

OFFICE OF PUBLIC SCHOOL CONSTRUCTION
STAKEHOLDER MEETING
March 20, 2025

PROPOSED REGULATORY AMENDMENTS FOR HARDSHIP APPLICATIONS

PURPOSE

To discuss and receive stakeholder feedback regarding proposed regulatory amendments resulting from Assembly Bill (AB) 247, the Kindergarten through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety Bond Act of 2024 (Proposition 2), which was approved by a majority of California's voters on November 5, 2024. The proposed amendments to School Facility Program (SFP) Regulations are related to the repeal and re-addition of Education Code (EC) Section 17075.10 for Hardship Applications, which is the statutory basis for the Facility Hardship (FHP) and Seismic Mitigation Programs (SMP) and the Excessive Cost Hardship supplemental grant for Urban Location, Security Requirements, and Impacted Sites. In addition, clarifying regulatory amendments related to these Programs are included in this report, which were first proposed by the Office of Public School Construction (OPSC) in June 2024.

AUTHORITY

See Attachment A.

BACKGROUND

Proposition 2 repealed the prior EC Section 17075.10 language and added new language that continues to provide the authority to fund projects to replace, reconstruct, or construct new school facilities when there is a threat to the health and safety of pupils. The new language also states how the funding will be determined. In summary, the Proposition 2 amendments state the following:

- To qualify for Hardship funding, the school district must demonstrate that there is a threat to the health and safety of pupils.
- Health and safety projects include the replacement of the most vulnerable school facilities that are identified as Category 2 buildings by the report completed pursuant to EC Section 17317.
- For school facilities that pose an unacceptable risk of injury to occupants in a seismic event, a school district must demonstrate both of the following:
 - Due to unusual circumstances beyond the control of the school district, excessive costs need to be incurred in the construction of school facilities.
 - The facilities are needed to ensure the health and safety of pupils.

BACKGROUND (cont.)

- The district must prepare a cost-benefit analysis to determine if the cost to remain in the school facility and mitigate the problem is at least 50 percent of the replacement cost.
 - If the cost is at least 50 percent, the district qualifies for replacement facilities.
 - If the cost is less than 50 percent, the district qualifies for modernization funding.
- Subdivision (c) of the former EC Section 17075.10 was repealed and removed the authority for the Excessive Cost Hardship supplemental grant for Urban Location, Security Requirements, and Impacted Sites.
- Staff is directed to develop regulations to define eligible health and safety projects.

Proposition 2 also added EC Section 17070.59 to establish a points-based determination and sliding scale for the required state and local match for SFP projects. It also amended the language for EC Section 17072.30 to outline the sliding scale and point allocation as it relates to New Construction projects, including FHP and SMP replacement funding, and EC Section 17074.16 to add similar language for modernization projects, including FHP and SMP rehabilitation funding. OPSC staff presented draft proposals to implement the changes required by Proposition 2 through amendments of SFP Regulation Sections 1859.77.1 (New Construction District Matching Share Requirement) and 1859.79 (Modernization Matching Share Requirement), and the proposed addition of SFP Regulation Section 1859.70.5, at stakeholder meetings on January 30, 2025, and March 13, 2025.

Prior to the passage of Proposition 2, OPSC staff held a stakeholder meeting on June 4, 2024 to discuss proposed regulatory amendments to SFP Regulation Sections 1859.61, 1859.82.1 and 1859.82.2, as well as changes to the Forms SAB 50-04 and 58-01. The amendments included clarification, standardization, and improved user readability and experience of the SFP Regulations governing these programs. Stakeholder feedback was requested at the meeting and/or to be submitted in writing.

STAFF ANALYSIS/DISCUSSION

OPSC staff have reviewed the changes to EC Section 17075.10 resulting from the passage of Proposition 2 and interpret that the statute continues to support the FHP and SMP as they currently exist with a change to the matching share for SMP rehabilitation projects. The new EC Section 17075.10 essentially reorganizes the concepts from the former language for the two programs and creates a single funding determination that is applicable to both FHP and SMP projects. In addition, OPSC received stakeholder feedback following a meeting held in June 2024 for proposed regulatory amendments to the FHP and SMP, as well as the related *Program Application for Funding* (Form SAB 50-04) and *Facility Hardship Cost*

STAFF ANALYSIS/DISCUSSION (cont.)

Estimate (Form SAB 58-01). A description of all proposed regulatory amendments and prior feedback received is included here. Another significant change resulting from Proposition 2 is the removal of the statutory authority for the Excessive Cost Hardship supplemental grant for Urban Location, Security Requirements and Impacted Sites, which was the former subdivision (c) of EC Section 17075.10. Proposed regulatory amendments are included to address this change as well.

There are two Attachments to this report that include proposed regulatory amendments:

1. Attachment B is the proposed regulation amendments.
2. Attachment C is the proposed amendments to Form SAB 58-01.

Changes to Matching Share for SMP Rehabilitation Projects

Prior to the passage of Proposition 2, EC Section 17075.10 stated that SMP funding was provided on a 50 percent state and 50 percent district matching share basis for qualifying Most Vulnerable Category 2 Buildings whether the facility qualified for replacement or rehabilitation funding. Based on this language, all SMP projects were funded from New Construction bond authority. The newly enacted EC Section 17075.10 no longer differentiates between health and safety projects that result from Most Vulnerable Category 2 Buildings and other health and safety threats.

Funding will still be provided for both FHP and SMP replacement facilities on a 50 percent state and 50 percent local matching share basis as a new construction grant pursuant to SFP Regulation Section 1859.77.1, subject to adjustment by the sliding scale mentioned in the following section. However, as a result of the changes to EC Section 17075.10 enacted by Proposition 2, funding for facilities that qualify for either FHP or SMP rehabilitation funding will now be provided on a 60 percent state share and 40 percent local matching share basis as a modernization grant pursuant to SFP Regulation Section 1859.79, subject to adjustment by the sliding scale mentioned in the following section.

The changes to EC 17075.10 apply to funding applications received by OPSC on or after October 31, 2024. Therefore, the proposed amendments included in SFP Regulation Section 1859.82 distinguish which version of EC applies based on the OPSC received date of an Approved Application (see Attachment B).

Sliding Scale for New Construction and Modernization Funding Levels

In addition to the changes described above for SMP rehabilitation projects, EC Section 17070.5 is added to Chapter 12.5 and establishes a points-based system and a sliding scale to adjust the standard matching share for SFP New Construction and Modernization funding applications. This section also applies to FHP and SMP funding applications. The proposed regulatory amendments related to this topic are included in a separate report and not included here.

STAFF ANALYSIS/DISCUSSION (cont.)

Repeal of Subdivision (c) – Supplemental Grant for Urban Construction

EC Section 17075.10 was repealed and re-added upon the passage of Proposition 2. The prior section included subdivision (c), which stated the following:

The board shall review the increased costs that may be uniquely associated with urban construction and shall adjust the per-pupil grant for new construction or modernization hardship applications as necessary to accommodate those costs. The board shall adopt regulations setting forth the standards, methodology, and a schedule of allowable adjustments, for the urban adjustment factor established pursuant to this subdivision.

Because this subdivision was repealed, OPSC proposes regulatory amendments to provide the supplemental grant known as the Excessive Cost Hardship grant for Urban Location, Security Requirements, and Impacted Sites only to Approved Applications for FHP and SMP received on or before October 30, 2024, as the statutory authority to provide this supplemental grant after that date no longer exists.

Previously Proposed Regulatory Amendments from June 2024

This section is a continuation of and addition to the proposed regulatory amendments presented to stakeholders on June 4, 2024. OPSC received written comments from one school district following that meeting. This report addresses those comments and proposes further changes with the goal of ensuring clear program requirements for applicants and OPSC as the program administrator. The proposed amendments are related to the following:

- Consistent use of the defined term, *Governmental Agency*.
- Clarification of SFP Regulation 1859.93.1. New Construction Project Funding Order to include references to both SFP Regulation Sections 1859.82.1(b) and 1859.82.2(b).
- Clarification of the adjustments to the Modernization Eligibility Baseline for sites that receive replacement funding.
- Clarification of when asbestos mitigation costs are allowable in FHP and SMP projects.
- Clarification of how the total eligible square footage is determined for projects that replace individual school buildings and/or classrooms.
- Further define eligible funding for rehabilitation applications
- Amendments and clarification on the Form SAB 58-01.

OPSC welcomes comments and feedback on any of the proposed changes reflected in Attachment B. The proposed amendments to the SFP Regulations are summarized below in numerical order. Changes that are applicable to both SFP Regulation Sections 1859.82.1 and 1859.82.2 are listed only one time and noted as such.

STAFF ANALYSIS/DISCUSSION (cont.)

SFP Regulation Section 1859.2 - Governmental Agency

Staff concurs with the stakeholder recommendation to use the term “Governmental Agency” throughout Sections 1859.82.1 and 1859.82.2 for consistency. The term is already defined in SFP Regulations; thus, the proposed amendments reflect this change.

SFP Regulation Section 1859.2 states that a “Governmental Agency shall include but is not limited to a public entity as defined by Government Code Section 7260(a) including California federally recognized or historically established tribal governments.”

For reference, Government Code Section 7260(a) states that a:

“Public entity” includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state or any entity acting on behalf of these agencies when acquiring real property, or any interest therein, in any city or county for public use, and any person who has the authority to acquire property by eminent domain under state law.

Section 1859.61 – Adjustments to Modernization Baseline as a result of FHP and/or SMP Replacement Funding

SFP Regulation Section 1859.61(l) provides the conditions for when an adjustment to a school district’s modernization eligibility baseline is required as a result of receiving replacement funding via a New Construction Grant or Facility Hardship Square Footage Grant. As written, a school board resolution is required in all instances.

However, the school board resolution required to allow this adjustment should only apply to school buildings and/or classrooms for which the district did not have the current enrollment to support the replacement and that remain on the site but have been permanently removed from K-12 use. Therefore, staff proposes language to state the requirements more clearly for how this adjustment will be made by reorganizing and renumbering the current language. A school board resolution is only required under the new Section 1859.61(l)(2)(B). This is in alignment with our current process.

Section 1859.82.1 - Mitigation of Asbestos

In the first meeting, Staff proposed that the following statement be added to Section 1859.82.1 (b)(2)(A):

Mitigation of asbestos that becomes friable in the course of school building maintenance, repairs or modernization work is not eligible for funding pursuant to Section 1859.82.1.

After further review, the language was adjusted for clarity and placed in the second introduction paragraph of SFP Regulation Section 1859.82.1 where general

STAFF ANALYSIS/DISCUSSION (cont.)

program tenets are stated. Section 1859.82.1(b)(2)(A) regarding the industry specialist's report has also been updated to indicate that the lab test results only identify the *presence* of asbestos and that the industry specialist's report will be required to state that the asbestos is currently friable.

In addition, Staff clarifies that costs for the abatement of friable asbestos could be included in the Form SAB 58-01 and/or site development worksheet if it is required in the course of mitigating a different qualifying health and safety hazard. For example, if asbestos becomes friable in the course of performing the work to mitigate structural deficiencies that are part of a qualifying FHP or SMP project, the abatement costs may be eligible as minimum mitigation work attributed to the structural mitigation work.

SFP Regulation Sections 1859.82.1 & .82.2 - Clarify the Calculation Methodology for Base Grant Funding of Individual Building Replacement Applications

The base grant for applications that qualify for Replacement funding to replace some but not all school buildings on a school site is based upon the Square Footage grant amount determined by the calculation methodology in SFP Regulation Sections 1859.82.1(b)(4)(B) and 1859.82.2(b)(4)(B). Current program regulations state that "funding will be based on the Square Footage of the School Buildings replaced [existing qualifying building] and is capped by the lesser of the amount provided in accordance with the chart below and the Square Footage constructed..."

To determine the amount of square footage to be funded, the square footage of the existing facility is also compared to what is justified by the enrollment. Staff revised the previously proposed amendments for this section. The newly proposed language clarifies the methodology and parameters for applying the minimum and maximum values presented in the facility chart in both regulation sections. The original intent was that both sections would be the same and some additions are added that were not previously existing to make the language uniform.

Stakeholder feedback stated that the existing square footage is not a factor in this calculation. However, it can be a factor in some instances. This is best illustrated by looking at two examples: one where the existing building being replaced is less than the minimum square footage for that facility type provided in program regulations, and one where the existing building is larger than the minimum size, but less than the maximum size.

Example 1 – Multi-Purpose Room Below Minimum Size

As shown in the excerpt from the Facility charts in Regulation Sections 1859.82.1 and 1859.82.2 below, the minimum size for a Multi-Purpose Room (MPR) at an elementary school is 4,000 square feet.

STAFF ANALYSIS/DISCUSSION (cont.)

Facility	Elementary School Pupils	Middle School Pupils	High School Pupils
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum 4,000 sq. ft.	5.3 sq. ft. per pupil minimum 5,000 sq. ft.	6.3 sq. ft. per pupil minimum 8,200 sq. ft.

If an elementary school site has an existing MPR that is 3,500 square feet and qualifies for replacement, the replacement square footage provided will be elevated to the minimum of 4,000 square feet, regardless of the square footage derived from the chart, provided the district is constructing at least 4,000 square feet. If the district constructs only 3,500 square feet, the replacement square footage is capped at the amount constructed. This concept is applied to all facility types with minimum sizes provided in the chart.

Example 2 – Gymnasium Between Minimum and Maximum Sizes

As shown in the excerpt from the same Facility charts below, the far-right column for high school pupils shows 15.3 square feet per pupil with a minimum of 8,380 square feet and a maximum of 18,000 square feet.

Facility	Elementary School Pupils	Middle School Pupils	High School Pupils
Gymnasium (includes shower/locker area)	N/A	12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.	15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.

