

OFFICE OF PUBLIC SCHOOL CONSTRUCTION STAKEHOLDER MEETING
September 8, 2021

Eligibility Criteria and Funding Process for the
California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant
Program

PURPOSE

To discuss and receive stakeholder input regarding program changes to the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program Full-Day Kindergarten Facilities Grant Program (Program) as a result of Assembly Bill 130, Chapter 44, Statutes of 2021.

DESCRIPTION

Assembly Bill (AB) 130 amended Education Code (EC) Section 17375 (Article 7, Chapter 3 of Part 10.5 of Division 1 of Title 1), allocated \$490 million, and modified program eligibility and funding criteria for the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program (Program). The Program allows school districts that lack the facilities to provide full-day preschool, transitional kindergarten, and kindergarten programs to apply for one-time grants to construct new school facilities or retrofit existing school facilities. The statute changes require the State Allocation Board (SAB) to amend the existing program regulations, forms, and the grant agreement to administer the grant program according to new requirements.

AUTHORITY

See Attachment A.

BACKGROUND

AB 130, the Education Finance: Education Omnibus Trailer Bill, was approved by the Governor and chaptered on July 9, 2021. This bill appropriated \$490 million from the General Fund from the 2021-2022 budget to the SAB to provide one-time grants to school districts that lack the facilities to provide full-day preschool, transitional kindergarten, and kindergarten programs to apply for one-time grants to construct new school facilities or retrofit existing school facilities.

The amended statute adds eligibility for school districts to offer or expand the transitional kindergarten program in addition to the full-day kindergarten programs. The statute also allows for school districts and county offices of education (COE) to offer or expand California state preschool programs.

STAFF ANALYSIS

Staff has identified necessary regulatory amendments to implement the statutory changes to program eligibility, funding criteria, eligible expenditures and use of savings. (Attachment B)

Who May Apply

EC Section 17375(a)

The California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program is hereby established, under the administration of the State Allocation Board pursuant to the requirements of this section, to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing transitional kindergarten classrooms and full-day kindergarten classrooms pursuant to Section 8973, and for the construction of new preschool classrooms, the modernization of existing preschool classrooms, or the modernization of existing kindergarten and grade 1 to 12, inclusive, classrooms that would be converted to provide California state preschool programs operated by school districts on a public schoolsite, pursuant to this section.

School districts serving kindergarten pupils may apply to the Program. County Offices of Education (COEs), Local Education Agencies (LEAs) and charter schools may not apply for kindergarten programs.

COEs and charter schools are not included in EC Section 17375(a). Because COEs and charter schools are not expressly identified in statute, they may not apply for transitional or full-day kindergarten.

Note: Under the School Facility Program (SFP), EC Sections 17070.15(m) expressly defines “school district” as a school district or COE and 17073.25 expressly defines “school districts” as a school district or COE, or CDE (for modernization projects for facilities of the California School for the Deaf and the California School for the Blind). However, Article 7 of Chapter 3 of Part 10.5 of Division 1 of Title 1 will not fall within SFP statute (Article 1 of Chapter 12.5 of Part 10).

County Offices of Education and school districts offering or planning to offer programs for preschool pupils may apply for preschool facilities grants. Charter schools may not apply.

Program Eligibility Criteria

Program funding will be open to all school districts that do not have the facilities to adequately house state preschool, transitional kindergarten and kindergarten students that currently attend or will attend a full-day program.

OPSC will only provide Program funding if the application was received by OPSC prior to the date of any classroom included in the construction contract, being occupied by pupils. After the date of occupancy of any classroom in the construction contract, the project will be ineligible for funding. The occupancy requirement must be met for the filing round in which the district is seeking funding.

Application Submittal Requirements - All programs

In order to receive Program funding, school districts must submit documentation to identify the current state preschool, transitional kindergarten and/or kindergarten enrollment and classroom inventory at a site.

All projects must submit an *Application for Funding* (Form SAB 70-01), project narrative with a detailed description of the project, California Department of Education (CDE) Plan Approval* Letter, Division of the State Architect (DSA) Plan Approval letter, site map, and enrollment using California Longitudinal Pupil Achievement Data System (CALPADS).

* OPSC is confirming with CDE and the Department of Social Services which entity will issue plan approval letters for preschool programs.

Statute now requires school districts to provide schoolsite enrollment data for the year in which the application(s) is processed as well as enrollment data for the three immediately preceding years. School districts will provide this information on the Form SAB 70-01, which will be presented at a future stakeholder meeting. School districts will also be required to submit CALPADs data to verify enrollment.

School districts will need to provide detailed site maps and project narratives. On the site maps, school districts must note the current use of all facilities on the site. Any facilities that the school district plans to retrofit with Program funding must identify the use of all facilities on the site following the project, specifically noting, which state preschool, transitional kindergarten and kindergarten classrooms will and will not be used for full-day state preschool, transitional kindergarten and kindergarten instruction.

OPSC will use the enrollment data and site map to verify a schoolsite's overall need for Program funding based on enrollment patterns and capacity at the site. Part of the verification process will include consulting with CDE to determine if an application should be limited to a retrofit project.

Full-Day Kindergarten Programs

If the school district is applying for Program funds for full-day kindergarten facilities, then the school district must provide a full-day kindergarten program and submit a school board certification that makes a formal declaration that full-day kindergarten will be offered at the site, by the completion of the project.

If a school district is currently approved by their school board to provide full-day kindergarten, they must submit a copy of the declaration adopted by the school board with their application that demonstrates compliance with EC Section 8973.

Transitional Kindergarten Programs

If the school district is applying for Program funds for transitional kindergarten, then the school district must submit a school board certification, pursuant to EC Section 17375(e)(2), at the submittal of the application, that makes a formal declaration that transitional kindergarten will be offered or expands the program at the site that demonstrates compliance with EC Section 8973.

Preschool Programs

If the school district or COE is applying for Program funds for preschool facilities, then the school district must submit a school board certification at the submittal of the project, that makes a formal declaration that preschool will be offered at the sites required by EC Section 17375(e)(3). Additionally, the district or COE must submit its county's most recent childcare needs assessments conducted by its regional local planning council for preschool age children, and a current or future contract with the CDE to operate a preschool program.

School districts applying for Program funds for facilities for a California state preschool program, must build facilities that are not less than 1,350 square feet. This ensures the prudent use of state funding by creating flexibility for school districts in the future to use the preschool classroom space for transitional kindergarten or kindergarten classrooms as needed.

Program Timeline

Projects without advance release of funds

- An applicant school district submits their Form SAB 70-01, with all required documentation.
- Documentation needed:
 - DSA Plan Approval
 - CDE Plan Approval
 - School Board Resolution, as applicable
 - Project Narrative
 - Site map with all facilities labeled
 - CALPADS enrollment data
- If the application meets all program criteria, OPSC will approve the application, and SAB approves an apportionment.
- The school district will then submit a valid *Fund Release Authorization* (Form SAB 70-02) and grant agreement.
- Once the fund release and grant agreement have been submitted and approved by OPSC, all funds will be released to the school district.
- School districts will have 180 days to complete the entire process from apportionment to full fund release.

Projects with advance release of funds

- After the funding application is received and approved by OPSC then the application will be presented to SAB to receive an approval for apportionment.
- If the school district is requesting an advance for the design of the project and/or site, then they will receive the advance funds after OPSC receives a valid grant agreement.
- Once the school district is ready for the full fund release, they must submit a valid Form SAB 70-02 and grant agreement, and their funds will be released.

- The school district may submit a Form SAB 70-02 in phases for the release of the remaining funds for the site acquisition and then again for the construction, or the site and construction (remaining Full Funding) may be release concurrently with a single Form SAB 70-02 and corresponding Grant Agreement.
- School districts will have one year, from SAB apportionment to the request the full fund release.

All projects will submit the *Expenditure Report* (Form SAB 70-03) at the completion of the project or one year from the date of the fund release, whichever comes first.

In the last round of FDK funding, approximately 91 percent of funded projects were able to meet these deadlines. This is not including projects that were delayed due to COVID impacts. Therefore, staff has not proposed any changes to project timelines.

Funding

\$490 million was appropriated from the General Fund to SAB and deposited in the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program Account. EC Section 17375(j) allows the Department of General Services (DGS) to charge administrative costs against the Full-Day Kindergarten Facilities Account for an amount not to exceed 2.5 percent.

The following amount of funding will be available to applicants for the Program (in millions):

Funds Deposited into the Full-Day Kindergarten Facilities Account	\$490.00
Less: Administrative Costs	\$12.25
Funding Available for Program Applications	\$477.75

OPSC proposes that the \$477.7 million available for Program applications be split between two rounds in the following manner (in millions):

Round	Available Funds
Third Round: March 1, 2022 - March 30, 2022	\$225.00
Fourth Round: March 1, 2023 - March 30, 2023	Remaining funds

A two-round system will account for any school districts that were not ready to submit an application during the third round. Any funds that return to the Program after the 2022 round is completed will be included in the 2023 round. The 2023 round will then be left open for 18 months after the remaining funding is awarded to allow the SAB to continue providing apportionments should funds return to the Program. If necessary, an additional funding round may be considered. Per statute, any funds that remain as of July 1, 2024, will return to the General Fund.

Applications that do not receive an award during the 2022 round will not be processed. The school district may file a new application during the 2023 round. Applications that do not receive an award during the 2023 round will not be processed.

Matching Share Requirement

The existing statute allows for matching share of 75/25 (state/district) for part-day kindergarten programs that are converting from half-day to full-day programs. School districts that already have an existing full-day kindergarten program require a matching share of 50/50 (state/district) for New Construction projects to build new facilities and 60/40 (state/district) for Retrofit projects.

AB 130 amended statute to provide funding for transitional kindergarten or state preschool programs that are offering or expanding an existing program. All transitional kindergarten and state preschool projects require a matching share of 75/25 (state/district).

Except for school districts receiving financial hardship funding, school districts required matching share will be equal to the following:

uProgram	Program Status	New Construction or Retrofit Project?	State Share	District Share*
Full Day Kindergarten	Existing	New Construction	50%	50%
Transitional Kindergarten Preschool Part-Day to Full Day Kindergarten	New/Existing New/Existing Converting	New Construction	75%	25%
Full Day Kindergarten	Existing	Retrofit	60%	40%
Transitional Kindergarten Preschool Part-Day to Full Day Kindergarten	New/Existing New/Existing Converting	Retrofit	75%	25%

*School districts receiving financial hardship funding may not be required to fund all or a portion of the matching share requirement.

Calculating the Program Grant

For projects that are expanding from part-day to full-day kindergarten and qualify for the 75/25 state and school district matching share requirement, the methodology for calculating the Program grant will be executed in two steps. Step one will mirror the current methodology for calculating the grants. Step two will then take the overall project cost calculated in step one and multiply this amount by 75 percent to determine the Total State Share and 25 percent to determine the Total District Share of the project cost.

