Cost Hardship Grant(s) for Geographic Location pursuant to Section 1859.83(a),
 - j. New Construction Excessive Cost Hardship Grant(s) for Small Size Projects pursuant to Section 1859.83(b)
 - k. New Construction Excessive Cost Hardship Grant(s) for New School Projects pursuant to Section 1859.83(c)
 - l. New Construction Excessive Cost Hardship Grant(s) Urban Location, Security Requirements and Impacted Site pursuant to Section 1859.83(d)
- (B) If the district qualifies to replace some but not all School Buildings on the project site, funding will be based on replacement square footage of the School Buildings justified by enrollment at the project site.
1. The enrollment at the project site, is determined by the higher of a. or b. below, or c.:
 - a. The CBEDS of the current enrollment reporting year at the existing project site.

- b. The average CBEDS of the current and two previous enrollment reporting years at the existing project site.
 - c. If the site is closed, use the CBEDS of the last enrollment reporting year in which the site was open.
2. Using the enrollment determined in 1. any permanent replacement Square Footage provided will be calculated in accordance to a., b., c., and the chart below.
- a. If the actual square footage being constructed in the replacement project is less than the amount allowable in the chart for each facility type, the replacement Square Footage shall be limited to the actual square footage constructed.
 - b. Non-specialized classroom space provided is limited by the enrollment determined in 1. rounded up to the nearest whole classroom based on 1859.82.1(a)(4)(A), and then reduced for any classroom space available at the site to house the pupils at the site.
 - c. Specialized classrooms with permanent equipment such as auto shop, metal shop, music rooms, consumer home economic laboratories, industrial technology laboratories, or science laboratories will qualify for funding if used for its specialized purpose in the current or previous enrollment reporting year.

Facility	Elementary School Pupils	Middle School Pupils	High School Pupils
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum 4,000 sq. ft.	5.3 sq. ft. per pupil minimum 5,000 sq. ft.	6.3 sq. ft. per pupil minimum 8,200 sq. ft.
Toilet	3 sq. ft. per pupil minimum 300 sq. ft.	4 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
Gymnasium (includes shower/locker area)	N/A	12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.	15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.
School Administration	3 sq. ft. per pupil minimum 600 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft.	4 sq. ft. per pupil minimum 800 sq. ft.
Library/Media Center	2.3 sq. ft. per pupil plus 600 sq. ft., Minimum 960 sq. ft.	3.3 sq. ft. per pupil plus 600 sq. ft. Minimum 960 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft. Minimum 960 sq. ft.
Severe Classrooms	Sq. ft. outlined in EC Section 17047.	Sq. ft. outlined in EC Section 17047.	Sq. ft. outlined in EC Section 17047.
Non-Severe Classrooms	Sq. ft. outlined in EC Section 17047.	Sq. ft. outlined in EC Section 17047.	Sq. ft. outlined in EC Section 17047.
Kindergarten Classrooms (including Transitional Kindergarten)	1,350 sq. ft for each replacement classroom.	NA	NA
Classrooms (1 st -12 grade)	960 sq. ft for each replacement classroom	960 sq. ft for each replacement classroom	960 sq. ft for each replacement classroom
Computer instructional support area and Industrial and Technology/Education Laboratory)	960 sq. ft for each replacement classroom.	960 sq. ft for each replacement classroom.	960 sq. ft for each replacement classroom.
Laboratory Classrooms (including science and consumer home economics. Does not include Industrial and Technology/Education Laboratory)	1,300 sq. ft for each replacement classroom.	1,300 sq. ft for each replacement classroom.	1,300 sq. ft for each replacement classroom.