In this example, a high school has a qualifying gymnasium that is 16,000 square feet that qualifies for replacement, and the district is constructing a new 20,000-square-foot gym. The chart states that high school sites should have a gymnasium that is a minimum of 8,380 square feet and limits replacement square footage to a maximum of 18,000 square feet, regardless of the square footage otherwise justified by enrollment. As noted above, the program regulations state that funding is based on the Square Footage of the school buildings being replaced (old buildings) and is capped by either the amount in the chart or what is constructed, whichever is less. To determine the amount of square footage to be funded, the square footage of the existing facility is compared to what is justified by the enrollment.

For this example, assume the enrollment at the site is 1,200 students. Following the chart above, 1,200 pupils multiplied by 15.3 square feet per pupil is 18,360 square feet. While the resulting amount exceeds the chart maximum of 18,000 square feet, the amount of eligible replacement square footage funding is limited to 16,000 because the existing facility was 16,000 square feet, which already exceeded the minimum of 8,380 square feet.

Example 3 – Classrooms

The calculation of replacement classrooms is a two-step calculation. First the number of eligible replacement classrooms is determined. Second, the eligible classroom(s) is converted to a square footage amount using the chart in Regulation.

STAFF ANALYSIS/DISCUSSION (cont.)

Eligible Classrooms

First, the enrollment at the site is compared to the number of available classrooms on the site to determine how many replacement classrooms the site requires to adequately house the *displaced* pupils.

For example, using the methodology in SFP Regulation Section 1859.82.1 (a)(4)(B) for FHP and Section 1859.82.2 (a)(4)(B) for the SMP, it is determined that the enrollment at an elementary school is 750 K-6 pupils. The loading standard for K-6 pupils is 25 per classroom. Thus, the enrollment justifies the need for 30 classrooms on the site.

Next, the available capacity at the site is determined to see how many classrooms that the site needs. Classrooms that are part of the FHP/SMP program application and have health and safety threats, are not considered available. In this example, there are 21 classrooms on site, and all are affected, leaving zero classrooms available for use.

Assume there are 25 replacement classrooms in the Division of the State Architect (DSA) approved plan set.

Funding is provided based on the school buildings *replaced*. School buildings can only be replaced if they were previously existing, and they will be re-constructed. In this case, the number of classrooms eligible for replacement is 21.

The additional 4 classrooms would be considered additional capacity, unless the DSA-approved plans include the demolition of at least 4 classrooms beyond the replacement funding qualifying buildings. They may be locally funded, or the district has the option to submit a separate application for either modernization if the additional classrooms are replacing other demolished classrooms, or new construction funding if they are additional capacity.

Converting Classrooms to Square Footage

Once the total number of eligible classrooms is determined, the classroom types are compared to the chart in applicable regulation to arrive at the Replacement Square Footage Grant.

Using the example above, the district is eligible for funding to replace 21 classrooms. Assume that based on enrollment, the site is justified to have two kindergarten classrooms and 19 1-6th grade classrooms.

STAFF ANALYSIS/DISCUSSION (cont.)

Kindergarten Classrooms (including Transitional Kindergarten)	1,350 sq. ft. for each replacement classroom.	NA	NA
Classrooms (1 st -12 th grade)	960 sq. ft. for each replacement classroom	960 sq. ft. for each replacement classroom	960 sq. ft. for each replacement classroom
Computer instructional support area, Industrial and Technology/Education Laboratory	960 sq. ft. for each replacement classroom.	960 sq. ft. for each replacement classroom.	960 sq. ft. for each replacement classroom.
Laboratory Classrooms (including science and consumer home economics. (Does not include Industrial and Technology/Education Laboratory)	1,300 sq. ft. for each replacement classroom.	1,300 sq. ft. for each replacement classroom.	1,300 sq. ft. for each replacement classroom.

Two Kindergarten classrooms @ 1,350 sq ft each = 2,700 sq. ft.
 19 1st-6th grade classrooms @ 960 sq ft each = 18,240 sq. ft.
 Total Other Replacement Square Footage = 20,940 sq. ft.

SFP Regulation Sections 1859.82.1 & .82.2 - Further Define Eligible Funding for Rehabilitation Applications

Through the course of processing applications seeking Rehabilitation funding, OPSC identified the need to further outline how funding would be provided for Rehabilitation applications involving the replacement of components or unenclosed roofed structures, such as lunch shelters, shade structures, and covered walkways.

In response to stakeholder feedback that the term 'like-kind' was too broad and unclear, staff has changed that term to 'equivalent.' The goal of these changes is to allow flexibility when replacing these structures but to also maintain the intent of the FHP and SMP to only fund minimum work. The language is designed to allow for necessary or required safety, code, or material upgrades, but to also make clear that enhancements or the addition of systems or features that weren't in the existing structure being replaced cannot be allowed under these minimum work programs.

For example, if the site had a 1,200-square-foot lunch shelter that was determined to no longer be safe for school use and that could not be repaired, program grants would be provided to build back an equivalent 1,200-square-foot lunch shelter that meets current code and safety requirements only. Any elective systems or features that weren't in the original shelter cannot be funded unless they are a requirement as part of obtaining plan approval.

Summary of Proposed Amendments in Attachment C

Form SAB 58-01

Overall, the Form amendments represent changes that make the form consistent with the Sierra West Publishing's construction cost publications. OPSC reviewed these changes with the publisher on several occasions to ensure accuracy. One

STAFF ANALYSIS/DISCUSSION (cont.)

stakeholder comment was received regarding the proposed change to the General Conditions multiplier factor from the OPSC Allowance Subtotal to the total project cost reported to DSA. The comment states that they believe “the data used for the form should speak to a uniform scope and data source, and not be comingled with scopes that are not being considered for funding or with data sources that include cost information beyond what is being considered for funding.” General Conditions are provided on a sliding scale, the higher the total project costs, the lower the percentage increase. This is because with higher total project/contract costs, economies of scale are realized which drive down the General Conditions percentages for higher cost projects.

Being that the FHP and SMP require funding be provided for the minimum work required to mitigate the identified health and safety threat, staff must closely review the industry specialist reports and governmental concurrence documents and compare them to the Form SAB 58-01 to ensure that only the minimum work is funded. Therefore, OPSC has been using the total project costs to determine the correct General Conditions percentage most accurate to the overall project, and then using that percentage to apply to the eligible project costs in the FHP or SMP application. This approach takes into consideration the economies of scale attributed to the total project, and then applies it to the fundable portion of the project.

The stakeholder further states that using the total project costs reflected in DSA Tracker results in the scopes of unrelated projects to be comingled, and that “the OPSC allowance subtotal should determine the multiplier factor used to calculate fee costs as it aligns with the work being represented in the submitted applications.”

In many cases, the minimum work to mitigate the qualifying health and safety threat is embedded in the DSA approved plan set for a larger modernization or new construction project. By separating the FHP or SMP eligible portion of funding from the rest of the total project as designed in the DSA approved plans, it could result in a higher percentage of General Conditions being applied than is appropriate, thus providing funding beyond the minimum work required to mitigate the health and safety threat. Scaling the contractor burden to align with the larger overall project appropriately and proportionately funds the FHP or SMP application.

Summary of Stakeholder Feedback

Staff would like to thank stakeholders that were able to view, attend or participate in this meeting and also thank those who provided valuable feedback either at the meeting or through written correspondence to OPSC. On the following page is a table summarizing the topics raised by stakeholders and incorporated into these proposed regulations:

STAFF ANALYSIS/DISCUSSION (cont.)

Stakeholder Feedback	OPSC Response
<p>1. <u>Corresponding Project</u> Stakeholder believes additional clarification would be beneficial for this: Section 1859.61 (1)(1) states " ... the building age shall be reset to the date of the Apportionment for the corresponding project." The stakeholder requests OPSC consider clarifying "corresponding project" to indicate whether it is referring to the FHP/SMP application, or the actual project itself.</p>	<p>1. Agreed, proposed amendments are adjusted to address these comments by referencing the Form SAB 50-04, tying it to the funded FHP or SMP application.</p>
<p>2. <u>Classroom Inventory</u> Stakeholder believes additional clarification would be beneficial for this: Section 1859.61 (1)(2)(A) refers to the classroom inventory that was used to establish modernization eligibility. The stakeholder suggests "classroom inventory" be revised to "Gross Classroom Inventory". This change would provide consistency between Section 1859.61 (1)(2)(A) and Section 1859.61 (1)(2)(8), which references the Gross Classroom Inventory.</p>	<p>2. Agreed, proposed amendments are adjusted to address these comments by inserting the defined term "Gross Classroom Inventory."</p>
<p>3. <u>Redundancy of Replacement Limit Language</u> Stakeholder believes Section 1859.81.2(b)(4)(8)(2)(e) and Section 1859.82.2(b)(4)(8)(2)(d) are redundant of Section 1859.81.2(b)(4)(8)(2) and Section 1859.82.2(b)(4)(8)(2) respectively. While the stakeholder understands this inclusion might be to clarify what the outcome would be in situations</p>	<p>3. OPSC believes the stakeholder intended to reference Sections 1859.82.1 and 1859.82.2, and not 1859.81.2.</p>
<p>4. <u>Redundancy of Replacement Limit Language</u> (continued) where the replaced square footage is less than the minimum, it ultimately provides the same information as the above main section. Eligible square footage is a determination between the chart included in the regulations and the actual constructed square footage, existing</p>	<p>4. By removing the language suggested at the first stakeholder meeting on this topic and replacing it with amended language more clearly outlining how existing square footage plays a factor in determining eligible replacement area and how existing square footage is a determining factor when the square footage replacement facility exceeds the</p>

STAFF ANALYSIS/DISCUSSION (cont.)

<p>4. (cont.) square footage is not a determining factor; so, the inclusion of this scenario in the regulations adds confusion to the section.</p> <p>The stakeholder requests that OPSC consider this information when determining whether to continue with the inclusion of the sections.</p>	<p>4. (cont.) original facility and exceeds the minimum amount listed in the chart.</p>
<p>5. "Outline" Stakeholder believes OPSC's use of "outline" when referring to how the industry expert's report should present the minimum required work, to be too broad. Previously, OPSC has not accepted the information presented in the industry expert's report due to a lack of specific language indicating what is the minimum required work.</p> <p>Therefore, the stakeholder requests OPSC provide clarification on this amendment that clearly states how the minimum required work needs to be presented for it to be considered for funding. If specific language is required, guidance on the appropriate and acceptable language should be provided. This is applicable to Sections 1859.81.2(c)(3)(A); 1859.81.2(c)(3)(8)(2); 1859.82.2(c)(3)(A); and 1859.82.2(c)(3)(D)(4).</p>	<p>The word "outlined" could be replaced with the word <i>described</i> in most instances. When the phrase <i>outlined in</i> refers to Education Code, the better replacement phrase could be <i>required by</i>. These changes have been made, however OPSC is interested in other stakeholder feedback to meet the intent of the language, which is for the industry specialist to be required to use their report to articulate what the imminent health and safety threat is, what has caused the threat, and the minimum work required to mitigate the threat.</p>
<p>6. "Like-kind" The stakeholder believes OPSC's use of "like-kind" when referring to the replacement of unenclosed roofed structures, to be too broad. As the proposed amendment currently reads, it is unclear whether like-kind refers to similar structure material or similar site conditions. The District requests that OPSC provide guidance on what is meant by "like-kind" when "Like-kind" is used in the regulations. This is applicable to Sections 1859.81.2(c)(3)(A); 1859.81.2(c)(3)(B)(2); 1859.81.2(c)(3)(C)(6); 1859.82.2(c)(3)(A);</p>	<p>6. OPSC has changed the word in the proposed amendments to "equivalent" and is interested in other stakeholder feedback if this is not an acceptable alternative. The intent of the updated language is to all for funding of an equivalent component or structure that allows for safety or code updates but does not add new or enhanced features not required to obtain plan approval.</p>

STAFF ANALYSIS/DISCUSSION (cont.)

<p>6. (cont.) 1859.82.2(c)(3)(D)(4); and 1859.82.2(c)(3)(D)(5).</p>	
<p>7. <u>"Governmental Agencies"</u> Stakeholder requests OPSC consider broadening language to include "Governmental Agencies" in all instances where the regulations reference required DSA Approval. There are instances in proposed amendments where it is stated that additional work beyond the minimum required may qualify for the funding if it is found to be required for required approvals from DSA or compliance for other Governmental Agencies. For consistency, throughout the amendments, please consider including this same language in the following five sections: 1859.82.1 (c)(3)(A); 1859.82.1 (c)(3)(C)(6); 1859.82.2(a)(2); 1859.82.2(b)(2)(A); and 1859.82.2(c)(3)(A).</p> <p>The stakeholder would also like to note that Sections 1859.82.2(b)(2)(E)(4) and 1859.82.2(c)(3)(A) insert "Governmental Entities" rather than "Governmental Agencies".</p> <p>For consistency, the stakeholder suggests OPSC use "Governmental Agencies" in these instances, as there is an existing definition for this term in the SFP Regulations.</p>	<p>7. Agreed, this change has been made. The defined term, Government Agencies, is the best suited replacement.</p>
<p>8. <u>Asbestos Abatement</u> Regarding SFP Regulation Section 1859.82.1(b)(2)(A), stakeholder requests OPSC consider asbestos abatement work as minimum work required and eligible costs. If asbestos abatement work is required because of work being funded through FHP and SMP, the work would not be able to be completed unless the abatement work is also completed, therefore making the abatement work part of the minimum required work.</p>	<p>8. OPSC agrees that asbestos abatement work required as part of the mitigation of a qualifying health and safety threat is eligible. The intent is to only fund required work to resolve an existing health and safety issue. This concern has been clarified in the proposed changes and further clarified in the summary statements.</p>

STAFF ANALYSIS/DISCUSSION (cont.)