Example #1: Two Classroom New Construction Project (Using 2021 Pupil Grant Amounts)

Projects Not Converting a Part-Day Kindergarten Program to a Full-Day Kindergarten Program

New Construction Base Grant (\$12,628 X 50 pupil grants)	\$631,400
Site Development (35% of base grant)	\$220,990
Fire Alarm (\$15 X 50 pupil grants)	\$750
Fire Sprinkler (\$212 X 50 pupil grants)	\$10,600
Project Assistance	\$7,723
<i>Total State Share (50%)</i>	<i>\$871,463</i>
<i>Total District Share (50%)</i>	<i>\$871,463</i>
Total Project Cost	\$1,742,926

Projects Converting a Part-Day Kindergarten Programs Converting to a Full-Day Kindergarten Program, or Offering a Transitional Kindergarten or Preschool Program

New Construction Base Grant (\$12,197 X 50 pupil grants)	\$631,400
Site Development (35% of base grant)	\$220,990
Fire Alarm (\$15 X 50 pupil grants)	\$750
Fire Sprinkler (\$205 X 50 pupil grants)	\$10,600
Project Assistance	\$7,723
<i>State Grant(s) Total Cost (50%)</i>	<i>\$871,463</i>
<i>Remaining Cost (50%)</i>	<i>\$871,463</i>
Total Project Cost	\$1,742,926
Total State Share (75%)	\$1,307,195
Total District Share (25%)	\$420,879

Example #2: Two Classroom Retrofit Project (Using 2021 Pupil Grant Amounts)

Projects Not Converting a Part-Day Kindergarten Program to a Full-Day Kindergarten Program

Retrofit Base Grant (\$4,808 X 50 pupil grants)	\$240,400
Site Development (35% of base grant)	\$84,140
Fire Alarm (\$156 X 50 pupil grants)	\$7,800
Project Assistance	\$4,119
<i>Total State Share (60%)</i>	<i>\$201,875</i>
<i>Total District Share (40%)</i>	<i>\$134,584</i>
Total Project Cost	\$336,459

Programs Converting to a Full-Day Kindergarten Program, or Offering a Transitional Kindergarten or Preschool Program

Retrofit Base Grant (\$4,808 X 50 pupil grants)	\$240,400
Site Development (35% of base grant)	\$84,140
Fire Alarm (\$151 X 50 pupil grants)	\$7,800
Project Assistance	\$4,119
<i>State Grant(s) Total Cost (60%)</i>	<i>\$201,875</i>
<i>Remaining Cost (40%)</i>	<i>\$134,584</i>
Total Project Cost	\$336,459
Total State Share (75%)	\$252,344
Total District Share (25%)	\$ 84,115

Other Program Criteria

Current regulations specify funding order and tie breakers for funding rounds that are oversubscribed. OPSC is not proposing any changes to these criteria. Additionally, eligible uses of savings do not change, except to include language to incorporate transitional kindergarten and California state preschool programs as appropriate.

Statute stipulates those new facilities built with any Program funds *will not* reduce a school district's School Facility Program (SFP) new construction eligibility. OPSC has already reversed all reductions made to the SFP new construction eligibility of the school districts that received Program funding in May 2019.

Portable Classrooms

Portable Classrooms are not eligible to be purchased with program funds for New Construction projects. If a school district chooses to, they may retrofit a portable building. Statute states:

A school district shall not use funds to purchase or install portable classrooms. A "portable classroom" means a classroom building of one or more stories that is designed and constructed to be relocatable and transportable over public streets, and for a single-story portable classroom, is designed and constructed for relocation without the separation of the roof or floor from the building and when measured at the most exterior walls, has a floor area that does not exceed 2,000 square feet.

DISCUSSION

Staff is requesting stakeholder feedback on topics outlined above as part of this item:

- *Preschool Enrollment*
How do preschool programs on schoolsites currently document enrollment?
OPSC is determining the best source of documentation for validating current preschool enrollment and projected need. This will allow OPSC to determine the number of classrooms to be funded as part of the project.

OPSC is gathering more information from the appropriate agencies and will be prepared to discuss these findings at the next stakeholder meeting.
- *Sprinkler Grants*
Under the current program, school districts without DSA/CDE approved plans can apply for program funding based on estimated project components. Of the 47 projects funded with the first \$100 million, 44 projects were funded without DSA/CDE plans. Of the 44 projects, all 44 requested Sprinkler Grant funding. However, when DSA/CDE approved plans were submitted, only 13 projects actually included sprinklers in their project. As a result, fund releases were delayed to school districts because it was necessary for the SAB to approved revised funding amounts and for OPSC to send revised Grant Agreement.
- General feedback on the existing program.

CLOSING REMARKS/NEXT STEPS

- OPSC is working closely with CDE and DSS on the most appropriate way to implement the state preschool program and answer the following questions.
 - What is the appropriate loading standard for preschool programs?
- At a future stakeholder meeting OPSC will present proposed revisions to the Program forms and Grant Agreement.
- OPSC is exploring the option of using OPSC Online for the processing of this program.

ATTACHMENT A

Education Code (EC) 17375.

(a) (1) The California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program is hereby established, under the administration of the State Allocation Board pursuant to the requirements of this section, to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing transitional kindergarten classrooms and full-day kindergarten classrooms pursuant to Section 8973, and for the construction of new preschool classrooms, the modernization of existing preschool classrooms, or the modernization of existing kindergarten and grade 1 to 12, inclusive, classrooms that would be converted to provide California state preschool programs operated by school districts on a public schoolsite, pursuant to this section.

(2) Moneys appropriated pursuant to this section shall be deposited in the California Preschool, Transitional Kindergarten, and Full-Day Kindergarten Facilities Account, hereby created in the State Treasury, administered by the State Allocation Board.

(3) For the 2018–19 fiscal year, the sum of one hundred million dollars (\$100,000,000) is hereby appropriated from the General Fund to the State Allocation Board to provide one-time grants as specified in this section, as it read on December 31, 2020.

(4) (A) For the 2021–22 fiscal year, the sum of four hundred ninety million dollars (\$490,000,000) is hereby appropriated from the General Fund to the State Allocation Board to provide one-time grants as specified in this section.

(B) (i) Of the moneys allocated to a school district from the appropriation made pursuant to this paragraph, savings and interest achieved upon full completion of an approved project, and as a result of a school district's efficient and prudent expenditure of the moneys allocated, may be used for professional development or instructional materials to build capacity for the implementation of a California state preschool program, a transitional kindergarten program, a full-day kindergarten program, or high priority capital outlay purposes identified by the school district and in accordance with subdivision (f), associated regulations, and any accompanying grant agreement.

(ii) Notwithstanding any other law, for purposes of the funds appropriated in support of this paragraph only, a school district may retain and use savings and interest pursuant to clause (i) even if it receives financial hardship assistance pursuant to Section 17075.10.

(iii) Savings and interest retained by a school district shall be expended within one year of project completion or returned to the state as required by associated regulations and any accompanying grant agreement.

(5) New school facilities built pursuant to this section shall not be included in the eligibility determination used for purposes of the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10).

(b) (1) The State Allocation Board shall award grants to school districts that lack the facilities to provide transitional kindergarten or full-day kindergarten as required for eligibility pursuant to Sections 17071.25 and 17072.10, that lack facilities that satisfy the design requirements required for new kindergarten classrooms as specified in paragraph (2) of subdivision (h) of Section 14030 of Title 5 of the California Code of Regulations, or that lack the facility capacity to increase California state preschool program services.

(2) Priority for grants shall be given to school districts that meet either of the following criteria:

(A) The school district is financially unable to contribute a portion of, or all of, the local matching share required pursuant to paragraph (3) for a project, and meets the requirements for financial hardship pursuant to Sections 17075.10 and 17075.15. For purposes of this section, paragraph (5) of subdivision (d) of Section 17075.15 shall not apply.

(B) (i) For school districts seeking a transitional kindergarten or full-day kindergarten facilities grant, the school district is located in an underserved community with a high population of pupils who are eligible for free or reduced-price meals pursuant to subdivision (a) of Section 42238.01.

(ii) For school districts seeking a preschool facilities grant, the school district is located in an underserved area, as defined in Section 8208, that is prioritized to receive funds for the California state preschool program according to the prioritization process described in Section 8236.

(3) Except for school districts that meet the requirements for financial hardship pursuant to Section 17075.10 and as specified in paragraph (4), a school district that applies for a grant pursuant to this section for new construction shall provide 50 percent of the cost of the project, and a school district that applies for a grant pursuant to this section for a retrofit project shall provide 40 percent of the cost of the project.

(4) Except for school districts that meet the requirements for financial hardship pursuant to Section 17075.10, a school district shall provide 25 percent of the cost of the project, whether the project is for new construction or retrofit, if the school district does either of the following:

(A) Converts a part-day kindergarten program to a full-day kindergarten program. A school district that was awarded a grant from funds appropriated pursuant to paragraph (3) of subdivision (a) and met the requirements of this paragraph shall have its grant amount adjusted from funds appropriated pursuant to paragraph (4) of subdivision (a) to reflect the requirements of this paragraph.

(B) Commencing with the 2021–22 fiscal year, offers, or expands enrollment in, a California state preschool program or transitional kindergarten program.

(5) (A) A school district seeking a transitional kindergarten or full-day kindergarten facilities grant from moneys in the California Preschool, Transitional Kindergarten, and

Full-Day Kindergarten Facilities Account shall provide the Office of Public School Construction with schoolsite enrollment data for the year in which its application is processed and the three immediately preceding years. The Office of Public School Construction shall use this data to verify the schoolsite's overall need for funding pursuant to this section based on the schoolsite's enrollment patterns. As part of this verification, the Office of Public School Construction, in consultation with the State Department of Education, shall determine if the schoolsite's need for funding shall be limited to retrofit projects.

(B) For a school district seeking a new construction grant for preschool classrooms from moneys in the California Preschool, Transitional Kindergarten, and Full-Day Kindergarten Facilities Account, the school district shall demonstrate that its existing classrooms, including outdoor play areas and equipment, are insufficient to meet the needs of providing preschool, and that the school district's projected enrollment in the preschool program exceeds the current preschool program classroom capacity at the applicable schoolsite. A school district shall use both of the following to demonstrate enrollment for purposes of determining eligibility:

(i) The most recent childcare needs assessment conducted by its regional local planning council for preschool age children.

(ii) A current or future contract with the State Department of Education to operate a preschool program.

(c) The State Allocation Board shall disburse grant funds to school districts with approved applications for new construction or retrofit projects, to the extent funds are available for the state's applicable matching share, if the school district has provided its applicable local matching share, unless the school district meets the requirements for financial hardship pursuant to Section 17075.10, and upon certification by the school district that the school district has entered into a binding contract for completion of the approved project.