- d. The resulting Square Footage amount(s) shall be multiplied by \$96.30 per square foot for all non-Toilet Facilities and by \$173.30 per square foot for Toilet Facilities (includes shower/locker area and physical therapy area for Individuals with Exceptional Needs). The amounts shown will be adjusted in the manner prescribed in Section 1859.71.
- 3. Additional funding may be provided, as applicable, for:
 - a. therapy room pursuant to Section 1859.72,
 - b. multilevel construction pursuant to Section 1859.73,
 - c. project assistance pursuant to Section 1859.73.1.
 - d. replacement with multistory construction pursuant to Section 1859.73.2,
 - e. site acquisition pursuant to 1859.74,
 - f. Hazardous Waste Removal pursuant to 1859.74.2,
 - g. Applicable site development costs pursuant to 1859.76, and
 - h. New Construction Excessive Cost Hardship Grant(s) for Geographic Location pursuant to Section 1859.83(a),
 - i. New Construction Excessive Cost Hardship Grant(s) for Small Size Projects pursuant to Section 1859.83(b)
 - j. New Construction Excessive Cost Hardship Grant(s) Urban Location, Security Requirements and Impacted Site pursuant to Section 1859.83(d)
- (C) Using the enrollment determined in 1. any Portable Classroom replacement funding provided will be calculated using the Portable Replacement Grant. Any portable toilet facilities provided will be calculated using the Portable Toilet Replacement Grant.
 - 1. Additional funding may be provided, as applicable, for:
 - a. Fire Code Requirements pursuant to 1859.71.2,
 - b. therapy room pursuant to Section 1859.72,
 - c. project assistance pursuant to Section 1859.73.1.
 - d. site acquisition pursuant to 1859.74,
 - e. Hazardous Waste Removal pursuant to 1859.74.2,
 - f. Applicable site development costs pursuant to 1859.76, and
 - g. New Construction Excessive Cost Hardship Grant(s) for Geographic Location pursuant to Section 1859.83(a),
 - h. New Construction Excessive Cost Hardship Grant(s) for Small Size Projects pursuant to Section 1859.83(b)
 - i. New Construction Excessive Cost Hardship Grant(s) Urban Location, Security Requirements and Impacted Site pursuant to Section 1859.83(d)
- (D) If the district qualifies for replacement funding, the funding may be used to rehabilitate the facility as long as the qualifying health and safety threat is fully mitigated. If replacement funding is used for rehabilitation work, the District is limited to requesting supplemental grants, as applicable, for:
 - 1. Fire Code Requirements pursuant to 1859.71.2 if the funding is based on a per-pupil basis pursuant to 1859.82.1(b)(4)(A),
 - 2. Therapy room pursuant to Section 1859.72,
 - 3. Project assistance pursuant to Section 1859.73.1.
 - 4. New Construction Excessive Cost Hardship Grant(s) for Geographic Location pursuant to Section 1859.83(a),
 - 5. New Construction Excessive Cost Hardship Grant(s) for Small Size Projects pursuant to Section 1859.83(b)

6. New Construction Excessive Cost Hardship Grant(s) Urban Location, Security Requirements and Impacted Site pursuant to Section 1859.83(d)
 - (c) Districts may qualify for funding to rehabilitate their School Buildings, components of School Buildings, or school site conditions. Factors to be considered by the Board may include (1) or (2) below:
 - (1) School Buildings where the minimum cost to mitigate the health and safety threat and remain in the School Building is 50 percent or less of the Current Replacement Cost.
 - (2) Components of the School Buildings or school sites conditions are causing a health and safety threat to students and/or staff. Health and safety threats that may qualify include:
 - (A) School Building structural deficiency.
 - (B) Hazardous conditions such as methane, lead, or asbestos mitigation.
 - (C) Unsafe water supply.
 - (D) Site conditions such as faulting, toxic soil, landslide risk, or liquefaction.
 - (d) To qualify for Facility Hardship rehabilitation funding for School Buildings or components of School Buildings, the District must submit an Approved Application for funding for as well as all documents outlined below. Applications that do not meet the requirements below shall be returned without review. Request for exceptions to these requirements shall not constitute a valid appeal request to the Board.
 - (1) A report by an industry specialist that outlines the minimum work to mitigate the health and safety threat and remain in the existing School Building. If the threat is due to the presence of mold, OPSC must conduct a site visit to view the damage prior to remediation. If the remediation is done prior to a site visit, the application will be ineligible for funding. Requests for asbestos mitigation must include lab test results indicating the asbestos is currently friable, and provides the location, material, and testing methods used.
 - (2) A letter of concurrence from a governmental agency that has jurisdiction or expertise over the field in which the health and safety threat originates. The letter must concur with the industry specialist report on both 1. and 2. below:
 - (A) An imminent health and safety threat to student and/or staff exists.
 - (B) The mitigation measures outlined in the industry specialist report are the minimum measures required to mitigate the threat and allow the continued use of the School Building(s) or component.
 - (3) Applications must include a detailed cost estimate that meets the following requirements:
 - (A) The cost estimate must use the most current edition of the Current Construction for Remodeling and Repair publication by Sierra West Publishing. The cost estimate shall not include contracted amounts, actual costs paid, or bid amounts, unless the scope of work is not contained in the most current edition of the Current Construction for Remodeling and Repair publication by Sierra West Publishing. OPSC may also accept other supporting documentation for scope of work not contained in the Sierra West Current Construction for Remodeling and Repair publication.
 - (B) All requested line items shall include Construction Specifications Institute (CSI) reference number, description, F3 total unit cost amount, and quantity. Any line

items that include amounts in lump-sum formats will not be reviewed and will be disallowed.