<p>9. <u>Gross Inventory of School Buildings</u> Stakeholder notes that Sections 1859.82.1(b)(2)(E) and 1859.82.2(b)(2)(G) insert a requirement that the district submit <u>Gross Inventory of School Buildings</u> (continued) gross inventory of school buildings located on the site at the time of application submittal. The proposed requirement can be interpreted as a requirement for the district to submit "before" project completion gross inventory of school buildings. This seems to contradict OPSC process for recent applications, where OPSC has requested and analyzed school buildings on the site that reflect the configuration of the site "after" the completion of the project.</p> <p>The stakeholder requests OPSC to clarify if the requirement is the "before" project completion gross inventory of school buildings, the "after" project completion of school buildings, or both.</p> <p>Additionally, the District suggests OPSC update the last sentences of the section to mirror the previously defined language and indicate that the current "grade category," rather than "grade level" be indicated on spaces.</p>	<p>9. Some recent applications for SMP funding have been particularly complex compared to other applications processed in the past. School sites with school buildings that qualify for SMP funding are being redesigned and the replacement buildings are not necessarily a one-for-one replacement. In addition, replacement buildings are not always in the same DSA-approved plan set. Due to these complexities, OPSC has worked closely with the applicant to assess the square footage of the existing qualifying buildings and their usage (classrooms, MPR, gymnasium, auditorium, etc.) and compare them to the school buildings that are replacing them. However, the replacement buildings may not always maintain the same use or type. Thus, determining eligible replacement square footage in accordance with SFP Regulations has necessitated before and after site inventories.</p> <p>The term, "grade level," is intentional to identify the current grade level of each classroom on the site. It is necessary to determine the proper amount of square footage is provided for each classroom.</p>
<p>10. <u>Minimum Work Required</u> Similar to how the stakeholder has requested OPSC consider asbestos abatement work as minimum work required, they would also like OPSC to consider additional work that <u>Minimum Work Required</u> (continued) becomes required through the course of completing the FHP/SMP scope, as minimum work required.</p> <p>For example and context, if a district must open a wall to complete the mitigation work being funded, the work and cost to open and then repair the wall back to its pre-existing condition should be</p>	<p>10. Any work that is required to obtain plan approval as part of mitigating the qualifying health and safety threat is permissible as reflected throughout program regulation sections 1859.82.1, and 1859.82.2. Staff's proposed amendments have not changed to remove that eligibility. If there is additional work that is required to be completed in order to obtain plan approval for the project, it is considered part of the minimum work to mitigate the health and safety issue and is eligible for program funding.</p>

STAFF ANALYSIS/DISCUSSION (cont.)

<p>10. (cont.) considered as minimum work required to complete the mitigation activities.</p> <p>The stakeholder is concerned that the proposed amendment to specify the language throughout the regs to say "seismic mitigation work" creates a possibility for work that becomes required for the mitigation work to be completed to be excluded due to it technically not being seismic related, even though it is required for the mitigation activities.</p>	
<p>11. <u>Form 58-01 Updates</u> The stakeholder strongly disagrees with OPSC's proposed change to the Form 58-01 General Conditions multiplier factor from the OPSC Allowance Subtotal to the total project cost reported to DSA. The stakeholder believes the data used for the form should speak to a uniform scope and data source, and not be comingled with scopes that are not being considered for funding or with data sources that include cost information beyond what is being considered for funding. The stakeholder believes that to keep the scopes and costs aligned, the OPSC Allowance subtotal should determine the multiplier factor used to calculate fee costs as it aligns with the work being represented in the submitted applications. The project cost reported to DSA is not always representative of the work that is being considered for funding.</p> <p>For example, in scenarios where a district applies for rehabilitation funding, but chooses to replace the structure, using the DSA tracker information would not be representative of the work that is being estimated on Form 58-01, and would be comingling scopes and costs. If OPSC is looking to only fund the minimum required work for mitigation, any fees being calculated should be based on the same minimum required work for mitigation and</p>	<p>11. Further discussion is provided in the Staff Analysis section; however, OPSC reasserts that providing funding for contractor burden costs that are disproportionate to the project, as reflected in the total DSA-approved plan set that may include work beyond what is being funded in the FHP or SMP application, would result in over-funding of these applications beyond the minimum work to mitigate the health and safety threat.</p>

STAFF ANALYSIS/DISCUSSION (cont.)

11. (cont.) not on unrelated scopes or costs.	
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NEXT STEPS

Staff is seeking stakeholder feedback on all of the above proposals to ensure that funding is provided to address any additional work required by approving governmental entities that is precipitated by the health and safety threat, to provide additional program clarity, and to maintain program integrity related to providing funding only related to minimum health and safety mitigation work.

The proposed regulation text has been included as Attachment B, while the proposed revisions to the Form SAB 58-01 have been included as Attachment C.

Staff requests stakeholder feedback on the proposed changes and topics outlined in this item. Any stakeholder wishing to provide feedback should email Staff by end of day on April 4, 2025.

If necessary, OPSC will present at a future stakeholder meeting any revisions to the proposed SFP regulations and related forms based on today's discussion and feedback that is received by April 4, 2025. If you would like to submit written feedback, please email your suggestions to the OPSC Communications Team at OPSCCommunications@dgs.ca.gov.

ATTACHMENT A

AUTHORITY

Education Code Section 17075.10. as it read on January 1, 2024.

(a) A school district may apply for hardship assistance in cases of extraordinary circumstances. Extraordinary circumstances may include, but are not limited to, the need to repair, reconstruct, or replace the most vulnerable school facilities that are identified as a Category 2 building, as defined in the report submitted pursuant to Section 17317, determined by the department to pose an unacceptable risk of injury to its occupants in the event of a seismic event.

(b) A school district applying for hardship state funding under this article shall comply with either paragraph (1) or (2).

(1) Demonstrate both of the following:

(A) That due to extreme financial, disaster-related, or other hardship the school district has unmet need for pupil housing.

(B) That the school district is not financially capable of providing the matching funds otherwise required for state participation, that the district has made all reasonable efforts to impose all levels of local debt capacity and development fees, and that the school district is, therefore, unable to participate in the program pursuant to this chapter except as set forth in this article.

(2) Demonstrate that due to unusual circumstances that are beyond the control of the district, excessive costs need to be incurred in the construction of school facilities. Funds for the purpose of seismic mitigation work or facility replacement pursuant to this section shall be allocated by the board on a 50-percent state share basis from funds reserved for that purpose in any bond approved by the voters after January 1, 2006. If the board determines that the seismic mitigation work of a school building would require funding that is greater than 50 percent of the funds required to construct a new facility, the school district shall be eligible for funding to construct a new facility under this chapter.

(c) The board shall review the increased costs that may be uniquely associated with urban construction and shall adjust the per-pupil grant for new construction or modernization hardship applications as necessary to accommodate those costs. The board shall adopt regulations setting forth the standards, methodology, and a schedule of allowable adjustments, for the urban adjustment factor established pursuant to this subdivision.

(Amended by Stats. 2008, Ch. 179, Sec. 41. Effective January 1, 2009.)

Education Code Section 17075.10. as repealed and added by Assembly Bill 247, Chapter 81, Statutes of 2024, and with the successful passage of Proposition 2 on November 5, 2024

(a) (1) For health and safety projects for school facilities that are determined by the department to pose an unacceptable risk of injury to occupants in the event of a seismic event, a school district shall demonstrate both of the following to the satisfaction of the board:

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(A) That due to unusual circumstances that are beyond the control of the school district, excessive costs need to be incurred in the construction of school facilities.

(B) That the facilities are needed to ensure the health and safety of pupils if the health and safety of pupils is at risk.

(2) For purposes of paragraph (1), health and safety projects include projects to replace the most vulnerable school facilities that are identified as a Category 2 building, as defined in the report submitted pursuant to Section 17317.

(b) (1) A school district is eligible for health and safety funding to replace, reconstruct, or construct new classrooms and related facilities if the school district demonstrates there is a threat to the health and safety of pupils. To determine the applicable grant amounts, the district shall prepare and submit to the department a cost-benefit analysis that compares the minimum cost to remain in the classroom or related facility and mitigate the health and safety problem with the current replacement cost.

(2) The project qualifies for modernization funding if the minimum cost is less than 50 percent of the current replacement cost of the classroom or related facility.

(3) The project qualifies for replacement facilities if the cost-benefit analysis prepared pursuant to paragraph (1) demonstrates that the cost to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the replacement value.

(c) The department shall develop regulations to define eligible health and safety projects that meet the requirements of subdivisions (a) and (b) for purposes of project approval by the board.

(Repealed and added by Stats. 2024, Ch. 81, Sec. 18. (AB 247) Effective July 3, 2024. Operative November 6, 2024, pursuant to Sec. 30 of Ch. 81.)

ATTACHMENT B

PROPOSED REGULATIONS

Section 1859.61. Adjustments to the Modernization Baseline Eligibility.

The baseline eligibility for modernization as provided in Section 1859.60 for a specific site will be adjusted as follows:

- (a) Reduced by the number of pupils provided grants in a modernization SFP project or a CSFP Rehabilitation project at the specific site.
- (b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2), in a modernization LPP project funded under the LPP pursuant to Sections 1859.14 and 1859.15.
- (c) Increased by changes in projected enrollment in subsequent enrollment reporting years.
- (d) Increased for additional facilities not previously modernized with State funds, that become 25 years old, if permanent, or 20 years old, if portable or as a result of audit findings made pursuant to Sections 1859.90, 1859.90.3 and 1859.105.
- (e) Adjusted as a result of errors or omissions by the district or by the OPSC.
- (f) Adjusted as a result of amendments to these Subgroup 5.5 Regulations that affect the eligibility.
- (g) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
- (h) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.
- (i) Increased for facilities previously modernized with State funds, which qualify for an additional modernization apportionment pursuant to Section 1859.78.8.
- (j) Decreased for facilities that were deemed eligible for modernization pursuant to Sections 1859.60 and 1859.61(d) and subsequently replaced, or will be replaced under a signed contract for construction or acquisition of facilities, in a project funded by the district without participation from the State.
- (k) Adjusted as a result of replaced eligible portables funded with the Overcrowding Relief Grant, pursuant to Education Code Section 17079, et seq.
- (l) ~~Adjusted upon Board receipt of the local school board resolution acknowledging that the buildings have been removed from K-12 use.~~ Adjusted as a result of school buildings, as defined in Section 1859.82.1 and 1859.82.2, and/or classrooms that have been replaced, demolished, or removed from K-12 use as a result of the New Construction Grant or the Facility Hardship Square Footage Grant pursuant to Section 1859.82.1 or Section 1859.82.2 as follows:
 - ~~(1) School Buildings For school buildings and/or classrooms that receive replacement funding via the New Construction Grant or the Facility Hardship Square Footage Grant pursuant to Section 1859.82.1 or Section 1859.82.2, the building age shall be reset to the date of the Apportionment for the corresponding Form SAB 50-04.~~
 - ~~(2) School Buildings For school buildings and/or classrooms that were originally included in the district's baseline eligibility and were later demolished or removed from K-12 use due to health and/or safety concerns that meet the requirements of Regulation Section 1859.82.1 or 1859.82.2 as verified by OPSC, except the district did not have the current enrollment to support the replacement and funding of those School Buildings and/or classrooms. Buildings and/or classrooms removed from K-12 classroom use that remain on the school site will be identified on a list published on OPSC's website. as follows:~~
 - ~~(A) For school buildings and/or classrooms that have been demolished, the building and/or classroom shall be removed from the Gross Classroom Inventory that was used to establish modernization eligibility at the site.~~
 - ~~(B) For school buildings and/or classrooms that have been removed from K-12 use and remain on the site: Upon receipt of a local school board resolution acknowledging that the school buildings and/or classrooms have been removed from K-12 use, the building and/or classroom shall be identified on a list published on OPSC's website and removed from the Gross Classroom Inventory that was used to establish modernization eligibility at the site.~~

~~For (l)(1) the building age shall be reset to the date of the Apportionment for the corresponding project. For (l)(2) the building shall be removed from the classroom inventory used to establish modernization eligibility at the site.~~

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51, 17071.25, 17072.15, 17072.20, 17073.15, 17074.10, 17075.10 and 17079.30, Education Code.

ATTACHMENT B

Section 1859.82. Facility Hardship Program and Seismic Mitigation Program.

A ~~S~~School ~~d~~District may apply for Facility Hardship, including Seismic Mitigation Program assistance in cases of extraordinary circumstances that have caused an imminent health and safety threat pursuant to Education Code Section 17075.10. An Approved Application received on or before October 30, 2024, pursuant to this Section shall be subject to Education Code Section 17075.10 as it read on January 1, 2024. An Approved Application received on or after October 31, 2024, shall be subject to Education Code 17075.10 as it read on November 5, 2024.

Note: Authority cited: Sections 17070.35 and 17075.10 in effect as of January 1, 2024, and repealed and added by Assembly Bill 247, Chapter 81, Statutes of 2024, and with the successful passage of Proposition 2 on November 5, 2024, Education Code.

Reference: Sections 17075.10 in effect as of January 1, 2024, and repealed and added by Assembly Bill 247, Chapter 81, Statutes of 2024, and with the successful passage of Proposition 2 on November 5, 2024, 17075.15, 100420, 100620, 100820, 101012(a)(1) and 101122, Education Code.

Section 1859.82.1. Facility Hardship Program.

“School ~~B~~building” for the purposes of this Section shall have the same definition as Education Code Section 17283 and shall also exclude any districtwide administrative facilities. For the purposes of this Section, “grade category” shall refer to any of the following: kindergarten (including transitional kindergarten) through sixth grade (K-6), seventh grade through eighth grade (7-8), ninth grade through twelfth grade (9-12), Non-Severely Disabled Individuals with Exceptional Needs, and Severely Disabled Individuals with Exceptional Needs.

A ~~S~~School ~~d~~District is eligible for Facility Hardship funding to repair, replace, or construct ~~S~~School ~~B~~buildings or related required components, including but not limited to, water supply, electrical, and site development, that are currently causing a health and safety threat to the students and/or staff. Projects solely to replace components that have reached the end of their useful life; perform routine maintenance or repair, mitigate asbestos that becomes friable in the course of school building maintenance, repairs or modernization, issues resulting from the deferment of routine maintenance or repair; lack of current code compliance; or the addition of components that were not previously existing do not meet the qualifying criteria of the program. However, this work may be incorporated into a qualifying Facility Hardship application if it is required to be completed to gain DSA approval additional work beyond the minimum work to mitigate the qualifying health and safety threat may be incorporated into a Facility Hardship application if it is required to be completed to obtain required approvals from DSA and/or other Governmental Agencies.