(d) The State Allocation Board shall allocate funds to school districts using the same maximum grant eligibility amounts that are used for purposes of the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10), as set forth in Sections 17072.10 and 17072.11 for new construction, and as set forth in Section 17074.10 for retrofit projects.

(e) As a condition of receiving grant funds pursuant to this section, and before the release of those funds, the school district shall do all of the following:

(1) Execute and submit a grant agreement consistent with the applicable sections of the grant agreement specified in Section 1859.90.4 of Title 2 of the California Code of Regulations.

(2) For a school district applying for grant funds for a transitional kindergarten facilities project, pass a resolution at a public meeting of the governing board of the school district stating the school district's intent to offer, or expand enrollment in, a transitional kindergarten program.

(3) For a school district applying for grant funds for a California state preschool program facilities project, pass a resolution at a public meeting of the governing board of the school district stating the school district's intent to expand enrollment in a preschool program and apply for expanded program service funding, and certify that the school district has or will apply for a contract to operate a preschool program before occupying the to-be-constructed or retrofitted facility.

(f) (1) A school district may use grant funds awarded for new construction on costs necessary to adequately house preschool, transitional kindergarten, and kindergarten pupils in an approved project, which shall include only the following:

(A) The costs of design, engineering, testing, inspections, plan checking, construction management, site acquisition and development, evaluation and response action costs relating to hazardous substances at a new or existing schoolsite, demolition, construction, landscaping, necessary utility costs, utility connections and other related fees, equipment including telecommunication equipment to increase school security, furnishings, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.

(B) The costs of acquiring an existing government-owned or privately owned building, or a privately financed school building, and the necessary costs of converting the government-owned or privately owned building for public school use.

(2) (A) A school district may use grant funds awarded for a retrofit project to retrofit an existing school facility to adequately house preschool, transitional kindergarten, and kindergarten pupils, which shall only include the costs of design, engineering, testing, inspection, plan checking, construction management, demolition, construction, necessary utility costs, utility connection and other related fees, the purchase and installation of air-conditioning equipment and insulation materials and related costs, furniture and equipment, including telecommunication equipment to increase school security, fire safety improvements, playground safety improvements, the identification, assessment, or abatement of hazardous asbestos, seismic safety improvements, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.

(B) Grant funds awarded for a retrofit project shall not be used for costs associated with acquisition and development of real property or for routine maintenance and repair.

(3) A school district shall not use funds to purchase or install portable classrooms. For purposes of this article, "portable classroom" means a classroom building of one or more stories that is designed and constructed to be relocatable and transportable over public streets, and for a single-story portable classroom, is designed and constructed for relocation without the separation of the roof or floor from the building and when measured at the most exterior walls, has a floor area that does not exceed 2,000 square feet.

(g) For a modernization grant pursuant to this article to retrofit an existing preschool classroom, including outdoor play areas and installed equipment, the applicable classroom shall comply with all of the following:

(1) The Field Act, as set forth in Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365).

(2) The California Building Standards Code, as set forth in Title 24 of the California Code of Regulations.

(3) The regulations for early learning and care programs as set forth in Chapter 19 (commencing with Section 18000) of Division 1 of Title 5 of, and Chapter 1 (commencing with Section 101151) of Division 12 of Title 22 of, the California Code of Regulations, as applicable.

(4) Written approval from the State Department of Education that the building plans comply with the standards set forth in Subchapter 1 (commencing with Section 14001) of Chapter 13 of Division 1 of Title 5 of the California Code of Regulations.

(h) The State Allocation Board may adopt regulations to implement this section. Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(i) Notwithstanding any other law, a school district shall be subject, with regard to this section, to an audit conducted pursuant to Section 41024.

(j) The Office of Public School Construction shall report to the Director of Finance, and shall post on its internet website, information regarding the use of grant funds that have been made available to school districts during each fiscal year grant funds are disbursed pursuant to this section. A final report shall also be issued after projects have been audited pursuant to Section 41024 and any savings have been spent or returned to the state.

(k) The Department of General Services may charge its administrative costs against the California Preschool, Transitional Kindergarten, and Full-Day Kindergarten Facilities Account, which shall be subject to the approval of the Department of Finance and which shall not exceed 2.5 percent of the account.

(l) Funds made available to school districts pursuant to this article shall supplement, not supplant, existing funds available for school facilities construction.

(m) For purposes of this section, the following definitions apply:

(1) "Kindergarten" includes transitional kindergarten, as defined in Section 48000.

(2) "Preschool classroom" means a preschool classroom used or proposed to be used for instructional purposes in a California state preschool program.

(3) "Preschool program" means a full-day California state preschool program pursuant to Article 7 (commencing with Section 8235) of Chapter 2 of Part 6.

(4) "Schoolsite" or "site" means the project site for which the school district is applying for grants under this article.

(5) "School district" means as follows:

(A) For transitional kindergarten and full-day kindergarten facilities grants, "school district" means a school district.

(B) For preschool facilities grants, "school district" means a school district and county office of education.

(Amended by Stats. 2021, Ch. 44, Sec. 15. (AB 130) Effective July 9, 2021.)

EC Section 8973.

Notwithstanding any other provision of law, the kindergarten schoolday in an early primary program conducted pursuant to Section 8972 may exceed four hours, exclusive of recesses, provided that both of the following conditions are met:

(a) The governing board of a school district declares that the extended-day kindergarten program does not exceed the length of the primary schoolday.

(b) The extended-day kindergarten program takes into account ample opportunity for both active and quiet activities within an integrated, experiential, and developmentally appropriate educational program.

EC Section 8974.

School districts with early primary programs shall provide educational continuity from preschool through kindergarten and grades 1 to 3, inclusive, by accomplishing the following:

(a) Establish connections with public preschool programs, including state preschool, state child development, and federal Head Start programs, to establish a more effective transition of children from preschool to kindergarten.

(b) Promote connections among early primary programs that provide before- and after-school services.

(c) Promote joint activities for teachers and administrators of public preschool programs, including state preschool, state child development, and federal Head Start, and kindergarten and grades 1 to 3, inclusive, in areas such as program planning and staff development training related to developmentally appropriate curriculum and assessment practices for young children.

EC Section 8207.

(a) The Superintendent shall administer all California state preschool programs. Those programs shall include, but not be limited to, part-day and full-day age and

developmentally appropriate programs, offered through childcare centers and family childcare home education networks, that are designed to facilitate the transition to kindergarten for three- and four-year-old children in educational development, health services, social services, nutritional services, parent education and parent participation, evaluation, and staff development. Preschool programs for which federal reimbursement is not available shall be funded as prescribed by the Legislature in the Budget Act, and unless otherwise specified by the Legislature, shall not use federal funds made available through Title XX of the federal Social Security Act (42 U.S.C. Sec. 1397).

(b) A part-day California state preschool program shall operate for a minimum of (1) three hours per day, excluding time for home-to-school transportation, and (2) a minimum of 175 days per year, unless the contract specifies a lower number of days of operation.

(c) A full-day California state preschool program shall operate for a minimum of 246 days per year, unless the contract specifies a lower number of days of operation.

(d) Any agency described in subdivision (a) of Section 8205 as an “applicant or contracting agency” is eligible to contract to operate a California state preschool program.

(e) Public funds shall not be paid directly or indirectly to an agency that does not pay at least the minimum wage to each of its employees.

(f) Federal Head Start funds used to provide services to families receiving California state preschool services shall be deemed nonrestricted funds.

(g) School districts and charter schools that administer a California state preschool program may place four-year-old children in a transitional kindergarten program classroom in accordance with subdivisions (h) to (j), inclusive, of Section 48000.

(h) California state preschool programs shall include all of the following:

(1) Age- and developmentally appropriate activities for children.

(2) Supervision.

(3) Parenting education and parent engagement.

(4) Social services that include, but are not limited to, identification of child and family needs and referral to appropriate agencies.

(5) Health services.

(6) Nutrition.

(7) Training and career ladder opportunities, documentation of which shall be provided to the department.

(i) The Superintendent shall adopt rules and regulations related to the administration of this chapter, including rules and regulations related to eligibility, enrollment, and priority

of services. Regulations shall also include the recommendations of the State Department of Health Care Services relative to health care screening and the provision of health care services. The Superintendent shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of children who are ill or have exceptional needs.

EC Section 1596.7925.

(a) On or before July 1, 2019, the State Department of Education shall adopt new health and safety regulations under Title 5 of the California Code of Regulations that apply to California state preschool programs that meet the conditions specified in subdivision (o) of Section 1596.792. The regulations shall require those programs to have all of the following:

- (1) Outdoor shade that is safe and in good repair.
- (2) Drinking water that is accessible and readily available throughout the day.
- (3) Safe and sanitary restroom facilities with one toilet and handwashing fixture for every 15 children.
- (4) Restroom facilities that are only available for preschoolers and kindergartners.
- (5) Visual supervision of children at all times.
- (6) Indoor and outdoor space that is properly contained or fenced and provides sufficient space for the number of children using the space at any given time. Playground equipment must be safe, in good repair, and age appropriate.

(b) The State Department of Education may adopt emergency regulations pursuant to Section 11346.1 of the Government Code to satisfy the requirements of this section. The adoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare.

(c) A violation of regulations adopted pursuant to subdivision (a) or (b) shall not be subject to Section 1596.890.

5 CCR § 18140

§ 18140. General Provisions.

(a) The regulations in article 4 apply only to Local Educational Agencies (LEAs) operating part-day or full-day California State Preschool Programs (CSPPs) that choose to be exempt from title 22 of California Code of Regulations (22 CCR) pursuant to Health and Safety Code section 1596.792(o).

(b) LEAs operating part-day or full-day CSPP classrooms may choose for any or all classrooms to be exempt from 22 CCR licensing requirements as long as they continue to meet all legal and contractual requirements of the CSPP, which includes adequate standards of Program Quality, pursuant to subchapter 12 of chapter 19, of this division, as well as meet the following conditions:

- (1) The LEA has a contract to perform CSPP services and performs those services directly, and not through a subcontractor;
- (2) The LEA is performing such services in a school building, as defined by Education Code section 17283, and the school building in which the services are performed has been determined to be compliant with the provisions of the Field Act, pursuant to title 1, division 1, part 10.5, chapter 3, articles 3 and 6 of the Education Code, according to the Division of the State Architect;
- (3) The school building in which services are performed is maintained in good repair as defined by Education Code section 17002 and is subject to a yearly facility inspection pursuant to Education Code section 1240 and the information is included on the LEA's School Accountability Report Card.
- (4) The LEA facility meets the requirements for kindergarten classrooms in accordance with chapter 13 (commencing with section 14000) of division 1 of title 5 of the California Code of Regulations (5 CCR).
- (c) Any LEA operating a CSPP classroom pursuant to this article may only serve four-year-old children as defined in Education Code section 8208 in the exempted classrooms. CSPP classrooms with any child younger than four years of age shall meet 22 CCR licensing requirements.
- (d) The California Department of Education (CDE) shall make a determination whether an LEA meets the requirements of this article at the time of initial funding and thereafter yearly as part of the continued funding process. At any time, the CDE may make a finding that an LEA does not meet the requirements for license exemption and shall notify the LEA of such finding. The LEA may appeal this finding pursuant to 5 CCR section 18308.
- (e) The CDE shall immediately notify the California Department of Social Services, Community Care Licensing Division, regarding any change in the licensing status of an LEA and/or if a determination is made that an LEA does not meet the requirements of Health and Safety Code section 1596.792(o) and this article and should be subject to licensing.