- (C) The work in the cost estimate shall match the work outlined in the report provided by the licensed design specialist for the minimum work required to mitigate the health and safety threat.
- (D) If the project requires DSA plan approval, the estimate submitted to OPSC shall be for the same scope of work reviewed and concurred to by DSA, and that is referenced in the governmental concurrence letter for the project.
- (E) The cost estimate may also include any associated work required by DSA as a result of the mitigation of the health and safety threat.
- (4) Facility Hardship applications for School Buildings must also include a cost-benefit analysis. The cost estimate shall be completed based on the scope of the project as outlined below:
 - (A) For permanent buildings, the district must demonstrate the Current Replacement Cost of the existing Square Footage of the School Building is less than 50 percent of the minimum work required to mitigate the health and safety threat and remain in the School Building. The minimum work required may include work required by Division of the State Architect to gain approval for the mitigation project.
 - (B) For Portable School Buildings, the district must demonstrate the minimum work required to mitigate the health and safety threat and remain in the portable building is less than the Portable Replacement Cost. The minimum work required may also include any associated work required by DSA as a result of the mitigation of the health and safety threat.
 - (C) Applications that are for necessary components of a site or School Building, such as hazardous water supply, methane mitigation, faulting, liquefaction, landslide potential, friable asbestos, do not require a Cost Benefit Analysis to be submitted.
- (5) If the district qualifies for funding to rehabilitate or repair their permanent School Buildings, the District is eligible to receive funding for the project as follows:
 - (A) Rehabilitation Costs provided shall be 60 percent of the eligible costs in the cost estimate required in Section 1859.82.1(d)(3)(A) that has been reviewed by the OPSC and approved by the Board.
 - (B) Applicable supplemental grants may be provided for the following:
 - 1. project assistance pursuant to Section 1859.73.1.
 - 2. geographic percentage factor pursuant to 1859.83(a)
 - (e) Any grants provided in accordance to (b) or (c) above shall be adjusted as follows:
 - (1) For projects funded in accordance to (a) above:
 - (A) Reduced for any space deemed available by the Board in the district, HSAA, or Super HSAA that could be used to house some or all of the displaced pupils in the project,
 - (B) Reduced by 50 percent of any insurance proceeds collected by the district for the project. Any insurance proceeds collected after Apportionment shall be reported to OPSC and the Apportionment will be amended accordingly.
 - (C) Reduced by 50 percent of the net proceeds available from the disposition of the property and/or facilities in the project.
 - (2) For projects funded in accordance to (c) above:
 - (A) Reduced for any space available in the district, HSAA, or Super HSAA that could be used to house some or all of the displaced pupils in the project,
 - (B) 60 percent of any insurance proceeds collectable by the district for the project.

- (C) 60 percent of the net proceeds available from the disposition of any displaced facilities in the project.
- (f) Adjustments to School Facility Program per-pupil grants.
- (1) The district's new construction eligibility will be adjusted for any net increase in classroom capacity in the project pursuant to Section 1859.51(i).
- (2) The baseline eligibility for modernization as provided in Section 1859.60 will be adjusted for any funding received in accordance to (b) above. The age of the classroom or square footage in the project shall be reset to the date of the Apportionment for the project.
- (g) Applications requesting advanced funding for design
Districts who qualify for Financial Hardship assistance may file an application for design funding and determination of program eligibility in advance of construction funding.
- (1) Advanced funding for design shall be provided based on the total estimated project cost, as determined by 1859.82.1(b) for replacement funding or (c) for rehabilitation, and will be provided in accordance to SFP Regulation Section 1859.81.1(e).
- (2) The District is required to submit an Approved Application for funding and an updated cost estimate for projects funded in accordance to 1859.82.1(c) or site development worksheet for projects funded in accordance to 1859.82.1(b), that reflects the final approved drawings for the project within:
 - (A) 18 months if the funding will be for repair or replacement on the same site.
 - (B) 24 months if the replacement School Building(s) will be located on a replacement site.
- (3) Upon receipt of the Approved Application, costs for building replacement and associated site development will be provided in accordance to the final DSA approved drawings and Regulation Section 1859.82.1(b).