~~Beginning 90 days after the effective date of this Section [November 29, 2020],~~ Approved Applications requesting Facility Hardship Program funding shall be submitted to OPSC within 12 months of DSA approval for the scope of work mitigating the identified health and safety threat. If the project does not require DSA approval, then the Approved Application for funding must be received within the 6 months following project completion, as demonstrated by the earliest of the following: the date that the notice of completion of the project has been filed; occupancy of any portion of the project ~~F~~facility; or when the ~~S~~School ~~B~~buildings or components of the ~~S~~School ~~B~~buildings in the project are currently in use by the ~~S~~School ~~D~~istrict. If a ~~S~~School ~~D~~istrict demonstrates that extreme or unusual circumstances prevented the submission of an eligible application within the applicable timeline outlined above, OPSC may allow up to an additional 6 months for submittal.

- (a) ~~S~~School Districts may qualify for funding to replace or construct new ~~S~~School ~~B~~buildings. Factors to be considered by the Board to determine eligibility for Facility Hardship program replacement funding may include, but are not limited to:
- (1) Damage or loss as a result of a natural disaster such as a fire, flood, or earthquake.
 - (2) Proximity to a major freeway, airport, electrical facility, high power transmission lines, dam, pipeline, or industrial facility.

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- (3) Adverse air quality.
- (4) Structural deficiency to the Sschool Bbuilding, and
- (5) Site conditions such as faulting, toxic soil, or liquefaction.
- (b) To qualify for replacement funding for Sschool Bbuildings, the School District must submit an Approved Application for funding and either (1) or (2) below:
- (1) For Sschool Bbuildings that are lost, destroyed, or are unable to be repaired, the School District must submit:
 - (A) For Approved Applications received on or after October 31, 2024, for school buildings that were lost, destroyed or are unable to repaired as a result of a natural disaster for which the Governor has declared a state of emergency, documentation which demonstrates that the District has been or will be determined by the Board to meet the requirements of Education Code Section 17075.20.
 - (AB) For all Approved Applications received on or before October 30, 2024 and for Approved Applications received on or after October 31, 2024, for school buildings that were lost, destroyed, or are unable to be repaired due to circumstances that are not the result of a natural disaster for which the Governor has declared a State of Emergency, A report from an industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) that states that the only way to mitigate the health and safety threat is to replace the Sschool Bbuilding(s).
 - (BC) Documentation which demonstrates that the facilities in the project must be reconstructed in order to house the current enrollment of the School District.
 - (D) If the School District intends to request additional grants for site development costs applicable to the qualifying project, a detailed cost estimate for the site development work pursuant to Section 1859.76 and any justification documents that support the requested costs.
- (2) For permanent Sschool Bbuilding(s) where the cost to rehabilitate the Sschool Bbuilding(s) exceeds 50 percent of the Current Replacement Cost, or for Portable Classrooms where the cost to rehabilitate exceeds the Portable Classroom Replacement Grant or Portable Toilet Replacement Grant, the School District must submit:
 - (A) A report by an industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) that outlines the minimum work to mitigate the health and safety threat and remain in the existing Sschool Bbuilding. If the threat is due to the presence of mold, OPSC must conduct a site visit to discuss the scope of the project prior to remediation. If the remediation is done prior to a site visit, the application will be ineligible for funding. Requests for asbestos mitigation must include lab test results indicating the presence of asbestos and an industry specialist report that states that the asbestos is currently friable, and provides the location, material, and testing methods used.
 - (B) A letter of concurrence from a governmental agency that has jurisdiction or expertise over the field in which the health and safety threat originates. The letter must concur with the industry specialist report on both 1. and 2. below:
 - 1. An imminent health and safety threat to student and/or staff exists.
 - 2. The mitigation measures outlined in the industry specialist's report are the minimum measures required to mitigate the threat and allow the continued use of the Sschool Bbuilding(s).
 - (C) Applications must include a detailed Form SAB 58-01 that meets the following requirements:
 - 1. The Form SAB 58-01 must use the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed in the most current edition of the Current Construction Remodeling and Repair Cost publication, amounts entered on the Form SAB 58-01 must use the provided unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the School District must provide supporting documentation for OPSC to review the requested unit cost.
 - 2. All requested line items shall include Construction Specifications Institute reference number (CSI #), description, F3 total unit cost amount, and quantity. Any line items that include amounts in lump-sum formats will not be reviewed or approved.
 - 3. The work in the Form SAB 58-01 shall match the work outlined in the report provided by the industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) for the minimum work required to mitigate the health and safety threat.

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4. The estimate submitted to OPSC shall be for the same scope of work reviewed and concurred to by DSA, and that is referenced in the governmental concurrence letter for the project.
5. The Form SAB 58-01 may also include any work required by DSA and other Governmental Agencies to obtain plan approval for the minimum work required to mitigate the health and safety threat.
- (D) A cost/benefit analysis that demonstrates the minimum work required to mitigate the health and safety threat and remain in the Sschool Bbuilding exceeds 50 percent of the Current Replacement Cost of the existing Square Footage of the Sschool Bbuilding. The minimum work required may include work required by DSA to gain approval for the mitigation project.
- (E) A gross inventory of all school buildings located on the project site, such as a site diagram or floor plan. The documentation must indicate the current usage, square footage, and facility type of all school buildings located on the project site at the time of application submittal. For all spaces used as classrooms, the current grade level must also be indicated.
- (~~E~~) All other documents required to complete an Approved Application for funding. This includes:
 1. A completed *Application for Funding* (Form SAB 50-04).
 2. The DSA Plan Approval letter for the project or documentation from DSA verifying that the project is exempt from their approval process.
 3. CDE Plan Approval letter for the project or documentation from CDE verifying that the project is exempt from their approval process.
 4. If the project is for a high school site, a letter or meeting minutes from the School Deistrict's Career and Technical Education Advisory Committee (CTEAC) certifying that the School Deistrict is in compliance with all career technical facility needs and assessments as outlined in Education Code, Section 17070.955.
 5. If the district intends to request additional grants for site development costs applicable to the qualifying project, a detailed cost estimate for the site development work pursuant to Section 1859.76 and any justification documents that support the requested costs.
- (3) Applications for Facility Hardship replacement funding that do not submit all documents required as part of (1) or (2) above shall be returned without review.
- (4) If the School Deistrict qualifies for funding to replace its Sschool Bbuildings, the School Deistrict is eligible to receive funding for the project as follows:
 - (A) If the School Deistrict is required to replace all Sschool Bbuildings on site, the School Deistrict is eligible to receive funding as follows:
 1. A New Construction Grant will be provided for the lesser of 2. or 3. below.
 2. The classroom capacity determined by multiplying the number of classrooms in each grade category on the project site being replaced by:
 - a. 25 pupils for each K-6 classroom.
 - b. 27 pupils for each 7-12 classroom.
 - c. 13 pupils for each Non-Severely Disabled Individuals with Exceptional Needs classroom.
 - d. 9 pupils for each Severely Disabled Individuals with Exceptional Needs classroom.
 3. The higher of a., b., or c. below:
 - a. The CBEDS Report of the current enrollment reporting year at the existing project site.
 - b. The average CBEDS Report of the current enrollment reporting year and two immediately preceding enrollment reporting years at the existing project site.
 - c. If the site is closed, use the CBEDS Report of the last enrollment reporting year in which the site was open.
 4. Additional funding may be provided, as applicable, for:
 - a. Fire ~~C~~ode Rrequirements pursuant to Section 1859.71.2,
 - b. therapy room pursuant to Section 1859.72,
 - c. multilevel construction pursuant to Section 1859.73,
 - d. project assistance pursuant to Section 1859.73.1.
 - e. replacement with multistory construction pursuant to Section 1859.73.2,
 - f. site acquisition pursuant to Sections 1859.74, 1859.74.5, and 1859.75,
 - g. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3, and 1859.74.4,
 - h. Applicable site development costs pursuant to Section 1859.76, and

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- i. ~~Excessive Cost Hardship Grant For a~~ Geographic location percentage factor pursuant to 1859.83(a),
 - j. New Construction Excessive Cost Hardship Grant(s) for small size projects pursuant to Section 1859.83(b),
 - k. New Construction Excessive Cost Hardship Grant(s) for new school projects pursuant to Section 1859.83(c), and
 - l. For Approved Applications received on or before October 30, 2024, New Construction Excessive Cost Hardship Grant(s) for urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (B) If the School District qualifies to replace some, but not all permanent School Building(s) on the project site, the School District is eligible to receive a Facility Hardship Square Footage Grant ~~funding will be based on the Square Footage of the qualifying School Buildings replaced and is capped by the lesser of the amount provided in accordance to the chart below and Square Footage constructed for each category as justified by enrollment at the project site as follows:~~
1. The Determine the enrollment at the project site, is determined by using the higher of a. or b., or c. below:
 - a. The CBEDS Report of the current enrollment reporting year at the existing project site.
 - b. The average CBEDS Report of the current enrollment reporting year and two immediately preceding enrollment reporting years at the existing project site.
 - c. If the site is closed, use the CBEDS Report of the last enrollment reporting year in which the site was open.
 2. Using the enrollment determined in 1. above, and the gross inventory described in (b)(2)(E), any permanent replacement Square Footage provided will be calculated in accordance to a., b., c., below and the chart below: determine the maximum amount of eligible permanent replacement Square Footage for the school building(s) being replaced based on a. through f. as follows and the facility type in the chart below:
 - a. If the actual Square Footage being constructed in the replacement project of the qualifying school building(s), not including classrooms, is less than the amount allowable minimum in the chart for the facility type, the replacement Square Footage shall be limited to the lesser of the actual Square Footage constructed or the minimum in the chart.
 - b. If the actual Square Footage of the qualifying school building(s), not including classrooms, is larger than the minimum in the chart for the facility type, the replacement Square Footage shall be the lesser of the actual Square Footage constructed or the Square Footage justified by enrollment pursuant to the chart below.
 - bc. Non-specialized classrooms space provided isare limited by the enrollment determined in 1. rounded up to the nearest whole classroom based on 1859.82.1(b)(4)(A)2., and then reduced for any classroom space available at the site to house the pupils at the site.
 - ed. Classrooms with specialized design such as auto shop, metal shop, music rooms, consumer home economic laboratories, industrial technology laboratories, or science laboratories will qualify for funding if used for its specialized purpose in the current enrollment reporting year or immediately preceding enrollment reporting year. Additionally, these spaces will not count as available capacity for purposes of providing funding in this section when calculating space available to house displaced pupils.
 - de. Any space not in the chart below will be provided based on the Square Footage replaced. This may include, but is not limited to, janitor's closets, hallways, workrooms, and vestibules.
 - f. If a School District submits documentation that demonstrates that additional toilet space must be constructed to obtain plan approval from DSA, the eligible replacement Toilet Square Footage may be increased by the amount of Square Footage required to obtain plan approval.

Facility Type	Elementary School Pupils	Middle School Pupils	High School Pupils
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum 4,000 sq. ft.	5.3 sq. ft. per pupil minimum 5,000 sq. ft.	6.3 sq. ft. per pupil minimum 8,200 sq. ft.
Toilet	3 sq. ft. per pupil minimum 300 sq. ft.	4 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
Gymnasium (includes shower/locker area)	N/A	12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.	15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.
School Administration	3 sq. ft. per pupil minimum 600 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft.	4 sq. ft. per pupil minimum 800 sq. ft.

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Library/Media Center	2.3 sq. ft. per pupil plus 600 sq. ft., minimum 960 sq. ft.	3.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.
Kindergarten Classrooms (including Transitional Kindergarten)	1,350 sq. ft. for each replacement classroom.	NA	NA
Classrooms (1 st -12 th grade)	960 sq. ft. for each replacement classroom	960 sq. ft. for each replacement classroom	960 sq. ft. for each replacement classroom
Computer instructional support area, Industrial and Technology/Education Laboratory	960 sq. ft. for each replacement classroom.	960 sq. ft. for each replacement classroom.	960 sq. ft. for each replacement classroom.
Laboratory Classrooms (including science and consumer home economics. (Does not include Industrial and Technology/Education Laboratory)	1,300 sq. ft. for each replacement classroom.	1,300 sq. ft. for each replacement classroom.	1,300 sq. ft. for each replacement classroom.

F3. Beginning August 31, 2020, the ~~resulting~~ Square Footage amount(s) determined in (B)(2) above shall be multiplied by \$204 per square foot for all non-Toilet Facilities and by \$366 per square foot for Toilet Facilities (includes shower/locker area and physical therapy area for Individuals with Exceptional Needs). The amounts shown will be adjusted in the manner prescribed in Section 1859.71.

34. Additional funding may be provided, as applicable, for:

- a. therapy room pursuant to Section 1859.72,
- b. multilevel construction pursuant to Section 1859.73,
- c. project assistance pursuant to Section 1859.73.1.
- d. replacement with multistory construction pursuant to Section 1859.73.2,
- e. site acquisition pursuant to Section 1859.74,
- f. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and 1859.74.4,
- g. Applicable site development costs pursuant to Section 1859.76,
- h. ~~Excessive Cost Hardship Grant For~~ Geographic location percentage factor pursuant to 1859.83(a),
- i. New Construction Excessive Cost Hardship Grant(s) for small size Projects pursuant to Section 1859.83(b), and
- j. For Approved Applications received on or before October 30, 2024, New Construction Excessive Cost Hardship Grant(s) for urban location, security requirements and impacted site pursuant to Section 1859.83(d)

(C) Using the enrollment determined in (b)(4)(B)1., ~~replacement of qualifying any~~ Portable Classroom Square Footage ~~replacement funding~~ will be calculated using the Portable Replacement Grant. ~~Any Replacement of qualifying portable toilet facilities provided~~ will be calculated using the Portable Toilet Replacement Grant.