Note: Authority cited: Section 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 8208, Education Code; and Sections 1596.792 and 1596.7925, Health and Safety Code.

Title 2. Administration
Division 2. Financial Operations
Chapter 3. Department of General Services
Subchapter 4. Office of Public School Construction
Group 1. State Allocation Board
Subgroup 5.8. Regulations Relating to the Full-Day Kindergarten Facilities Grant Program

Article 1. Full-Day Kindergarten Facilities Grant Program

Section 1860. Purpose.

These Subgroup 5.8 regulations implement the California Preschool, Transitional Kindergarten, and Full-Day Kindergarten Facilities Grant Program (Program), which establishes a State program to provide funding to School Districts to construct new school facilities or retrofit existing school facilities, for the purpose of providing full-day kindergarten and transitional kindergarten classrooms as specified in Education Code (EC) Section 8973; and for the construction of new preschool classrooms, the modernization of existing preschool classrooms, or the modernization of existing kindergarten and grade 1 to 12, inclusive, classrooms that would be converted to provide California state preschool programs operated by school districts on a public schoolsite.

Note: Authority cited: Section 17375, Education Code

Reference: Sections 8973 and 17375, Education Code.

Section 1860.1. General Services Director.

Pursuant to Government Code Section 15490(c), the Director of General Services shall provide assistance to the State Allocation Board (Board) as the Board requires.

Note: Authority cited: Section 17375(a), Education Code.

Reference: Sections 17375(a), Education Code; 15490(c), Government Code.

Section 1860.2. Definitions.

For the purpose of these Subgroup 5.8 regulations, the terms set forth below shall have the following meanings:

“Application” means a request pursuant to the Program to apply for grant funding for a school project.

“Apportionment” means a reservation of funds by the Board for the purpose of funding Approved Applications for New Construction or Retrofit to an applicant school district.

“Approved Application” means a School District has submitted a Form SAB 70-01 and all documents to the Office of Public School Construction (OPSC) that are required to be submitted with the Form SAB 70-01 as identified in the Specific Instructions Section of Form SAB 70-01.

“Board” means the State Allocation Board as established by Section 15490 of the Government Code.

“CBEDS Report” means the enrollment information provided through the California Basic Educational Data System (CBEDS) by school districts to the California Department of Education.

“California Department of Education (CDE)” means the offices within that department that have responsibility for school facilities matters.

“Certification” means the act of affirmatively representing, asserting or verifying circumstances, data or information as required by the Program or this subgroup.

“Class B Construction Cost Index” is a construction factor index for structures made of reinforced concrete or steel frames, concrete floors, and roofs, and accepted and used by the Board.

“Classroom” means a teaching station that was constructed or reconstructed to serve as an area in which to provide pupil instruction but shall not include portable buildings unless it is an existing classroom that is being retrofitted but not replaced.

“Classroom Provided” means a classroom acquired by lease, lease-purchase, or purchase for which a contract has been signed for the construction or acquisition of the classroom.

“County Fund” means the fund established in the county treasury within each county for each school district in the county.

“District Representative” means a member of a school district staff or other agent authorized to serve as District Representative to execute and file an application with the Board on behalf of the district and/or act as a liaison between the Board and the district.

“Division of the State Architect (DSA)” means the State office within the Department of General Services that reviews school building plans and specifications for structural, fire safety and access compliance.

~~“Elementary School Pupil” means a student housed in a school serving Kindergarten through sixth grade, or any combination of Kindergarten through sixth grade.~~

“Encumbered for Specific Purposes” means a commitment of funds by the school district to meet a legally binding obligation.

“Executive Officer” means the individual appointed by the Governor to direct the Office of Public School Construction, and who concurrently serves as Executive Officer to the Board.

“Facility” means all or a portion of any real property, site improvements, utilities and/or buildings or other improvements contained in the project.

“Field Act Facility” means a school building meeting the requirements contained in Education Code Section 17280, et seq.

“Financial Hardship” means State funding for all or a portion of the district’s matching share required by Section 1860.11 and 1860.13.

“Form SAB 70-01” means the *Application for Funding*, Form SAB 70-01 (New 10/18), which is incorporated by reference.

“Form SAB 70-02” means the *Fund Release Authorization*, Form SAB 70-02 (New 10/18), which is incorporated by reference.

“Form SAB 70-03” means the *Expenditure Report*, Form SAB 70-03 (New 10/18), which is incorporated by reference.

“Full-Day Kindergarten Classroom” means a teaching station that meets the design requirements required for new kindergarten classrooms as specified in paragraph (2) of subdivision (h) of Section 14030 of Title 5 of the California Code of Regulations.

“Full-Day Kindergarten Program” means an early primary program that exceeds four hours, exclusive of recesses, and meets the conditions of EC Section 8973.

“Fund” means the Full-Day Kindergarten Facilities Grant Program Account established pursuant to Education Code Section 17375(a).

“Governmental Agency” shall include but is not limited to a public entity as defined in Government Code Section 7260(a) including California federally recognized or historically established tribal governments.

“Grant Agreement” means *Grant Agreement* (~~New 10/18~~ Rev. 10/20), for the Full-Day Kindergarten Facilities Grant Program, which is incorporated by reference.

“In Escrow, Governmental Entities” means the approval and signature of instrument(s) that will convey a specified school parcel or site from the public/government entity including the federal government for a determinable sum, and for a determinable date of acquisition which may be based on the School District’s receipt of funding from the State.

“In Escrow, Non-Governmental Entities” means the deposit of signed instrument(s) and/or funds with instructions with a title company or escrow agent to carry out the provisions of an agreement or contract to acquire a specified school parcel or site for a determinable sum, and for a determinable date of acquisition which may be based on the School District’s receipt of funding from the State.

“Instrument” means a written, legally enforceable agreement, approved and signed by all parties to the escrow, for the conveyance to the district of real estate for a specified parcel or site, that includes a compensation clause and either a purchase option agreement, a purchase agreement, promissory note, lease agreement, installment sales contract, gift, or other real estate conveyance valid in the State of California for property conveyed from a public/government entity, including the federal government.

“Interim Housing” means the rental or lease of classrooms used to house pupils temporarily displaced as a result of the retrofit of classroom facilities.

“Low Income” shall be the percentage of pupils deemed eligible for Free and Reduced Price School Meals as identified in the Free and Reduced Price School Meals data on file at the CDE. The data on file with CDE shall be determined to be the information collected for the month of October, prior to application submittal, and any errors and omissions amendments to that information for that time period that have been received and approved by the CDE.

“New Construction” means a construction project to adequately house kindergarten pupils in an approved project, which shall include the costs of design, engineering, testing, inspections, plan checking, construction management, site acquisition and development, evaluation and response action costs relating to hazardous substances at a new or existing schoolsite, demolition, construction, landscaping, necessary utility costs, utility connections and other related fees, equipment including telecommunication equipment to increase school security, furnishings, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.

“New Construction Grant” means the funding provided pursuant to EC Section 17375(f)(1) and Sections 1860.9 through 1860.10.3.

“Occupancy” means the point at which pupils occupy a classroom as evident by district documents such as the school board’s adopted calendar, classroom attendance rosters, fire marshal approval of the classroom, etc.

“Office of Public School Construction (OPSC)” means the State office within the Department of General Services that assists the Board as necessary and administers the Program on behalf of the Director.

“Part-Day Kindergarten Program” means an early primary program that does not exceed four hours, exclusive of recesses, pursuant to EC Section 46111.

“Phase One Environmental Site Assessment (POESA)” means a preliminary assessment of a property to determine whether there has been or may have been a release of a hazardous material, or whether a naturally occurring hazardous material is present, based on reasonably available information about the property and the area in its vicinity. A Phase One Environmental Site Assessment shall meet the most current requirements adopted by the American Society for Testing and Materials (ASTM) for Standard Practice for Environmental Site Assessments: Phase One Environmental Site Assessment Process or meet the requirements of Part 312 (commencing with Section 312.1) of Title 40 of the Code of Federal Regulations. That ASTM Standard Practice for Environmental Site Assessments or the requirements of Part 312 (commencing with Section 312.1) of Title 40 of the Code of Federal Regulations shall satisfy the requirements of this article for conducting a Phase One Environmental Site Assessment unless and until the Department of Toxic Substances Control adopts final regulations that establish guidelines for a Phase One Environmental Site Assessment for purposes of school sites that impose different requirements.

“Piggyback Contract” means a contract for acquisition of personal property, without advertising for bids, as authorized by Public Contract Code Section 20118.

“Portable Classroom” means a classroom building of one or more stories that is designed and constructed to be relocatable and transportable over public streets, and with respect to a single story portable classroom, is designed and constructed for relocation without the separation of the roof or floor from the building and when measured at the most exterior walls, has a floor area not in excess of 2,000 square feet.

“Preschool Classroom” means a preschool classroom used or proposed to be used for instructional purposes in a California state preschool program.

“Preschool Program” means a full-day California state program pursuant to Article 7 (commencing with Section 8235) of Chapter 2 of Part 6.

“Project” means the purposes for which the Grantee has applied for the Grants detailed in these Subgroup 5.8 regulations.

“Program” means the California Preschool, Transitional Kindergarten, and Full-Day Kindergarten Facilities Grant Program.

“Property” includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of these Subgroup 5.8 regulations.

“Pupil” means a student enrolled in any grade Kindergarten through grade twelve.

“Ready for Apportionment” means a final review of an Approved Application has been completed by OPSC and it has been determined that it meets all requirements of law for an Apportionment and OPSC will recommend approval to the Board.

“Remedial Action Plan (RAP)” means a plan approved by the Department of Toxic Substances Control (DTSC) pursuant to Health and Safety Code Section 25356.1.

“Response Action (RA)” means the removal of hazardous materials and solid waste, the removal of hazardous substances, and other remedial actions in connection with hazardous substances at the site.

“Retrofit” means a construction project to retrofit an existing school facility to adequately house kindergarten pupils, which shall only include the costs of design, engineering, testing, inspection, plan checking, construction management, demolition, construction, necessary utility costs, utility connection and other related fees, the purchase and installation of air-conditioning equipment and insulation materials and related costs, furniture and equipment, including telecommunication equipment to increase school security, fire safety improvements, playground safety improvements, the identification, assessment, or abatement of hazardous asbestos, seismic safety improvements, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.

“Retrofit Grant” means the funding provided pursuant to Education Code Section 17375(f)(2) and Section 1860.12.