1. Additional funding may be provided, as applicable, for:

- a. Fire code requirements pursuant to Section 1859.71.2,
- b. therapy room pursuant to Section 1859.72,
- c. project assistance pursuant to Section 1859.73.1.
- d. site acquisition pursuant to Section 1859.74,
- e. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and 1859.74.4,
- f. Applicable site development costs pursuant to Section 1859.76, and
- g. ~~Excessive Cost Hardship Grant For~~ Geographic location percentage factor pursuant to 1859.83(a),
- h. New Construction Excessive Cost Hardship Grant(s) for small size projects pursuant to Section 1859.83(b), and
- i. For Approved Applications received on or before October 30, 2024, Excessive Cost Hardship Grant(s) urban location, security requirements and impacted site pursuant to Section 1859.83(d).

(D) If the ~~School District~~ qualifies for replacement funding, the funding may be used to rehabilitate the facility as long as the qualifying health and safety threat is fully mitigated. If replacement funding is used for rehabilitation work,

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the School District may request the following supplemental grants, as applicable, for:

1. Fire code requirements pursuant to Section 1859.71.2 if the funding is based on a per-pupil basis pursuant to Section 1859.82.1(b)(4)(A),
 2. Therapy room pursuant to Section 1859.72,
 3. Project assistance pursuant to Section 1859.73.1,
 4. ~~Excessive Cost Hardship Grant For a~~ Geographic location percentage factor pursuant to 1859.83(a),
 5. New Construction Excessive Cost Hardship Grant(s) for small size projects pursuant to Section 1859.83(b), and
 6. For Approved Applications received on or before October 30, 2024, Excessive Cost Hardship Grant for urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (c) School Districts may qualify for funding to rehabilitate their ~~S~~school ~~B~~buildings, components of ~~S~~school ~~B~~buildings, unenclosed roofed structures used for school purposes, or school site conditions. Factors to be considered by the Board may include (1) or (2) below:
- (1) School ~~B~~buildings where the minimum cost to mitigate the health and safety threat and remain in the ~~S~~school ~~B~~building is 50 percent or less of the Current Replacement Cost.
 - (2) Components of the ~~S~~school ~~B~~buildings, unenclosed roofed structures used for school purposes, or school sites conditions that are causing a health and safety threat to students and/or staff. Health and safety threats that may qualify include, but are not limited to:
 - (A) School ~~B~~building structural deficiency.
 - (B) Hazardous conditions such as methane, lead, or asbestos mitigation.
 - (C) Unsafe water supply.
 - (D) Site conditions such as faulting, toxic soil, landslide risk, or liquefaction.
 - (3) To qualify for Facility Hardship rehabilitation funding for ~~S~~school ~~B~~buildings, or components of ~~S~~school ~~B~~building(s), unenclosed roofed structures used for school use, or school site conditions, the School District must submit an Approved Application for funding and all documents outlined below. Applications that do not meet the requirements below shall be returned without review.
- (A) For Approved Applications received on or after October 31, 2024, for school buildings or components that were damaged or other hazardous conditions that occurred as a result of a natural disaster for which the Governor has declared a state of emergency, documentation which demonstrates that the District has been or will be determined by the Board to meet the requirements of Education Code Section 17075.20
- (AB) For all Approved Applications received on or before October 30, 2024 and for Approved Applications received on or after October 31, 2024, for school buildings or components that were damaged or other hazardous conditions that did not occur as a result of a natural disaster for which the Governor has declared a state of emergency, A report by an industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) that outlines the minimum work to mitigate the health and safety threat ~~and remain in the existing School Building. If the Approved Application is for an existing school building(s), the report must also describe the minimum work to allow the continued use of the school building(s). If the Approved Application is for a component of a school building(s) or an unenclosed roofed structure used for school purposes, the report must either describe the minimum work to allow the continued use of the component or unenclosed roofed structure or the minimum work to replace the component or unenclosed roofed structure with an equivalent component or structure with only the minimum required improvements necessary to obtain DSA approval. If the threat is due to the presence of mold, OPSC must conduct a site visit to view the damage prior to remediation. If the remediation is done prior to a site visit, the application will be ineligible for funding. Requests for asbestos mitigation that is required to mitigate the qualifying health and safety threat must include lab test results indicating the asbestos is currently friable, and provides the location, material, and testing methods used.~~
- (BC) For all Approved Applications received on or before October 30, 2024, and for Approved Applications received on or after October 31, 2024, for school buildings or components that were damaged or other hazardous conditions that did not occur as a result of a natural disaster for which the Governor has declared a state of emergency, A letter of concurrence from a ~~g~~Governmental ~~a~~Agency that has jurisdiction or expertise over the field in which the health and safety threat originates. The letter must concur with the industry specialist's report on both 1. and 2. below:
1. An imminent health and safety threat to students and/or staff exists.

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2. The mitigation measures outlined in the industry specialist's report are the minimum measures required to mitigate the threat and, as applicable, either allow the continued use of the ~~S~~school ~~B~~building(s), or component, or unenclosed roofed structure, or replace the component or unenclosed structure with an equivalent component or unenclosed roofed structure with required safety improvements. If the application is for the cleanup and/or remediation of hazardous materials and waste, the Governmental Agency concurrence letter must be from the Department of Toxic Substances Control.
- (GD) Approved Applications for rehabilitation must include a detailed Form SAB 58-01 that meets the following requirements:
1. The Form SAB 58-01 must use the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed in the most current edition of the Current Construction Remodeling and Repair Cost publication, amounts entered on the Form SAB 58-01 must use the provided unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the School District must provide supporting documentation for OPSC to review the requested unit cost.
 2. All requested line items shall include Construction Specifications Institute reference number (CSI #), description, F3 total unit cost amount, and quantity. Any line items that include amounts in lump-sum formats will not be reviewed and will be disallowed.
 3. For all Approved Applications received on or before October 30, 2024, and for Approved Applications received on or after October 31, 2024, for school buildings or components that were damaged or other hazardous conditions that did not occur as a result of a natural disaster for which the Governor has declared a state of emergency, ~~The~~ the work in the Form SAB 58-01 shall match the work outlined in the report provided by the industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) for the minimum work required to mitigate the health and safety threat.
 4. If the project requires DSA plan approval, the Form SAB 58-01 submitted to OPSC shall be for the same scope of work reviewed and concurred to by DSA, and that is referenced in the governmental concurrence letter for the project.
 5. The Form SAB 58-01 may also include any associated work required by DSA and other Governmental Agencies to obtain approval for the minimum work required to mitigate as a result of the mitigation of the health and safety threat.
 6. If the minimum work required to mitigate the health and safety threat is the replacement of unenclosed roofed structures used for school purposes, funding shall be provided for costs associated with replacing an equivalent unenclosed structure with required safety improvements to obtain DSA approval.
- (DE) Facility Hardship applications for ~~S~~school ~~B~~buildings must also include a cost/benefit analysis. The cost/benefit analysis shall be completed based on the type of the project as outlined below:
1. For permanent buildings, the School District must demonstrate the minimum work required to mitigate the health and safety threat and remain in the ~~S~~school ~~B~~buildings is less than 50 percent of the Current Replacement Cost of the ~~S~~school ~~B~~building. The minimum work required may include work required by Division of the State Architect to gain approval for the mitigation project.
 2. For ~~P~~portable ~~S~~school ~~B~~buildings, the School District must demonstrate the minimum work required to mitigate the health and safety threat and remain in the portable building is less than the Portable Classroom Replacement Grant. The minimum work required may also include any associated work required by DSA as a result of the mitigation of the health and safety threat.
 3. Applications that are for necessary components of a site or ~~S~~school ~~B~~building or school site condition, such as hazardous water supply, methane mitigation, faulting, liquefaction, landslide potential, friable asbestos, or unenclosed roofed structures used for school purposes do not require a Cost Benefit Analysis to be submitted.
- (EF) All other documents required to complete an Approved Application for funding. This includes:
1. A completed *Application for Funding* (Form SAB 50-04).
 2. The DSA Plan Approval letter for the project or documentation from DSA verifying that the project is exempt from their approval process.
 3. CDE Plan Approval letter for the project or documentation from CDE verifying that the project is exempt from their approval process.
 4. If the project is for a high school site, a letter or meeting minutes from the School District's Career and Technical Education Advisory Committee (CTEAC) certifying that the School District is in compliance with all career technical facility needs and assessments as outlined in Education Code Section 17070.955.
- (4) If the School District qualifies for funding ~~to rehabilitate or repair its School Buildings~~ pursuant to 1859.82.1(c),

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the School District is eligible to receive funding for the project as follows:

- (A) For Approved Applications received on or before October 30, 2024, Rehabilitation Costs provided shall be based on 50 percent of the eligible costs in the Form SAB 58-01 required in Section 1859.82.1(c)(3)(C) that has been reviewed and approved by the OPSC and approved by the Board.
- (B) For Approved Applications received on or after October 31, 2024, based on 60 percent, or as calculated pursuant to Section 1859.79, of the eligible costs in the Form SAB 58-01 required in Section 1859.82.2(c)(3)(D) that have been reviewed by OPSC and approved by the Board.
- (B) If the School District qualifies for rehabilitation funding, the funding may be used towards the replacement of the facility school building, as long as the qualifying health and safety threat is fully mitigated.
- (C) Applicable supplemental grants may be provided for the following:
 - 1. project assistance pursuant to Section 1859.73.1.
 - 2. geographic percentage factor pursuant to 1859.83(a)
- (d) Any grants provided in accordance to (b) or (c) above shall be adjusted as follows:
 - (1) For projects funded in accordance to (b) above:
 - (A) Reduced for any space deemed available by the Board in the School District, HSAA, or Super HSAA that could be used to house some or all of the displaced pupils in the project,
 - (B) Reduced by 50 percent of any insurance proceeds collectable by the School District for the project. Any insurance proceeds collected after Apportionment shall be reported to OPSC and the Apportionment will be amended accordingly.
 - (C) Reduced by 50 percent of the net proceeds available from the disposition of the property and/or facilities in the project.
 - (2) For projects funded in accordance to (c) above:
 - (A) 60 percent of any insurance proceeds collectable by the School District for the project.
 - (B) 60 percent of the net proceeds available from the disposition of any displaced facilities in the project.
- (e) Adjustments to School Facility Program per-pupil grants.
 - (1) The School District's New Construction Eligibility will be adjusted for any net increase in classroom capacity in the project pursuant to Section 1859.51(i).
 - (2) The baseline eligibility for modernization as provided in Section 1859.60 will be adjusted for any funding received in accordance to (b) above. The age of the classroom and square footage in the project shall be reset to the date of the Apportionment for the corresponding Form SAB 50-04 project.
- (f) School Districts that qualify for separate site apportionment for Environmental Hardship pursuant to Section 1859.71 may file an application for site funding in advance of construction funding.
- ~~(f)~~(g) School Districts that qualify for Financial Hardship assistance may file an application for design funding and/or site funding.
 - (1) To request advanced funding for design for eligible projects, the School District must submit an *Application for Funding* (Form SAB 50-04) indicating the request for design funding and all documents listed in Section 1859.82.1(c)(3)(A) through Section 1859.82.1(c)(3)(D)3.
 - (2) Advanced funding for design shall be provided based on the eligible project type as follows:
 - (A) For projects receiving funding for advanced design for the replacement of all ~~S~~School Buildings on the project site pursuant to Section 1859.82.1(b)(4)(A), the Board will apportion an amount not to exceed 40 percent of the New Construction Grant less any School District funds available for the project pursuant to Section 1859.81(a).
 - (B) For projects receiving funding for advanced design for at least one but not all ~~S~~School Buildings on the project site pursuant to Section 1859.82.1(b)(4)(B), the Board will apportion an amount not to exceed 40 percent of the Facility Hardship Square Footage Grant less any School District funds available for the project pursuant to Section 1859.81(a).
 - (C) For projects receiving funding for advanced design for Rehabilitation Costs pursuant to Section 1859.82.1(c)(4)(A), the Board will apportion an amount not to exceed 25 percent of the Rehabilitation Costs determined pursuant to Section 1859.82.1(c)(4)(A) less any School District funds available for the project pursuant to Section 1859.81(a).
 - (3) Advanced funding for site shall be provided pursuant to 1859.82.1(b)(4)(A)4. The School District is eligible for advanced funding for site acquisition as calculated pursuant to 1859.81.1.

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- (4) The amount apportioned for advanced design is an estimate of the funds needed for design, engineering, and other pre-construction project costs. Qualifying School Districts may request a separate Apportionment for the design and for site acquisition for the same facility hardship project.
- (5) The School District is required to submit an Approved Application for funding and an updated Form SAB 58-01 for projects funded in accordance to 1859.82.1(c) or site development worksheet for projects funded in accordance to 1859.82.1(b), that reflects the final approved drawings for the project within:
 - (A) 18 months from the date of Apportionment if the project scope will be for repair or replacement on the same site.
 - (B) 24 months from the date of Apportionment if the project scope is for the replacement of School Building(s) which will be located on a replacement site.
- (6) If the School District does not submit the Approved Application for funding within the timelines required by Section (2) above, the application will be reduced to eligible costs incurred.
- (7) Upon receipt of the Approved Application, the application will be reviewed for conformance with all program laws and regulations.
- (8) Any funding provided in Section 1859.82.1 shall be offset by any funding previously provided for the project.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10 in effect as of January 1, 2024, and repealed and added by Assembly Bill 247, Chapter 81, Statutes of 2024, and with the successful passage of Proposition 2 on November 5, 2024, 17075.15, 100420, 100620, 100820, 101012 and 101122, Education Code.

Section 1859.82.2. Seismic Mitigation Program.

“School Building” for the purposes of this Section shall have the same definition as Education Code Section 17283 and shall also exclude any districtwide administrative facilities. For the purposes of this Section, “grade category” shall mean kindergarten (including transitional kindergarten) through sixth grade (K-6), seventh grade through eighth grade (7-8), ninth grade through twelfth grade (9-12), Non-Severely Disabled Individuals with Exceptional Needs, and Severely Disabled Individuals with Exceptional Needs.

A School District is eligible for funding to repair, reconstruct, or replace the Most Vulnerable Category 2 Buildings which were originally constructed to be used as School Facilities and pose an unacceptable risk of injury to its occupants in the event of seismic activity. Program eligibility is determined by the DSA while determination of grant funding is determined by the Board based on the following criteria.

Notwithstanding Sections 1859.93 and 1859.93.1, all applications for the seismic mitigation of the Most Vulnerable Category 2 Buildings shall be funded in the order of receipt of an Approved Application for funding. Any grants provided for the purpose of this section shall be provided as a new construction project and allocated on a 50 percent state share basis.

- (a) Seismic mitigation projects must meet all of the following requirements:
 - (1) The construction contract was executed on or after May 20, 2006;
 - (2) The project funding provided shall be for the minimum work necessary to obtain DSA approval for the work to mitigate the structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event;
 - (3) The School Building(s) is designed for occupancy by students and staff; and
 - (4) The DSA concurs with a report by a structural engineer, which identifies structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event. The structural engineers report shall conform to the guidelines prepared by the DSA, in accordance with Education Code Section 17310.

If the unacceptable risk of injury is due to the presence of faulting, liquefaction or landslide, these hazards must be documented by a geological hazards report prepared by an engineering geologist in accordance with California Building Code, Part 2, Chapter 18, Section 1803A and with concurrence of the California Geological Survey.

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- (b) To qualify for replacement funding for Sschool Bbuilding(s), the School Ddistrict must submit an Approved Application for funding based on their specific circumstances in accordance to either (1) or (2) below:
 - (1) For Sschool Bbuilding(s) that are lost, destroyed, or unable to be repaired the School Ddistrict must submit:
 - (A) A report from a licensed design professional (a design professional licensed by the appropriate State of California oversight authority) identifying the Sschool Bbuilding(s) that are the Most Vulnerable Category 2 BBuilding(s) and;
 - (B) DSA letter(s) of concurrence to the findings in the report required in (b)(1)(A);
 - (C) If the collapse potential is due to faulting, liquefaction, or landslide, or if it is otherwise required by DSA for project approval, the School Ddistrict must submit 1. and 2. below:
 - 1. A geological hazards report prepared by an engineering geologist indicating the potential for building displacement and recommended site improvements to mitigate the hazard.
 - 2. Concurrence to the report from the California Geological Survey.
 - (D) Documentation which demonstrates that the facilities in the project must be reconstructed in order to house the current enrollment of the School District.
 - (E) If the School District intends to request additional grants for site development costs applicable to the qualifying project, a detailed cost estimate for the site development work pursuant to Section 1859.76 and any justification documents that support the requested costs.
 - (2) For Sschool Bbuildings with interior square footage to be mitigated, the School Ddistrict must submit:
 - (A) A report from a licensed design professional (a design professional licensed by the appropriate State of California oversight authority) identifying the structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event and the minimum ~~mitigation~~ work necessary to obtain DSA approval of the seismic mitigation work.
 - (B) DSA letter(s) of concurrence to the report.
 - (C) If the collapse potential is due to faulting, liquefaction, or landslide, or if it is otherwise required by DSA for project approval the School Ddistrict must submit 1. and 2. below:
 - 1. A geological hazards report prepared by an engineering geologist indicating the potential for building displacement and recommended site improvements to mitigate the hazard.
 - 2. Concurrence to the report from the California Geological Survey.
 - (D) Documentation that demonstrates that the facilities in the project must be reconstructed in order to house the current enrollment of the School dDistrict.
 - (E) A detailed Form SAB 58-01 that meets the following requirements:
 - 1. The Form SAB 58-01 must use the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed in the most current edition of the Current Construction Remodeling and Repair Cost publication, amounts entered on the Form SAB 58-01 must use the provided unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the School Ddistrict must provide supporting documentation for OPSC to review the requested unit cost.
 - 2. All requested line items shall include Construction Specifications Institute reference number (CSI #), description, quantity, unit, cost per unit, and School District's request. Any line items that include amounts in lump-sum formats will not be reviewed or approved.
 - 3. The work in the Form SAB 58-01 shall match the work outlined in the report provided by the industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) for the minimum work that would be required to mitigate the seismic threat if the Sschool Bbuilding(s) were to be rehabilitated instead of replaced.
 - 4. The Form SAB 58-01 may also include any ancillary work required by DSA and other Governmental Agencies to obtain plan approval for the minimum work required to mitigate the seismic threat.
 - (F) A cost/benefit analysis that demonstrates that the minimum work to mitigate the seismic threat and remain in the school building(s) exceeds 50 percent of the Current Replacement Cost.
 - (G) A gross inventory of all school buildings located on the project site, such as a site diagram or floor plan. The documentation must indicate the current usage, square footage, and facility type of all school buildings located on the project site at the time of application submittal. For all spaces used as classrooms, the current grade

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level must also be indicated.

(G)(H) All other documents required to complete an Approved Application for funding. This includes:

1. A completed *Application For Funding* (Form SAB 50-04).
 2. The DSA Plan Approval letter for the project or documentation from DSA verifying that the project is exempt from their approval process.
 3. CDE Plan Approval letter for the project or documentation from CDE verifying that the project is exempt from their approval process.
 4. If the project is for a high school site, a letter or meeting minutes from the School District's Career and Technical Education Advisory Committee (CTEAC) certifying that the School District is in compliance with all career technical facility needs and assessments as outlined in Education Code, Section 17070.955.
 5. If the district intends to request additional grants for site development costs applicable to the qualifying project, a detailed cost estimate for the site development work pursuant to Section 1859.76 and any justification documents that support the requested costs.
- (3) Applications for seismic mitigation replacement funding that do not meet the requirements of (1) or (2) above shall be returned without review.
- (4) If the School District qualifies for ~~R~~replacement funding in accordance to (a)(1) or (a)(2) above, the School District is eligible to receive funding for the project as follows:
- (A) If the School District is required to replace the entire site and relocate to a new site, the School District is eligible to receive funding as follows:
1. A New Construction Grant will be provided for the lesser of 2. or 3. below.
 2. The classroom capacity determined by multiplying the number of classrooms in each grade category on the project site being replaced by:
 - a. 25 pupils for each K-6 classroom.
 - b. 27 pupils for each 7-12 classroom.
 - c. 13 pupils for each Non-Severely Disabled Individuals with Exceptional Needs classroom.
 - d. 9 pupils for each Severely Disabled Individuals with Exceptional Needs classroom.
 3. The higher of a., b., or c. below:
 - a. The CBEDS Report of the current enrollment reporting year at the existing project site.
 - b. The average CBEDS Report of the current enrollment reporting year and two immediately preceding enrollment reporting years at the existing project site.
 - c. If the site is closed, use the CBEDS Report of the last enrollment reporting year in which the site was open.
 4. Additional funding may be provided, as applicable, for:
 - a. Fire code requirements pursuant to Section 1859.71.2,
 - b. therapy room pursuant to Section 1859.72,
 - c. multilevel construction pursuant to Section 1859.73,
 - d. project assistance pursuant to Section 1859.73.1.
 - e. replacement with multistory construction pursuant to Section 1859.73.2,
 - f. site acquisition pursuant to Sections 1859.74, 1859.74.5 and 1859.75,
 - g. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and 1859.74.4,
 - h. Applicable site development costs pursuant to Section 1859.76, and
 - i. ~~Excessive Cost Hardship Grant For g~~Geographic location percentage factor pursuant to 1859.83(a),
 - j. New ~~e~~Construction Excessive Cost Hardship Grant for small size projects pursuant to Section 1859.83(b),
 - k. New ~~e~~Construction Excessive Cost Hardship Grant for new school projects pursuant to Section 1859.83(c),
 - l. For Approved Applications received on or before October 30, 2024, New eConstruction Excessive Cost Hardship Grant urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (B) If the School District qualifies to replace some, but not all permanent S~~school B~~building(s) on the project site, ~~funding will be based on the Square Footage of the School Buildings replaced and is capped by the lesser of the amount provided in accordance to the chart below and the Square Footage constructed for each category justified by enrollment at the project site as follows~~ the School District is eligible to receive a Facility Hardship Square Footage Grant based on the Square Footage of the qualifying School Building(s) replaced and justified by enrollment at the project site as follows:

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1. ~~The~~ Determine the enrollment at the project site, ~~is determined by using~~ the higher of a., b., or c. below:
 - a. The CBEDS Report of the current enrollment reporting year at the existing project site.
 - b. The average CBEDS Report of the current enrollment reporting year and two immediately preceding enrollment reporting years at the existing project site.
 - c. If the site is closed, use the CBEDS Report of the last enrollment reporting year in which the site was open.
2. Using the enrollment determined in 1. ~~above and the gross inventory described in (b)(2)(G), any permanent replacement Square Footage provided will be calculated in accordance to a., b., c., below and the chart below: determine the maximum amount of eligible permanent replacement Square Footage for the school building(s) being replaced based on a. through f. and the facility type in the chart below:~~
 - a. If the actual Square Footage of the qualifying school building(s), not including classrooms, is less than the minimum in the chart for the facility type, the replacement Square Footage shall be the lesser of the actual Square Footage constructed or the minimum in the chart.
 - b. If the actual Square Footage of the qualifying school building(s), not including classrooms, is larger than the minimum in the chart for the facility type, the replacement Square Footage shall be the lesser of the Square Footage of the qualifying school building or the Square Footage justified by enrollment pursuant to the chart below.
 - ac. Non-specialized classrooms space provided isare limited by the enrollment determined in 1. rounded up to the nearest whole classroom based on 1859.82.2(b)(4)(A)2., and then reduced for any classroom space available at the site to house the pupils at the site.
 - bd. Classrooms with specialized design such as auto shop, metal shop, music rooms, consumer home economic laboratories, industrial technology laboratories, or science laboratories will qualify for funding if used for its specialized purpose in the current enrollment reporting year or immediately preceding enrollment reporting year. Additionally, these spaces will not count as available capacity for purposes of providing funding in this section when calculating space available to house displaced pupils.
 - ee. Any space not in the chart below will be provided based on the Square Footage replaced. This may include, but is not limited to, janitor's closets, hallways, workrooms, and vestibules.
 - f. If a School District submits documentation that demonstrates that additional toilet space must be constructed to obtain plan approval from DSA, the Toilet Square Footage may be increased by the amount of Square Footage required to obtain approval.

Facility Type	Elementary School Pupils	Middle School Pupils	High School Pupils
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum 4,000 sq. ft.	5.3 sq. ft. per pupil minimum 5,000 sq. ft.	6.3 sq. ft. per pupil minimum 8,200 sq. ft.
Toilet	3 sq. ft. per pupil minimum 300 sq. ft.	4 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
Gymnasium (includes shower/locker area)	N/A	12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.	15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.
School Administration	3 sq. ft. per pupil minimum 600 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft.	4 sq. ft. per pupil minimum 800 sq. ft.
Library/Media Center	2.3 sq. ft. per pupil plus 600 sq. ft., minimum 960 sq. ft.	3.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.
Kindergarten Classrooms (including Transitional Kindergarten)	1,350 sq. ft. for each replacement classroom.	NA	NA
Classrooms (1 st -12 th grade)	960 sq. ft. for each replacement classroom	960 sq. ft. for each replacement classroom	960 sq. ft. for each replacement classroom

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Computer instructional support area and Industrial and Technology/Education Laboratory	960 sq. ft. for each replacement classroom.	960 sq. ft. for each replacement classroom.	960 sq. ft. for each replacement classroom.
Laboratory Classrooms (including science and consumer home economics)	1,300 sq. ft. for each replacement classroom.	1,300 sq. ft. for each replacement classroom.	1,300 sq. ft. for each replacement classroom.

~~d.3.~~ Beginning August 31, 2020, the ~~resulting~~ Square Footage amount(s) determined in (B)(2) above shall be multiplied by \$204 per square foot for all non-Toilet Facilities and by \$366 per square foot for Toilet Facilities (includes shower/locker area and physical therapy area for Individuals with Exceptional Needs).

~~3.4.~~ Additional funding may be provided, as applicable, for:

- a. therapy room pursuant to Section 1859.72,
 - b. multilevel construction pursuant to Section 1859.73,
 - c. project assistance pursuant to Section 1859.73.1.
 - d. replacement with multistory construction pursuant to Section 1859.73.2,
 - e. site acquisition pursuant to Section 1859.74,
 - f. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and 1859.74.4,
 - g. Applicable site development costs pursuant to Section 1859.76, and
 - h. ~~Excessive Cost Hardship Grant For g~~ Geographic location percentage factor pursuant to 1859.83(a), and
 - i. Excessive Cost Hardship Grant for small size projects pursuant to Section 1859.83(b), and
 - j. For applications received prior to October 31, 2024, Excessive Cost Hardship Grant(s) urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (C) If the School District qualifies for replacement funding, the funding may be used to rehabilitate the facility as long as the seismic hazard is fully mitigated. If replacement funding is used for rehabilitation work, the School District may request the following supplemental grants, as applicable, for:
1. Fire code requirements pursuant to Section 1859.71.2 if the funding is based on a per-pupil basis pursuant to Section 1859.82.2(b)(4)(A),
 2. Therapy room pursuant to Section 1859.72,
 3. Project assistance pursuant to Section 1859.73.1,
 4. ~~Excessive Cost Hardship Grant For g~~ Geographic location percentage factor pursuant to 1859.83(a),
 5. Excessive Cost Hardship Grant for small size projects pursuant to Section 1859.83(b), and
 6. For Approved Applications received on or before October 30, 2024, Excessive Cost Hardship Grant for urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (c) School Districts may qualify for seismic mitigation funding to rehabilitate their ~~S~~School Building(s), unenclosed roofed structures used for school purposes including, but not limited to, lunch shelters and covered walkways, exterior square footage of School Buildings, or site conditions. Factors to be considered by the Board may include (1) or (2) below:
- (1) School Building where the minimum cost to rehabilitate and remain in the ~~S~~School Building is 50 percent or less of the Current Replacement Cost.
 - (2) Square footage of the Most Vulnerable Category 2 School Buildings, Unenclosed roofed structures used for school purposes including, but not limited to, covered walkways, and lunch shelters that need repair or replacement to mitigate a collapse potential in the event of seismic activity as confirmed by the DSA.
 - (3) To qualify for seismic mitigation rehabilitation funding, the School District must submit an Approved Application for funding as well as all documents outlined below. Applications that do not meet these requirements will be returned without review.
 - (A) A report from a licensed design professional (a design professional licensed by the appropriate State of California oversight authority) identifying the structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event and the minimum ~~mitigation~~ work necessary to obtain DSA approval for the seismic mitigation work. If the application is for an unenclosed roofed structure used for school purposes, the report must either

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outline the minimum work to allow the continued use of the unenclosed roofed structure or the minimum work to replace the unenclosed roofed structure with an equivalent structure with only the minimum required improvements necessary to obtain DSA approval.