“School District shall have the meaning set forth in Education Code Sections 81 through 87, inclusive. “School District” shall not include county offices of education, charter schools, joint powers authorities, or the State Department of Education. For preschool facilities grants only, “school district” includes county offices of education.

“Small School District” means a School District with current districtwide enrollment, including pupils enrolled in grades K-12, continuation high pupils and special day class pupils, that is 2,500 or less.

“Transitional Kindergarten” means a program that provides education continuity from preschool to kindergarten pursuant to EC Section 8974.

“Useable Acres” means the gross acreage of a school site less any portion of the site publicly dedicated for off-site street improvements and any portion of the site not available for school purposes as determined by the CDE because of topological impediments or because of other unique circumstances.

Note: Authority cited: Sections 17280 and 17375, Education Code.

Reference: Sections 17280 and 17375, Education Code; 1771.5, Labor Code.

Section 1860.3. General.

A School District seeking funding for a new construction or retrofit project pursuant to the provisions of Education Code Section 17375 shall complete and file with OPSC, the Form SAB 70-01 and all necessary documents, as defined by Approved Applications.

- (a) Assembly Bill 1808 created the Program, effective June 27, 2018, and allocated \$100 million to provide one-time grants as specified in EC Section 17375 and Program regulations. New Construction Grant and Retrofit Grant funding may be provided for a project if the district entered into a construction contract for that project on or after June 27, 2018.
- (b) The Program is revised through ~~Senate Assembly Bill 75130, effective July 19, 2019~~Senate Assembly Bill 130, effective July 19, 2021, and Senate Bill 98, effective June 29, 2020, and, commencing with the 2019-20 fiscal year, this program is contingent upon appropriations by the Legislature, and \$490 million is available to provide one-time grants as specified in EC Section 17375. New Construction and Retrofit Grant funding may be provided for a project if the district entered into a construction contract for the project on or after June 27, 2018.

Note: Authority cited: Section 17375(gh), Education Code.

Reference: Section 17375(gh), Education Code.

Section 1860.4. Funding Guidelines

- (a) For the funding provided pursuant to Section 1860.3(a), funds available for the Program from the 2018-2019 Budget Act must be encumbered by the Board by June 30, 2021. Funds that are not completely encumbered or that return to the Program through project rescissions may be applied as follows:
 - (1) Any funds that return on or before June 30, 2021, shall be returned to the Full-Day Kindergarten Facilities Grant Program Account and may be used to provide additional Apportionments.
 - (2) Any funds that return, or remain unencumbered by the Board, ~~on or~~ after June 30, 2021, shall be returned to the General Fund.
- (b) For the funding provided pursuant to Section 1860.3(b), funds available for the Program from the 2021-22 Budget Act must be encumbered by the Board by June 30, 2024. Funds that are not completely encumbered or that return to the Program through project rescissions may be applied as follows:
 - (1) Any funds that return on or before June 30, 2024, shall be returned to the Full-Day Kindergarten Facilities Grant Program Account and may be used to provide additional Apportionments.
 - (2) Any funds that return or remain unencumbered by the Board, after June 30, 2024, shall be returned to the General Fund.
- (c) New school facilities built in accordance with the Program shall not be included in the eligibility determination used for the purposes of the School Facilities Program pursuant to EC Section 17071.25.

A school district shall not use Program funds to purchase, or install, Portable Classrooms. “Portable Classroom” means a classroom building of one or more stories that is designed and constructed to be relocatable and transportable over public streets, and for a single-story portable classroom, is designed and constructed for relocation without the separation of the roof or floor from the building and when measured at the most exterior walls, has a floor area that does not exceed 2,000 square feet.

Note: Authority cited: Sections 17375, Education Code; 16304 and 16304.1, Government Code

Reference: Section 17375, Education Code.

Section 1860.5. Full-Day Kindergarten Program Eligibility Criteria.

- (a) For Full-Day Kindergarten Program funds provided pursuant to Sections 1860.3(a), a School District may apply for funding made available pursuant to EC Section 17375 by submittal of a Form SAB 70-01, if all of the following requirements are met:
 - (1) The School District has a school board resolution providing approval to provide full-day kindergarten instruction at the project school site or will have approval to provide full-day kindergarten instruction at the completion of the project.
 - (2) The School District lacks the facilities to provide full-day kindergarten instruction at the project school site.

A project school site will be considered lacking full-day kindergarten facilities if the current kindergarten enrollment exceeds the existing kindergarten classroom capacity prior to the construction of the project. Classrooms constructed as kindergarten classrooms or altered to house kindergarten students, regardless of current use, will be included when determining the existing kindergarten classroom capacity, as determined by CDE. For purposes of determining classroom capacity, a loading standard of 25 kindergarten pupils per classroom will be used and all kindergarten classrooms will be loaded for full-day instruction unless the School District indicates that an existing classroom(s) will continue to be used for non-full-day instruction at the completion of the project.

- ~~(b) For Program funds provided pursuant to Section 1860.3(b) a School District may apply for these Program funds by submittal of a Form SAB 70-01, if all of the following requirements are met:~~
 - ~~(1) The School District has a school board resolution providing approval to provide full-day kindergarten instruction on or after July 1, 2019, or will have approval to provide full-day kindergarten instruction at the completion of the project.~~
 - ~~(2) The School District lacks the facilities to provide full-day kindergarten instruction at the project school site.~~

~~A project school site will be considered lacking full-day kindergarten facilities if the current kindergarten enrollment exceeds the existing kindergarten classroom capacity prior to the construction of the project. Classrooms constructed as kindergarten classrooms or altered to house kindergarten students, regardless of current use, will be included when determining the existing kindergarten classroom capacity, as determined by CDE. For purposes of determining classroom capacity, a loading standard of 25 kindergarten pupils per classroom will be used and all kindergarten classrooms will be loaded for full-day instruction unless the School District indicates that an existing classroom(s) will continue to be used for non full-day instruction at the completion of the project.~~

- ~~(3) The project school site did not offer a Full-Day Kindergarten Program as of July 1, 2019.~~
- ~~(4) The School District will use Program funds to convert a Part-Day Kindergarten Program to a Full-Day Kindergarten Program.~~
- ~~(b)(e)~~ OPSC will determine the project scope for the Approved Application based on the schoolsite's enrollment patterns and the usage of each facility at the schoolsite. OPSC shall consult with CDE prior to determination of the Approved Application's project scope.
- ~~(c)(d)~~ The Approved Application shall include the following documentation:
 - (1) A description of the proposed project including, but not limited to, the following information:
 - (A) The total number of kindergarten, transitional kindergarten, and preschool classrooms on the site prior to the Program project.
 - (B) The current enrollment at the site using California Longitudinal Pupil Achievement Data System data as reported to the California Department of Education (CALPADS), at the time of application submittal, ~~including transitional kindergarten students~~ pursuant to EC Section 48000. To determine the appropriate enrollment reporting year, refer to the following:

OPSC Received Date of Form SAB 70-01	Enrollment Reporting Year
July 1 through October 31	Submit Prior Fiscal Year Enrollment Data
November 1 through June 30	Submit Current Fiscal Year Enrollment Data

- (C) The enrollment at the site for the three years immediately preceding the enrollment reporting year determined in Section 1860.5(d)(1)(B).
- (D) The total number of kindergarten, transitional kindergarten and preschool classrooms on the site after the completion of the Program project.
- (E) The total number of kindergarten classrooms that will be used for full-day kindergarten instruction after the completion of the Program project.

- (2) Site map that includes labelling of all facilities and their current use, identifies all classrooms constructed or previously retrofitted to house kindergarten students, and identifies any facilities that will be retrofitted in the project. If a School District is requesting a 50-year old utilities grant, identify the age of the building(s).

Note: Authority cited: Sections 17375(a) and 17375(b), Education Code.

Reference: Sections 17375(a), 17375(b), and 17375(gh), Education Code.

Section 1860.5.1 Transitional Kindergarten Program Eligibility Criteria.

(a) For Program funds provided pursuant to Section 1860.3(b), a School District may apply for Transitional Kindergarten funds by submittal of a Form SAB 70-01, if all of the following requirements are met:

- (1) The School District has a school board resolution providing approval to provide transitional kindergarten instruction on or after June 27, 2018.
- (2) The School District lacks the facilities to provide transitional kindergarten instruction at the project school site.

A project school site will be considered lacking transitional kindergarten facilities if the current transitional kindergarten enrollment exceeds the existing transitional kindergarten classroom capacity prior to the construction of the project. Classrooms constructed as kindergarten or transitional kindergarten classrooms or altered to house kindergarten students, regardless of current use, will be included when determining the existing kindergarten classroom capacity, as determined by CDE. For purposes of determining classroom capacity, a loading standard of 25 kindergarten pupils per classroom will be used and all transitional kindergarten classrooms will be loaded for full-day instruction unless the School District indicates that an existing classroom(s) will continue to be used for non-full-day instruction at the completion of the project.

(3) The School District will use Program funds to offer or expand its Transitional Kindergarten Program.

(b) OPSC will determine the project scope for the Approved Application based on the schoolsite's enrollment patterns and the usage of each facility at the schoolsite. OPSC shall consult with CDE prior to determination of the Approved Application's project scope.

(c) The Approved Application shall include the following documentation:

- (3) A description of the proposed project including, but not limited to, the following information:
- (F) The total number of kindergarten and transitional kindergarten classrooms on the site prior to the Program project.
- (G) The current enrollment at the site using California Longitudinal Pupil Achievement Data System data as reported to the California Department of Education, at the time of application submittal, including transitional kindergarten students pursuant to EC Section 48000. To determine the appropriate enrollment reporting year, refer to the following:

OPSC Received Date of Form SAB 70-01	Enrollment Reporting Year
<u>July 1 through October 31</u>	<u>Submit Prior Fiscal Year Enrollment Data</u>
<u>November 1 through June 30</u>	<u>Submit Current Fiscal Year Enrollment Data</u>

- (H) The enrollment at the site for the three years immediately preceding the enrollment reporting year determined in Section 1860.5(d)(1)(B).
- (I) The total number of kindergarten and transitional kindergarten classrooms on the site after the completion of the Program project.
- (J) The total number of kindergarten and transitional kindergarten classrooms that will be used for transitional kindergarten instruction after the completion of the Program project.
- (4) Site map that includes labelling of all facilities and their current use, identifies all classrooms constructed or previously retrofitted to house kindergarten, transitional kindergarten, and preschool students, and identifies any facilities that will be retrofitted in the project. If a School District is requesting a 50-year old utilities grant, identify the age of the building(s).

Note: Authority cited: Sections 17375(a) and 17375(b), Education Code.

Reference: Sections 17375(a), 17375(b), and 17375(h), Education Code.

Section 1860.5.2 California State Preschool Program Eligibility Criteria.

(a) For Program funds provided pursuant to Section 1860.3(b) and Apportioned in the 2021-22 fiscal years, a School District may apply for California State preschool funds by submittal of a Form SAB 70-01, if all of the following requirements are met:

- (1) The School District lacks the facilities to provide preschool instruction at the project school site.
- (2) School District has a school board resolution providing approval to provide preschool instruction on or after July 9, 2021.
- (3) The most recent childcare needs assessment conducted by its regional local planning council for preschool age children.
- (4) A current or future contract with the State Department of Education to operate a preschool program.

A project school site will be considered lacking preschool facilities if the current preschool enrollment exceeds the existing preschool classroom capacity prior to the construction of the project. Classrooms constructed as preschool classrooms or altered to house preschool students, regardless of current use, will be included when determining the existing preschool classroom capacity, as determined by CDE. For purposes of determining classroom capacity, a loading standard of 25 preschool pupils per classroom will be used and all preschool classrooms will be loaded for preschool instruction.

(3) The School District will use Program funds expand its Preschool Program.

(b) OPSC will determine the project scope for the Approved Application based on the schoolsite's enrollment patterns and the usage of each facility at the schoolsite. OPSC shall consult with CDE prior to determination of the Approved Application's project scope.

(c) The Approved Application shall include the following documentation:

(1) A description of the proposed project including, but not limited to, the following information:

- (A) The total number of kindergartens, transitional kindergarten, and preschool classrooms on the site prior to the Program project.
- (B) The total number of kindergartens, transitional kindergarten, and preschool classrooms on the site after the completion of the Program project.

(2) The current enrollment at the site, at the time of application submittal, including kindergarten, transitional kindergarten, and preschool students pursuant to EC Section 48000. To determine the appropriate enrollment reporting year, refer to the following:

OPSC Received Date of Form SAB 70-01	Enrollment Reporting Year
July 1 through October 31	Submit Prior Fiscal Year Enrollment Data
November 1 through June 30	Submit Current Fiscal Year Enrollment Data

(3) The enrollment at the site for the three years immediately preceding the enrollment reporting year determined in Section 1860.5(d)(1)(B).

(4) Site map that includes labelling of all facilities and their current use, identifies all classrooms constructed or previously retrofitted to house kindergarten, transitional kindergarten, and preschool students and identifies any facilities that will be retrofitted in the project. If a School District is requesting a 50-year-old utilities grant, identify the age of the building(s).

(d) Program funding must construct or retrofit facilities that result in classroom(s) that are not less than 1,350 square feet.

Note: Authority cited: Sections 17375(a) and 17375(b), Education Code.

Reference: Sections 17375(a), 17375(b), and 17375(h), Education Code.

Section 1860.6. Application Submittals.

The Board shall accept Approved Applications for Program funding during specified funding rounds:

- (a) Approved Applications for Program funding for the first funding round must be received by OPSC on or after January 2, 2019, and on or before January 31, 2019. Applications that do not receive an Apportionment during this round will be returned to the School District.
- (b) Approved Applications for Program funding for the second funding round must be received by OPSC on or after May 1, 2019, and on or before May 30, 2019. Applications that do not receive an Apportionment during this round will be returned to the School District.

- (c) ~~An applicant seeking a Program Apportionment shall complete and submit a Form SAB 70-01 during an application filing period established by the Board. New filing rounds shall commence within 180 days from the date any funds are made available for the program. Approved Applications for Program funding for the third funding round must be received by OPSC on or after March 1, 2022, and on or before March 30, 2022. Applications during this round will be retained until December 31, 2022. Applications that do not receive an Apportionment by December 31, 2022, will not be processed.~~
- (d) ~~Additional filing rounds may be established by the SAB as necessary. Approved Applications for Program funding for the fourth funding round must be received by OPSC on or after March 1, 2023 and on or before March 30, 2023. Applications during this round will be retained until the earlier of June 30, 2024, or the next funding round. Applications that do not receive an Apportionment by June 30, 2024, will not be processed.~~
- (e) ~~If Program funds remain concluding the third funding round in (c), Approved Applications for Program funding for the fourth funding round must be received by OPSC on or after January 4, 2021 and on or before February 2, 2021. Applications that do not receive an Apportionment during this round will be returned to the School District.~~
- (f) ~~If Program funds remain concluding the fourth funding round in (d), Approved Applications for Program funding for the fifth funding round must be received by OPSC on or after July 1, 2021 and on or before July 30, 2021. Applications that do not receive an Apportionment during this round will be returned to the School District.~~

Additional filing rounds may be established by the SAB as necessary. Applications that do not receive an Apportionment by June 30, 2024, will not be processed.

Note: Authority cited: Section 17375(gh), Education Code.

Reference: Section 17375(gh), Education Code.

Section 1860.7. Application Types.

The following Application types may be requested with the submittal of a Form SAB 70-01. To become an Approved Application, the School District must also submit all necessary documents, as defined by Approved Applications:

- (a) A New Construction Grant may be requested if the following conditions exist:
 - (1) The School District has received final plan approval by DSA and CDE for the project.
 - (2) The School District has received final site approval by the CDE if the project includes site acquisition.
 - (3) The School District has a final appraisal, if the project includes site acquisition.
 - (4) The School District has entered into escrow, if the project includes site acquisition.
- (b) A New Construction Grant with an advance fund release(s) for design and/or site acquisition may be requested with the submittal of the Form SAB 70-01, and preliminary appraisal if purchasing a site.
- (c) A Retrofit Grant may be requested if the School District has received final plan approval by the DSA and CDE for the project.
- (d) A Retrofit Grant with an advance fund release for design may be requested with the submittal of the Form SAB 70-01.
- (e) The Board shall only provide funding if the approved application was received by OPSC prior to the date of Occupancy for any classrooms included in the construction contract.

Note: Authority cited: Section 17375(gh), Education Code.

Reference: Section 17375(gh), Education Code

Section 1860.8. Application for Funding on School District-Owned Land.

Prior to the School District requesting Program funds for facilities, the School District must hold title to the real property where the facilities will be located.

Note: Authority cited: Sections 17375(f) and 17375(gh), Education Code.

Reference: Sections 17375(f) and 17375(gh), Education Code.

Section 1860.9. New Construction Apportionment Determination.

The New Construction Apportionment shall be equal to the sum of (a) through (f) below:

- (a) For applications funded with 2018 grant amounts, \$11,567 for each ~~elementary school~~ pupil.
- (b) For applications funded with 2018 grant amounts, \$14 for each ~~elementary school~~ pupil if the project includes an automatic fire detection and alarm system and is requested by the School District on the Form SAB 70-01.
- (c) For applications funded with 2018 grant amounts, \$194 for each ~~elementary school~~ pupil if the project includes an automatic sprinkler system and is requested by the School District on the Form SAB 70-01.
- (d) An amount equal to 35 percent of the amount determined in (a) for costs associated with site development, demolition, landscaping and other costs incurred when adding a preschool, transitional kindergarten, or kindergarten classroom(s) to a site, utility costs, utility connections and other related fees necessary for the Program project, if requested by the applicant on the Form SAB 70-01.
- (e) An amount equal to 12 percent of the amount determined in (a) for each pupil housed in a multilevel building that will house pupils in all levels of the building if the usable site acreage is less than 75 percent of the site size recommended by CDE, pursuant to Title 5, California Code of Regulations, Section 14010(a), for the master-planned project capacity, if requested by the School District on the Form SAB 70-01.
- (f) For applications funded with 2018 grant amounts, \$7,074 for Small School Districts for the cost necessary for project assistance, as defined in Education Code Section 17072.10(e).

The grant amounts shown in (a), (b), (c) and (f) above shall be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January, pursuant to Education Code Section 17072.10.

Note: Authority cited: Section 17375, Education Code.

Reference: Sections 17072.10(b), 17072.10(d), 17072.10(e), and 17375(d), 17375(f) and 17375(gh), Education Code.

Section 1860.10. New Construction Additional Grant for Site Acquisition Cost.

The Board shall provide funding, in addition to any other funding authorized by these Regulations, for the lesser of one half of the actual cost of the site or one-half of the appraised value of the site acquired adjacent to an existing Schoolsite as described in (a) and (b) of this Section.

(a) Actual Site Cost

The actual cost of the site shall be the purchase price as shown on the escrow documents or other appropriate documents such as court orders in condemnation or as specifically identified in agreements when the site is transferred in lieu of other legally required payments or fees due to the district. The actual cost shall be adjusted for the following:

- (1) Increased by the approved relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
- (2) Site Other - Increased by four percent of the actual amount determined in (a) above, but not less than \$50,000. This amount shall provide an allowance for any appraisal, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
- (3) Increased by DTSC costs for review, approval, and oversight of the POESA and the PEA.

(b) Appraised Value of the Site

The value determined by an appraisal made or updated no more than six months prior to purchase of the site. The appraisal may be reviewed by OPSC for conformance with Section 1860.10.1. The approved appraised value shall be adjusted for the following:

- (1) Increased by the approved relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
- (2) Increased by four percent of the appraised value determined in (b) above, but not less than \$50,000. This amount shall provide an allowance for appraisals, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
- (3) Increased by DTSC costs for review, approval, and oversight of the POESA and the PEA.
- (c) If actual DTSC, hazardous waste removal, and relocation costs are not available at the time of Apportionment, an amount equal to 15 percent of the amount determined in 1860.9(a) will be provided for DTSC costs and the School

District may provide an estimated amount for Hazardous waste removal and relocation expenses. These costs will be reviewed by OPSC prior to the final fund release and an adjustment shall be made, if necessary.

- (d) The actual site cost or the appraised value of the site shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the eligible acreage shown below for a kindergarten classroom project, or as approved by CDE, pursuant to Title 5, California Code of Regulations Section 14010(a):

1 Classroom	2 Classrooms	3 Classrooms	4 Classrooms
.3 acres	.5 acres	.9 acres	1.6 acres

Note: Authority cited: Sections 17375(f) and 17375(gh), Education Code.

Reference: Sections 17375(f), and 17375(gh), Education Code.

Section 1860.10.1. Site Acquisition Guidelines.

To receive the funding authorized by Section 1860.10, the School District must certify on the Form SAB 70-01, that the appraisal of the property was made utilizing the following criteria:

- (a) The land improvements and appurtenances, excluding fixtures, equipment, and personal property, were appraised in an as is condition with the following exceptions:
- (1) The site shall be appraised as if it were a clean site, safe of all toxic contaminants in accordance with Title 5, California Code of Regulations commencing with Section 14001.
 - (2) The site valuation included only proposed site improvements associated with grading the site to a mass graded or super pad condition, defined as a site graded to construction readiness without foundation or paving and proposed utilities stubbed to the site. Any proposed site improvements or utilities not covered by a performance bond equal to 100 percent of the estimated cost of the site improvements and utilities must be completed prior to the close of escrow and detailed separately in the report.
- (b) Consideration in the appraisal was made for net useable acreage and severance damages.
- (c) The School District or its legal counsel has contracted for appraisal services.
- (d) The appraiser has certified to the School District that the appraisal complies with the Uniform Standards of Professional Appraisal Practices as promulgated by the Appraisal Standards Board of the Appraisal Foundation.
- (e) The amount of a court award for a site acquired in condemnation may be used in lieu of the appraised value determined in (a) through (d) above.