- (B) DSA letter(s) that concur to the findings and minimum mitigation work outlined in the report required by (b)(1)(A).
- (C) If the collapse potential is due to faulting, liquefaction, or landslide, or if it is otherwise required by DSA for project approval, the School District must submit 1. and 2. below:
 - 1. A geological hazards report prepared by an engineering geologist in accordance with California Building Code, Part 2, Chapter 18, Section 1803A and with the concurrence of the California Geological Survey.
 - 2. Concurrence to the report in 1. from the California Geological Survey.
- (D) A detailed Form SAB 58-01 that meets the following requirements:
 - 1. The Form SAB 58-01 must use the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed in the most current edition of the Current Construction Remodeling and Repair Cost publication, amounts entered on the Form SAB 58-01 must use the provided unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the School District must provide supporting documentation for OPSC to review the requested unit cost.
 - 2. All requested line items shall include Construction Specifications Institute reference number (CSI #), description, quantity, unit, cost per unit, and School District's request. Any line items that include amounts in lump-sum formats will not be reviewed or approved.
 - 3. The work in the Form SAB 58-01 shall match the work outlined in the report provided by the industry specialist (a person or entity that specializes in the area of expertise for that health and safety issue) for the minimum work required to mitigate the seismic threat. The Form SAB 58-01 submitted to OPSC shall be for the same scope of work reviewed and concurred to by DSA, and that is referenced in the Governmental Agency concurrence letter for the project.
 - 4. The Form SAB 58-01 may also include any ancillary work required by DSA and other Governmental Agencies to obtain ~~plan~~-approval for the minimum work required to mitigate the seismic threat.
 - 5. If the minimum work required to mitigate the health and safety threat is the replacement of unenclosed roofed structures used for school purposes, funding shall be provided for costs associated with replacing an equivalent unenclosed structure with required safety improvements to obtain DSA approval.
- (E) A cost/benefit analysis that demonstrates that the minimum work to mitigate the seismic threat and remain in the ~~S~~School Building(s) is less than 50 percent of the Current Replacement Cost.
- (F) All other documents required to complete an Approved Application for funding. This includes:
 - 1. A completed *Application For Funding* (Form SAB 50-04).
 - 2. The DSA Plan Approval letter for the project or documentation from DSA verifying that the project is exempt from their approval process.
 - 3. CDE Plan Approval letter for the project or documentation from CDE verifying that the project is exempt from their approval process.
 - 4. If the project is for a high school site, a letter or meeting minutes from the School District's Career and Technical Education Advisory Committee (CTEAC) certifying that the School District is in compliance with all career technical facility needs and assessments as outlined in Education Code Section 17070.955.
- (4) If the School District qualifies for seismic mitigation rehabilitation ~~funding to repair their permanent School Buildings~~, the School District is eligible to receive funding for the project as follows:
 - (A) For Approved Applications received on or before October 30, 2024, the Seismic Rehabilitation Grant-based on 50 percent of the eligible costs in the Form SAB 58-01 required in Section 1859.82.2(c)(3)(D) that have been reviewed by OPSC and approved by the Board.
 - (B) For Approved Applications received on or after October 31, 2024, Seismic Rehabilitation Grant calculated pursuant to Section 1859.79, or as calculated pursuant to Section 1859.79, of the eligible costs in the Form SAB 58-01 required in Section 1859.82.2(c)(3)(D) that have been reviewed by OPSC and approved by the Board.
- (BC) If the School District qualifies for rehabilitation funding, the funding may be used towards the replacement of the facility, as long as the qualifying seismic threat is fully mitigated.

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(G) Applicable supplemental grants may be provided for the following:

1. project assistance pursuant to Section 1859.73.1., and
 2. ~~Excessive Cost Hardship Grant For~~ Geographic location percentage factor pursuant to 1859.83(a),
 3. ~~Excessive Cost Hardship Grant for accessibility and fire code requirements in accordance with Section 1859.83(e)(3).~~
- (d) Any grants provided in accordance to (b) or (c) above shall be adjusted as follows:
- (1) For projects funded in accordance to (b) above:
 - (A) Reduced for any space deemed available by the Board in the School District, HSAA, or Super HSAA that could be used to house some or all of the displaced pupils in the project,
 - (B) Reduced by 50 percent of any insurance proceeds collected by the School District for the project. Any insurance proceeds collected after Apportionment shall be reported to OPSC and the Apportionment will be amended accordingly.
 - (C) Reduced by 50 percent of the net proceeds available from the disposition of the property and/or facilities in the project.
 - (2) For projects funded in accordance to (c) above:
 - (A) For Approved Applications received on or before October 30, 2024, 50 percent of any insurance proceeds collectable by the School District for the project.
 - (B) For Approved Applications received on or after October 31, 2024, 60 percent of any insurance proceeds collectable by the School District for the project.
 - (C) For Approved Applications received on or before October 30, 2024, 50 percent of the net proceeds available from the disposition of any displaced facilities in the project.
 - (D) For Approved Applications received on or after October 31, 2024, 60 percent of the net proceeds available from the disposition of any displaced facilities in the project.
- (e) Adjustments to School Facility Program per-pupil grants.
- (1) The School District's New Construction Eligibility will be adjusted for any net increase in classroom capacity in the project pursuant to Section 1859.51(i).
 - (2) The baseline eligibility for modernization as provided in Section 1859.60 will be adjusted for any funding received in accordance to (b) above. The age of the classroom and Square Footage in the project shall be reset to the date of the Apportionment for the corresponding Form SAB 50-04 project.
- (f) School Districts that qualify for Separate site apportionment for Environmental Hardship pursuant to Section 1859.71 may file an application for site funding in advance of construction funding.
- ~~(f)~~(g) School Districts that qualify for Financial Hardship assistance may file an application for design funding and/or site funding in advance of construction funding.
- (1) To request advanced funding for design for eligible projects, the School District must submit an *Application for Funding* (Form SAB 50-04) indicating the request for design funding and all documents listed in Section 1859.82.2(c)(3)(A) through Section 1859.82.2(c)(3)(E).
 - (2) Advanced funding for design shall be provided based on the eligible project type as follows:
 - (A) For projects receiving funding for advanced design for the replacement of all ~~S~~School B~~uilding(s)~~ on the project site, pursuant to Section 1859.82.2(b)(4)(A), the Board will apportion an amount not to exceed 40 percent of the New Construction Grant less any School District funds available for the project pursuant to Section 1859.81(a).
 - (B) For projects receiving funding for advanced design for at least one but not all ~~S~~School B~~uildings~~ on the project site pursuant to Section 1859.82.2(b)(4)(B), the Board will apportion an amount not to exceed 40 percent of the Facility Hardship Square Footage Grant less any School District funds available for the project pursuant to Section 1859.81(a).
 - (C) For projects receiving funding for advanced design for a Seismic Rehabilitation Grant pursuant to Section 1859.82.2(c), the Board will apportion an amount not to exceed 25 percent of the costs determined pursuant to Section 1859.82.2(c)(4)(A) less any School District funds available for the project pursuant to Section 1859.81(a).
 - (3) Advanced funding for site shall be provided pursuant to Section 1859.82.2(b)(4)(A)4. The School District is eligible for advanced funding for site acquisition as calculated pursuant to Section 1859.81.1.
 - (4) The amount apportioned for advanced design is an estimate of the funds needed for design, engineering, and other pre-construction project costs. Qualifying School Districts may request a separate Apportionment for the design

ATTACHMENT B

and for site acquisition for the same seismic mitigation project.

- (5) The School District is required to submit an Approved Application for funding and an updated Form SAB 58-01 for projects funded in accordance with Section 1859.82.2(c) or site development worksheet for projects funded in accordance with Section 1859.82.2(b), that reflects the final approved drawings for the project within:
 - (A) 18 months from the date of Apportionment if the project scope will be for repair or replacement on the same site.
 - (B) 24 months from the date of Apportionment if the project scope is for the replacement of ~~S~~school ~~B~~building(s) which will be located on a replacement site.
- (6) If the School District does not submit the Approved Application for funding within the timelines required by Section (2) above, the application will be reduced to eligible costs incurred.
- (7) Upon receipt of the Approved Application, the application will be reviewed for conformance with all program laws and regulations.
- (8) Any funding provided in Section 1859.82.2 shall be offset by any advanced design funding previously provided for the project pursuant to Section 1859.82.2(f)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10 in effect as of January 1, 2024, and repealed and added by Assembly Bill 247, Chapter 81, Statutes of 2024, and with the successful passage of Proposition 2 on November 5, 2024, 17075.15, 101012(a)(1) and 101122, Education Code.

Section 1859.82.3. Facility Hardship Program and Seismic Mitigation Program Conceptual Approvals.

A School District may request approval from the Board to determine eligibility for facility hardship or seismic mitigation programs in advance of project funding. Board approval does not constitute a reservation of bond authority. Board approval only confirms the School District meets the criteria in Section 1859.82.

- (a) To request conceptual approval for facility hardship projects, the School District must submit an *Application For Funding* (Form SAB 50-04) indicating the request for conceptual approval and all documents listed below:
 - (1) For replacement projects, all of the documents listed in Section 1859.82.1(b)(2)(A) through Section 1859.82.1(b)(2)(~~DE~~).
 - (2) For rehabilitation projects, all of the documents listed in Section 1859.82.1(c)(3)(A) through Section 1859.82.1(c)(3)(~~DE~~)3.
- (b) To request conceptual approval for seismic mitigation projects, the School District must submit an *Application For Funding* (Form SAB 50-04) indicating the request for conceptual approval and all documents listed below:
 - (1) For replacement projects, all of the documents listed in Section 1859.82.2(b)(2)(A) through Section 1859.82.2(b)(2)(~~FG~~).
 - (2) For rehabilitation projects, all of the documents listed in Section 1859.82.2(c)(3)(A) through Section 1859.82.2(c)(3)(E).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10 in effect as of January 1, 2024, and repealed and added by Assembly Bill 247, Chapter 81, Statutes of 2024, and with the successful passage of Proposition 2 on November 5, 2024, 17075.15, 100420, 100620, 100820, 101012(a)(1) and 101122, Education Code.

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SFP Regulation Section 1859.83 and 1859.93.1

[...]

Section 1859.83. Excessive Cost Hardship Grant.

In addition to any other funding authorized by these Regulations, a School District is eligible for funding as a result of unusual circumstances that created excessive project costs beyond the control of the School District. The Excessive Cost Hardship Grant shall be based on any of the following:

(a) Excessive Cost due to Geographic Location.

A School District with a project that is located in a geographic area designated in the Geographic Percentage Chart below is eligible for the sum of the Excessive Cost Hardship Grant(s) determined by multiplying the indicated percentage factor shown in the Geographic Percentage Chart below by each of the following amounts:

- (1) The New Construction Grant and the Modernization Grant.
- (2) The funding provided by Sections 1859.71.2, 1859.71.3, 1859.72, 1859.73, 1859.73.2, 1859.76(d)(1) and (2), 1859.78.4, 1859.78.5, 1859.82.1, 1859.82.2, 1859.83(b), (c), (d) and (e) and 1859.125(a)(1) through (a)(2).

...

(d) Excessive Cost Due to Urban Location, Security Requirements and Impacted Site for Approved Applications received on or before October 30, 2024.

(1) Excluding Joint-Use Projects, the School District is eligible for an Excessive Cost Hardship Grant if the School District had a project that was previously approved by the DSA, and prior to January 22, 2003, has received SAB approval for a time extension for substantial progress, and if the useable site acreage for the project is:

(A) at least 50 percent but less than 75 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to eight percent of the New

Construction Grant and eight percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).

(B) at least 30 percent but less than 50 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to 15 percent of the New Construction Grant and 15 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).

(C) less than 30 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to 50 percent of the New Construction Grant and 50 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).

(D) less than 30 percent of the site size recommended by the CDE for the master planned project capacity.

(2) Excluding Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if all of the following conditions are met, as applicable:

(A) the Useable Acres of the site for the project are 60 percent or less of the CDE recommended site size based on:

1. the current CBEDS Report at the existing site, if any, at the time of the CDE final plan approval for the project, if any, plus the greater of the Net School Building Capacity of the final new construction project plans submitted to the DSA as calculated in Education Code Section 17071.25(a)(2) or the pupil grants requested in the COS or Charter School project. The Useable Acres will include the existing site that is being utilized for this project plus any additional acreage to be acquired as a part of the Application.
2. the current CBEDS Report at the site at the time of the CDE final plan approval for the modernization project.

(B) at least 60 percent of the classrooms in the construction plans are in multistory facilities for any type of new construction project.

(C) the value of the site being acquired for a new construction project on a new site is at least \$750,000 per Useable Acre.

(3) If the criteria in (d)(2) are met, the Excessive Cost Hardship Grant:

(A) for new construction is equal to 15 percent of the New Construction Grant and 15 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c) for a project with a site that is 60 percent of the CDE recommended site size plus 1.66 percent for each percentage decrease in the CDE recommended site size below 60 percent. In no event shall the amount provided in this subsection for a new construction project on a new site exceed 50 percent of the cost avoided with the purchase of a site smaller than the CDE recommended site size for the number of the pupil grants requested in the Application determined as follows:

ATTACHMENT B

SFP Regulation Section 1859.83 and 1859.93.1

1. The current estimated value of the project site as determined in Section 1859.74.6(a)(1).
2. Divide the amount in (A)1. by the number of Useable Acres.
3. Multiply the quotient in (A)2. by the number of Useable Acres recommended by CDE for the number of pupils described in Section 1859.83(d)(2)(A)1.
4. Subtract the value in (A)1. from the product in (A)3.
5. Multiply the difference in (A)4. above by 50 percent.