Note: Authority cited: Sections 17375(f) and 17375(gh), Education Code.

Reference: Sections 17375(f) and 17375(gh), Education Code.

Section 1860.10.2. New Construction Additional Grant for Hazardous Waste Removal on an Acquired Site.

The Board shall provide funding, in addition to any other funding authorized by these Regulations, for the allowable costs of hazardous materials/waste removal and/or remediation costs. The allowable site costs shall not exceed 50 percent of one and one half times the value of an appraisal that conforms to Section 1860.10.1 for the costs in subsections (a), (a)(1) and (a)(2) plus the additional costs included in subsections (b) and (c). The costs in subsections (b) and (c) are in addition to 50 percent of one and one half times the appraisal value cap:

- (a) The costs associated with the site acquisition and to implement the RA as determined necessary in the PEA that has been approved by DTSC subject to the following:
- (1) The costs for preparation of the RA.
 - (2) DTSC costs for review and oversight of the preparation and implementation of the RA. The costs may not include continuous operational and maintenance costs associated with the RA.
- (b) Fifty percent of the approved relocation expenses that conform to Title 25, Division 1, Chapter 6, Subchapter 1, California Code of Regulations, (Section 6000, et seq.). The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
- (c) Site Other - Not less than 50 percent of \$50,000 or 50 percent of four percent of the appraised value. This amount shall provide an allowance for any appraisal, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
- (d) The limitation of 50 percent of one and one half times the value of an appraisal for costs in subsections (a), (a)(1), and (a)(2) may be exceeded when the Board finds that unforeseen circumstances exist, and when both of the following exist:

- (1) CDE determines that the site is adjacent to the existing Schoolsite and is the best available site for meeting the educational and safety needs of the School District.
- (2) Substantiation that the costs are limited to the minimum required to complete the evaluation and RA approved by DTSC.
- (e) The actual site cost or the appraised value of the site shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the eligible acreage shown below for a kindergarten classroom project, or as approved by CDE, pursuant to Title 5, California Code of Regulations Section 14010(a):

1 Classroom	2 Classrooms	3 Classrooms	4 Classrooms
.3 acres	.5 acres	.9 acres	1.6 acres

Note: Authority cited: Sections 17375(f) and 17375(gh), Education Code.

Reference: Sections 17375(f) and 17375(gh), Education Code.

Section 1860.10.3. New Construction Additional Grant for Hazardous Waste Removal Required on an Existing School Site.

- (a) The Board shall provide funding, in addition to any other funding authorized by these Regulations, for the necessary hazardous waste materials/waste removal and/or remediation costs on an existing school site where the New Construction funding will be used if all the following are met:
 - (1) The New Construction funding request is for additional school facilities on an existing school site.
 - (2) The New Construction Grant request does not include a funding request for initial site acquisition costs allowed pursuant to Sections 1860.10.
 - (3) The existing school site where the New Construction Grant will be expended has a functioning school on the site or the site had a closed school that will again be used as a functioning school.
 - (4) The hazardous material cleanup costs are required by DTSC.
- (b) If all the criteria in subsection (a) are met, the allowable hazardous waste removal cleanup costs shall be one half of all the following:
 - (1) The costs for preparation of the POESA, the PEA and the RA.
 - (2) The costs to implement the RA as determined necessary in the PEA that has been approved by DTSC subject to the following:
 - (A) The costs may include DTSC costs for review and oversight of the preparation and implementation of the RA.
 - (B) The costs may not include continuous operational and maintenance costs associated with the RA.
- (c) In advance of the New Construction Adjusted Grant, districts performing a RA on additions to existing school sites shall be eligible for the costs associated with evaluation and RA required by DTSC.

Note: Authority cited: Sections 17375(f) and 17375(gh), Education Code.

Reference: Sections 17375(f) and 17375(gh), Education Code.

Section 1860.11. New Construction School District Matching Share Requirement.

- (a) With the exception of School Districts receiving Financial Hardship funding provided by Section 1860.14, the School Districts' required matching share will be equal to the following:

<u>Program</u>	<u>Program Status</u>	<u>New Construction or Retrofit Project?</u>	<u>State Share</u>	<u>District Share</u>
Full Day Kindergarten	Existing	New Construction	50%	50%
Transitional Kindergarten Preschool Part-Day to Full Day	New/Existing New/Existing Converting	New Construction	75%	25%
Converting from Part-Day to Full-Day Kindergarten Program		State Share	District Share	
No		60%	40%	
Yes		75%	25%	

- (b) School Districts that meet the requirements for Financial Hardship provided by Section 1860.14 may not be required to fund all or a portion of the matching share requirement for the Program grant.

Note: Authority cited: Sections 17375(b)(3) and 17375(b)(4), Education Code.

Reference: Sections 17375(b)(3) and 17375(b)(4), Education Code.

Section 1860.12. Retrofit Apportionment Determination.

The Retrofit Apportionment shall be equal to the sum of (a) through (e) below:

- (a) For applications funded with 2018 grant amounts, \$4,404 for each ~~elementary school~~ pupil.
- (b) For applications funded with 2018 grant amounts, \$143 for each ~~elementary school~~ pupil if the project includes an automatic fire detection and alarm system and is requested by the School District on the Form SAB 70-01.
- (c) An amount equal to 35 percent of the amount determined in (a) for costs associated with demolition, landscaping, playground safety improvements and other costs incurred when adding a preschool, transitional kindergarten or kindergarten classroom(s) to a site, utility costs, utility connections and other related fees necessary for the project, if requested by the applicant School District on the Form SAB 70-01.
- (d) An amount equal to 15 percent of the amount determined in (a) for upgrading existing site development (utilities) work as necessary for the retrofit of 50 years or older permanent buildings, if requested by the School District on the Form SAB 70-01.
- (e) For applications funded with 2018 grant amounts, \$3,772 for Small School Districts for the cost necessary for project assistance, as defined in Education Code Section 17074.10(e).

The grant amounts shown in (a), (b) and (e) above shall be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January, pursuant to Education Code Section 17074.10(b).

Note: Authority cited: Section 17375(gh), Education Code.

Reference: Sections 17074.10(e), 17375(d), 17375(f) and 17375(gh), Education Code.

Section 1860.13. Retrofit School District Matching Share Requirement.

- (a) With the exception of School Districts receiving Financial Hardship funding provided by Section 1860.14, the School Districts required matching share will be equal to the following:

<u>Program</u>	<u>Program Status</u>	<u>New Construction or Retrofit Project?</u>	<u>State Share</u>	<u>District Share</u>
<u>Full Day Kindergarten</u>	<u>Existing</u>	<u>Retrofit</u>	<u>60%</u>	<u>40%</u>
<u>Transitional Kindergarten</u> <u>Preschool</u> <u>Part-Day to Full Day</u>	<u>New/Existing</u> <u>New/Existing</u> <u>Converting</u>	<u>Retrofit</u>	<u>75%</u>	<u>25%</u>

<u>Converting from Part-Day to Full-Day Kindergarten Program</u>	<u>State Share</u>	<u>District Share</u>
<u>No</u>	<u>60%</u>	<u>40%</u>
<u>Yes</u>	<u>75%</u>	<u>25%</u>

- (b) School Districts that meet the requirements for Financial Hardship provided by Section 1860.14 may not be required to fund all or a portion of the matching share requirement for a Program grant.

Note: Authority cited: Sections 17375(b)(3) and 17375(b)(4), Education Code.

Reference: Sections 17375(b)(3) and 17375(b)(4), Education Code.

Section 1860.14. Hardship Assistance and Financial Hardship

A School District shall qualify for hardship assistance by demonstrating a Financial Hardship, as provided in this Section, which prevents the School District from funding all or a portion of the matching share requirement for a Program grant.

A School District is eligible for a financial hardship grant to fund all or a portion of its matching share requirement after demonstrating the requirements of subsections (a), (b), and (c) below:

- (a) The School District has made all reasonable efforts to fund its matching share of the project by demonstrating it is levying the developer fee justified under law or an alternative revenue source equal to or greater than the developer fee otherwise justified under law at the time of request for hardship and the School District meets at least one of the following:
 - (1) The current outstanding bonded indebtedness of the School District, issued for the purpose of constructing school facilities at the time of request for financial hardship status, is at least 60 percent of the District's total bonding capacity. Outstanding bonded indebtedness includes that part of general obligation bonds, Mello-Roos Bonds, School Facility Improvement District Bonds and certificates of participation which the district is paying a debt service that was issued for capital outlay school facility purposes.
 - (2) The School District had a successful registered voter bond election for at least the maximum amount allowed under Proposition 39 within the previous two years from the date of request for financial hardship status. The proceeds from the bond election that represent the maximum amount allowed under the provisions of Proposition 39 must be used to fund the School District's matching share requirement for the Program project(s).
 - (3) The School District's total bonding capacity at the time of the request for financial hardship status is \$5 million or less
 - (4) Other evidence of reasonable effort as approved by the SAB, such as a district's inability to pass local bonds, health and safety projects, and the instability of a district's fiscal situation.

- (b) The School District is financially unable to provide all necessary matching funds for an eligible project. To determine this, an analysis shall be made of the School District's financial records by OPSC including data and records maintained by the CDE and the County Office of Education. The analysis shall consist of a review of the School District's latest Independent Audit regarding funds available from all capital facility accounts, such as bridge financing, developer fees, funds generated from capital facility certificates of participation, federal grants, redevelopment funds and sale proceeds from surplus property, the appraised value of facilities approved for replacement, and bond funds either encumbered, unencumbered or authorized but unsold. All funds thus identified that have not been expended or encumbered by a contractual agreement for a specific capital outlay purpose prior to the initial request for financial hardship status shall be deemed available as a matching contribution.

After the initial request for financial hardship status is granted, no further encumbrances will be approved by OPSC and all prospective revenue made available to the School District's capital facility accounts shall be deemed available as matching contribution on the subsequent financial hardship review, with the exception of:

- (1) Approved interim housing expenditures.
 - (2) Funding to pay for previously recognized multi-year encumbrances approved at the initial financial hardship approval.
- (c) If the School District meets the financial hardship requirements in this Section, the amount of financial hardship is equal to the School District's matching share less funds deemed available in (b).
- (1) Once a School District has been notified that OPSC is scheduled to begin processing the School District's Form SAB 70-01, the School District must submit documentation to support the Financial Hardship request within 30 calendar days.
 - (2) If the School District does not submit documentation within 30 calendar days, the School District will be ineligible to receive a Financial Hardship grant for their project(s) and preference points as provided in Section 1860.15.

Note: Authority cited: Section 17375(b)(2)(A), 17375(b), Education Code.

Reference: Sections 17075.10 and 17070.15, Education Code.

Section 1860.15. Application Funding Criteria.

If the estimated total Apportionments of all Approved Applications received within a funding round specified in Section 1860.6 exceed the funds available in that funding round, OPSC will calculate preference points for all Approved Applications. An Approved Application shall receive preference points based on the total of (a) and (b) up to a maximum of 80 points, as follows:

- (a) Financial Hardship: 40 points if a School District demonstrates it meets the requirements under Section 1860.14.
- (b) Low Income: Up to 40 points based on the percentage of pupils at the School District meeting the definition of Low Income. The following sliding scale shall be used to determine the number of preference points:

Percentage Eligible for Free and Reduced Price School Meals	Preference Points Assigned
60-65%	4
66-70%	8
71-75%	15
76%	16
77%	17
78%	18
79%	19
80%	20
81%	21
82%	22
83%	23
84%	24
85%	25
86%	26
87%	27
88%	28
89%	29
90%	30
91%	31
92%	32
93%	33
94%	34
95%	35
96%	36
97%	37
98%	38
99%	39
100%	40

- (c) The Board shall apportion projects in the following order:
 - (1) School Districts will be funded based on the total preference points, determined by the sum of subdivisions (a) and (b) above. If School Districts submit multiple applications in the same funding round, OPSC will use the priority order assigned to each application by the School Districts on the Form SAB 70-01 and then fund Approved Applications in the following order:
 - (A) School Districts shall have their first priority projects funded in order based on total preference points until all School Districts have had their first priority project funded, or until all funds are exhausted for that funding round, whichever comes first.
 - (B) School Districts with the same total preference points funded in order of the higher Low Income percentage reported to one decimal place. The School District with the higher Low Income percentage will be funded first.
 - (C) If School Districts have the same total preference points and the same Low Income percentage reported to one decimal place, projects will then be placed into a lottery system to determine the School District funding order.
 - (2) If sufficient funding remains after funding first priority projects pursuant to 1860.15(c)(1)(A), School Districts with multiple Approved Applications will be funded in the following order:
 - (A) The School District with the highest total preference points shall have their remaining projects funded in priority order until all projects are funded, or until all funds are exhausted for that funding round, whichever comes first. Funding shall then be provided to the School District with the next highest total preference points.

- (B) A tie breaker will be used for School Districts with the same total preference points by using the exact Los Income percentage to one decimal place, as identified in the most recent Free and Reduced Price School Meals data on file at the CDE. The School District with the higher Low Income percentage will be funded first.
- (C) If School Districts with the same total preference points are still tied after the review of the Low Income percentages, projects will be placed into a lottery system to determine School District funding order. The highest remaining priority project for each School District participating in the lottery will be funded until all projects from each School District participating in the same lottery round have been funded, or until all funds are exhausted for that funding round, whichever comes first.
- (3) If the Board does not have sufficient funding to fully apportion a School District's Approved Application, that School District may elect to either:
 - (A) Accept partial funding for the project. If partial funding is accepted, the Apportionment shall become the full and final apportionment for the project.
 - (B) Decline to accept funding for the project. If partial funding is declined, the Board may offer partial funding to the next Approved Application, based on funding order determined in (c)(1) and (c)(2) above.

Note: Authority cited: Sections 17375(b)(2) and 17375(gh), Education Code.

Reference: Sections 17075.10, 17075.15, 17375(b)(2), 17375(b)(2)(A), 17375(b)(2)(B), 17375(gh), and 42238.01(a), Education Code.

Section 1860.16. Fund Release Process.

OPSC will release State funds that have been Apportioned by the Board pursuant to Sections 1860.9, 1860.10, 1860.10.2, 1860.10.3 and 1860.12 when the following requirements have been satisfied:

- (a) For an advance fund release for design costs, 40 percent of the grant determined in 1860.9(a) or 25 percent of the grant determined in 1860.12(a) will be released once an executed design, or design and site, Grant Agreement, as required by Section 1860.17, has been received by OPSC.
- (b) For an advance fund release for two percent site other costs, funds will be released once an executed site, or design and site, Grant Agreement, as required by Section 1860.17, has been received by OPSC.
- (c) For an advance fund release for site acquisition costs, other than two percent site other, funds will be released once an executed site, or design and site, Grant Agreement, as required by Section 1860.17, has been received by OPSC and the following requirements have been met:
 - (1) The School District has entered escrow for the site.
 - (2) There has been a final appraisal of the site.
 - (3) The School District received either contingent or final site approval from the California Department of Education.
 - (4) A complete Form SAB 70-02 has been received by OPSC.
- (d) For New Construction Grant or Retrofit Grant funding, all unreleased funds will be released once an executed full grant agreement, as required by Section 1860.17, has been received by OPSC and the following requirements have been met:
 - (1) The School District's applicable matching share has already been deposited or expended by the School District for the project, unless the School District meets the requirements for Financial Hardship pursuant to Section 1860.14.
 - (2) The School District has entered into a binding contract(s) for the completion of the project.
 - (3) The plans and specifications applicable to the state funded project have been approved by DSA.
 - (4) If the project includes site acquisition, there has been a final appraisal of the site, the site received written final approval by CDE and the School District has entered escrow for the site.
 - (5) A complete Form SAB 70-02 has been received by OPSC.
- (e) For New Construction Grant or Retrofit Grant funding, without a request for an advance release of funds pursuant to Sections 1860.7(a) and 1860.7(c), a complete *Fund Release Request* (Form SAB 70-02) with all required approvals must be submitted within 180 days of the first Apportionment. If a complete Form SAB 70-02 is not received within 180 days of Apportionment, the Apportionment shall be rescinded.
- (f) For an Apportionment received pursuant to Section 1860.7(b) and 1860.7(d), where submittal of the necessary CDE plan approval and/or DSA-approved plans and specifications were not required at the time the Board granted an Apportionment, the School District has up to 12 months to submit the required approvals from the date of the first Apportionment. If the required submittals are not received within 12 months, the Apportionment shall be rescinded, and the Full-Day Kindergarten Facilities Grant will return to the Program for reallocation.
- (g) Subject to available funds, site acquisition grants shall be adjusted based on actual costs prior to the release of funds.
- (h) Prior to fund release, OPSC will verify that the School District has included multilevel classrooms in the plans for the project, if multilevel funding was requested.

- (i) Financial hardship approval status by OPSC for a design and/or site advance will apply to any subsequent funding phases for the project(s) during the same application filing round, as established in Section 1860.6.

Note: Authority cited: Sections 17375(c) and 17375(gh), Education Code.

Reference: Section 17375(c), Education Code.

Section 1860.17. Grant Agreement Submittal.

A Grant Agreement for the project with an original signature by an authorized District Representative must be submitted prior to the release of any funds.

Note: Authority cited: Section 17375(e), Education Code.

Reference: Section 17375(e), Education Code.

Section 1860.18. Program Reporting Requirements.

- (a) A School District receiving funds in accordance with the Program shall submit an expenditure report from the district on the Form SAB 70-03 at the completion of the project. A project shall be deemed complete when either of the following occur:
 - (1) When the notice of completion for the project has been filed; all outstanding invoices, claims, and change orders have been satisfied and the facility is currently in use by the School District.
 - (2) One year from the date of the final fund release.
- (b) A final expenditure report to report expenditures of savings pursuant to 1860.19 shall be due one year after the earlier subdivision (a)(1) or (a)(2).

Note: Authority cited: Section 17375(gh), Education Code.

Reference: Sections 17375(b)(3), 17375(b)(4) and 17375(gh), Education Code.

Section 1860.19. Project Savings and Unexpended Funds.

- (a) For the funding provided pursuant to Section 1860.3(a) School Districts must meet the following requirements for Project Savings and Unexpended Funds:
 - (1) Project Savings - With the exception of School Districts that receive Financial Hardship funding, a School District may expend or encumber the savings, and interest earned on State funds, on other high priority capital facility needs of the School District. Any savings not expended or encumbered after one year from the completion of the project, as specified in Section 1860.18, must be returned to the State.
 - (2) Unexpended Funds - For a project that receives a Financial Hardship grant, any funding not expended or encumbered on eligible project expenditures prior to completion of the project, as specified in Section 1860.18, must be returned to the State.
- (A) Any interest earned on State funds for a project that received Financial Hardship grant funding, that is not expended or encumbered on eligible project expenditures prior to completion of the project, as specified in Section 1860.18, must be returned to the State.
- (B) A School District is only required to return unexpended or unencumbered funds up to the amount of Financial Hardship grant funding provided by the Board.
- (b) For the funding provided pursuant to Section 1860.3(b) all School Districts may expend or encumber the savings, and interest earned on State funds, as follows:
 - (1) Professional development to build capacity for the implementation of a California state preschool program, transitional kindergarten program, or a Full-Day Kindergarten Program.
 - (2) Instruction materials to build capacity for the implementation of a California state preschool program, transitional kindergarten program, or a Full-Day Kindergarten Program.
 - (3) Other high priority capital facility needs of the School District, that are allowable expenditures in accordance to the Grant Agreement.
 - (4) Any savings, including interest, unexpended or unencumbered after one year from the completion of the project, as specified in Section 1860.18, must be returned to the State.

Note: Authority cited: Section 17375(a) and 17375(gh), Education Code.

Reference: Sections 17375(a), 17375(b)(3), 17375(b)(4) and 17375(gh), Education Code.

Section 1860.20. Program Accountability Expenditure Audit.

Projects will be subject to an audit conducted pursuant to Education Code Section 41024 to assure that the expenditures incurred by the district were made in accordance with the provisions of Education Code Section 17375. The audit will also assure that the district complied with all site acquisition guidelines as provided in Sections 1860.10, 1860.10.1, 1860.10.2, and 1860.10.3.

Districts shall retain all financial accounts, documents, and records necessary for an audit of completed projects pursuant to Education Code Section 41024(a)(4) and shall provide project documentation, if requested by the local auditor.

Pursuant to Education Code Section 41024(c)(5), should an audit of the School District certifications or the expenditures for the project make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17375 and Sections 1860.9 to 1860.13, CDE shall ensure that the School District has corrected the audit exception by implementing a required penalty payment of funds equal to the amount of funds disallowed in the audit exception. Subject to available funds, site acquisition grants shall be adjusted based on actual costs.

Note: Authority cited: Section 17375(hj), Education Code.

Reference: Sections 17375(hj) and 41024 Education Code; Section 1771.3, Labor Code.

Section 1860.21. On-going Routine Maintenance.

A School District, regardless of size, shall certify on the Form SAB 70-01 that a restricted account within the School District's general fund has been established for the exclusive purpose of providing on-going and major repair of its facilities.

Note: Authority cited: Section 17375(gh), Education Code.

Reference: Section 17375(gh), Education Code.