(B) for modernization is equal to 15 percent of the Modernization Grant and 15 percent of the funding authorized by Section 1859.83(b) for a project with a site that is 60 percent of the CDE recommended site size plus 0.333 percent for each percentage decrease of the CDE recommended site size below 60 percent.

...

Note: Authority cited: Sections 17070.35 and 17075.15 Education Code.

Reference: Sections 17072.32, 17074.15, 17074.16, 17075.10 in effect as of January 1, 2024 and amended by Assembly Bill 247, Chapter 81, Statutes of 2024, and with the successful passage of Proposition 2 on November 5, 2024, 17075.15, 17077.40, 17077.42, 17077.45 and 17250.30, Education Code; and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

...

Section 1859.93.1. New Construction Project Funding Order.

Applications, except those identified in (c) through (e) below, shall be funded as follows:

- (a) First, to applications for Facility Hardship pursuant to Sections 1859.82.1(b) and 1859.82.2(b) in order of receipt of an Approved Application for funding; then,
- (b) If there are no applications pursuant to subsection (a), to applications for New Construction Grant(s) in order of receipt of an Approved Application for Funding.
- (c) Approved Applications for New Construction Grant(s) funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.
- (d) Approved Applications for New Construction Grant(s) authorized by Education Code Sections 17078.10 through 17078.30.
- (e) Approved Applications that utilize pupil eligibility derived from the Alternative Enrollment Projection method. These applications shall be funded in order of receipt once the OPSC and the DRU have approved the Alternative Enrollment Projection method or the Alternative Enrollment Projection annual update.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.25, 17070.35, and 17075.10 in effect as of January 1, 2024, and repealed and added by Assembly Bill 247, Chapter 81, Statutes of 2024, and with the successful passage of Proposition 2 on November 5, 2024, 17075.15, Education Code.

ATTACHMENT C

STATE OF CALIFORNIA
FACILITY HARDSHIP COST ESTIMATE
SCHOOL FACILITY PROGRAM
SAB 58-01 (Rev. xx/25)

STATE ALLOCATION BOARD
OFFICE OF PUBLIC SCHOOL CONSTRUCTION

INSTRUCTIONS

The Form SAB 58-01 is used for the purposes of generating and submitting the cost estimate required for Facility Hardship or Seismic Mitigation funding applications pursuant to SFP Regulation Sections 1859.82.1(b)(2)(C), 1859.82.1(c)(3)(C), 1859.82.2(b)(2)(E), and 1859.82.2(c)(3)(D).

Refer to the most current published edition of the Current Construction Remodeling Costs publication by Sierra West Publishing, F3 unit costs, for data needed to complete this form. Throughout these instructions, all references to "Sierra West" indicate this publication.

All lines in Part I must be broken out to individual items or materials. Do not enter line-item requests in a lump sum format. Line-item requests in lump sum format may not be eligible for funding.

PART 1 – Line-Item Requests

For each line-item request, complete the following:

1. **CSI #** - Enter the Construction Specifications Institute number (CSI #) corresponding to the item or material included in Sierra West.
2. **Description** - Enter the description corresponding to the item or material as it appears in Sierra West.
3. **Quantity** - Enter the numeric quantity of the item or material used as indicated in the project plans approved by the Division of the State Architect (DSA). For projects that do not require DSA plan approval, enter the quantity as indicated in the supporting documentation submitted with the application.
4. **Unit** - Enter the unit of measure for the specified material or item as it appears in Sierra West.
5. **Cost/Unit** - Enter the total unit cost, or cost per unit, as it is listed in the F3 column in Sierra West. Do not add installation cost as this has been included in the total unit cost amount.
6. **District's Request** - Enter the product of the Quantity and Cost/Unit column.
7. **OPSC's Allowance** - Leave blank. This section will be completed by OPSC upon review of the application.
8. **Comments** - The district may optionally indicate any relevant plan page numbers or reference information to assist the plan reviewer in the Comments column.

ATTACHMENT C

STATE OF CALIFORNIA
FACILITY HARDSHIP COST ESTIMATE
 SCHOOL FACILITY PROGRAM
 SAB 58-01 (Rev. xx/25)

STATE ALLOCATION BOARD
 OFFICE OF PUBLIC SCHOOL CONSTRUCTION

9. OPSC Review Comments - Leave blank. This section will be completed by OPSC upon review of the application.

10. Title 24 Max Requirement - In lieu of requesting individual line items for Access Compliance, the district may request a 20% allowance to cover the costs of the maximum Access Compliance work required by the Division of the State Architect (DSA). This allowance is reflective of the maximum requirements in Title 24, Section 11B-202.4, Exemptions, 8.

PART II – Contractor Burden

For the purposes of Part II of this form, refer to the table below to determine the applicable construction classification to use when referencing the most current published edition of Sierra West.

OPSC Project Type	Sierra West Construction Classification
Facility Hardship rehabilitation for Fire and/or Water Damage	"Repair of Fire Damage"
Facility Hardship rehabilitation of historical structures	"Unique Structures"
All other Facility Hardship rehabilitation projects	"Alterations and Additions"
Seismic Mitigation rehabilitation	"Alterations and Additions"

General Conditions and General Requirements - Using the total project cost as reported to DSA and the applicable OPSC project type listed above, enter the percentage as indicated in the General Conditions table in Sierra West (CSI# 01.1000 000). If the application is exempt from DSA review, the OPSC allowed Construction Subtotal from Part 1.

Overhead, Profit & Bonds - Using the total project cost as reported to DSA, enter the applicable percentage as indicated in the "Bonds" section in Sierra West (CSI# 01.2000 000). If the application is exempt from DSA review, the OPSC allowed Construction Subtotal from Part 1.

Escalation - If the project has not been completed at the time of application submittal, enter the percentage listed for the current year, as indicated in the "Escalation" section of Sierra West (CSI# 01.3000 000). If the project has been completed, the allowance is "0%".

ATTACHMENT C

STATE OF CALIFORNIA
FACILITY HARDSHIP COST ESTIMATE
SCHOOL FACILITY PROGRAM
SAB 58-01 (Rev. xx/25)

STATE ALLOCATION BOARD
OFFICE OF PUBLIC SCHOOL CONSTRUCTION

Contingencies - Based on OPSC's Allowance Subtotal and CSI# 01.4000 000 Schematic Plans in Sierra West. The allowance is "0%" when funding is based on work with full DSA-approved plans.

PART III – Design Cost Allowances

DSA Inspection Fee - For projects that require DSA plan approval, enter 1%. For projects that do not require DSA plan approval, enter 0%.

Industry Specialist's Report Costs - Enter the greater of \$10,000 or 1% of the OPSC Allowance Subtotal.

Construction Testing Allowance - For rehabilitation projects that require specialized testing and inspection of materials during construction such as soil tests, foundation tests, exploratory borings, and similar testing prior to construction, enter 1%. The District must submit written verification of the specialized testing required for the scope of work. For all other projects, enter 0%.

Design Specialist Cost Allowance - Based on the Construction Subtotal (Part II), the allowance for the Design Specialist will be automatically calculated using the Design Specialist Cost Allowance sliding scale at the end of the estimate. Alternatively, the District may manually enter the cost allowance based on this scale.

CDE Plan Review Fee - Allowance is for the proportionate amount of fees charged by the California Department of Education (CDE), as required by law, for the Facility Hardship and/or Seismic Mitigation portion of the plan set. The CDE Plan Review Fee calculation mirrors how CDE calculates their fees. If CDE changes their calculation, this allowance will be updated accordingly. As of this date, the allowance provided is 0.07% of the OPSC Allowed Construction Subtotal as published on CDE's website:

<https://www.cde.ca.gov/ls/fa/sf/forms.asp>.

[If the project did not receive review from CDE, the CDE Plan Review Fee will be \\$0.](#)

DSA Plan Review Fee - Allowance is for the proportionate amount of fees charged by DSA, as required by law, for the Facility Hardship or Seismic Mitigation portion of the plan set. Based on the product of the OPSC Allowed Construction Subtotal applied to the DSA Project Fee Calculator:

<https://www.apps2.dgs.ca.gov/dsa/tracker/FeeCalculator.aspx>

If the project is DSA exempt, the DSA Plan Review Fee allowance is \$0.

School District:	Application Number:
School Name:	DSA Number:
County:	

PART I - Line Item Request

[illegible]

~~OPSC Allowance Subtotal: \$ --- -- \$ --- --~~

~~PART II~~

~~General Requirements (CSI # 01.0000-000)~~

School District:	Application Number:
School Name:	DSA Number:
County:	

8. General Conditions (Field Office Overhead) (enter %)	0.00%	\$ -	Based on OPSC's Allowance Subtotal and upon CSI# 01-1000-000 Project Type in Sierra West. ▲ Facility Hardship Rehabilitation (Fire and/or Water Damage) – "Repair of Fire Damage" ▲ Facility Hardship Rehabilitation (historical structures) – "Unique Structures" ▲ Facility Hardship Rehabilitation (all others) – "Alterations & Additions" ▲ Seismic Mitigation Program Rehabilitation – "Alterations & Additions"
9. General Requirements (Home Office) (enter %)	0.00%	\$ -	Based on OPSC's Allowance Subtotal and upon CSI# 01-2000-000 Project Type in Sierra West.
10. Bonds (enter %)	0.00%	\$ -	Based on OPSC's Allowance Subtotal and based upon CSI# 01-2000-000 Project Type in Sierra West.
11. Overhead & Profit			Based on OPSC's Allowance Subtotal and upon CSI# 01-2000-000, "Institutional Structure" in Sierra West. (Note: \$0 – This is included in General Requirements)
Construction Subtotal:		\$ -	
12. DSA Inspection Fee (allowed at 1.00%):	1.00%	\$ -	Always 1.00%, based on Construction Subtotal. Only allowed if project required DSA approval.
13. Escalation (enter % for current year):	0.00%	\$ -	This is based on Construction Subtotal. Allowed if the project has not been completed at the time of SAB approval. Allow one year escalation, based upon CSI# 01-2000-000, "Institutional Structure" in Sierra West.
14. Industry Specialist's Report Cost: (\$10,000 or 1% of OPSC's Allowance)		\$ 10,000.00	Based on OPSC's Allowance Subtotal, enter the greater of \$10,000 or 1% of OPSC's Allowance.
15. Construction Testing Allowance:	1.00%	\$ -	Always 1.00%, based on Construction Subtotal. Only allowed for rehabilitation projects if specialized testing of construction materials is required.
16. Design Cost Allowance:		\$ -	Based on Construction Subtotal, using the Design Cost Allowance chart below.
17. CDE Plan Fee:		\$ -	Based on the published fee found on CDE's website: https://www.cde.ca.gov/ls/fy/sf/forms.asp
18. DSA Plan Fee (enter \$ amount):		\$ -	Based on Construction Subtotal, use the calculator found on the DSA's website: https://www.apps2.dgs.ca.gov/dsa/tracker/FeeCalculator.aspx
OPSC Approved Total Project Cost:		\$ 10,000.00	

PART II - Contractor Burden

1. CSI #	2. Description	Multiplier	Allowance	Calculation Detail
1.100 000	General Conditions (insert percentage) Broad categories covered by General Conditions include: • Mobilization, • Non-distributable labor and supervision, • Permits, licenses & fees, • Temporary utilities, structures, and fencing • Material handling equipment, trucks, safety, fuel, scaffolding, • Non-manual labor, benefits, payroll tax, workers compensation insurance • Insurances, comprehensive, builders risk.	0.00%	\$ -	The multiplier is the percentage allowed based on the total project cost reported to DSA and the chart in the Current Construction Remodeling Costs Publication, in Section 01.1000 000. That percentage is representative of the economies of scale for the overall scope of the project, and is then applied to the OPSC Allowance Subtotal to arrive at the allowance. The following application types should use the corresponding Sierra West allowance category: • Facility Hardship Rehabilitation (Fire and/or Water Damage) – "Repair of Fire Damage" • Facility Hardship Rehabilitation (historical structures) – "Unique Structures" • Facility Hardship Rehabilitation (all others) – "Alterations & Additions" • Seismic Mitigation Program Rehabilitation – "Alterations & Additions"
1.200 000	Overhead, Profit, and Bonds (insert percentage) Broad categories covered by overhead include: rent, utilities, legal, accounting, estimating, travel, general insurance, taxes, marketing, advertising, computers, etc. and are distinctly not related to the physical construction of the project.	0.00%	\$ -	The multiplier is the percentage allowed based on the total project cost reported to DSA and the chart in the Current Construction Remodeling Costs Publication, Section 01.2000 000. That percentage is representative of the economies of scale of the overall scope of the project which is then applied to the sum of the OPSC Allowance Subtotal plus the General Conditions allowance, to arrive at the allowance.
1.300 000	Escalation (insert current year percentage) This allowance provides for the general adjustment in construction costs over the duration of an estimating year.	0.00%	\$ -	If the project has not been completed at the time of application submittal, the multiplier is the percentage listed for the current year, as indicated in the "Escalation" section of Sierra West (CSI# 01.3000 000). That percentage is then applied to the sum of the OPSC Allowance subtotal, plus the General Conditions Allowance, and the Overhead Profit & Bond Allowance. If the project is already complete, enter "0\$".
1.400 000	Contingencies (insert percentage or "0") Contingencies are provided for projects when the work in this form is represented in schematic drawings rather than DSA approved plans. Typically, this only applies to Cost Benefit Analysis completed for Seismic Mitigation Program replacement applications or requests for Conceptual Approval. Note: Sierra West Current Construction Cost publication provides an allowance of "0%" when funding is based on work with full DSA approved.	0.00%	\$ -	The multiplier is the percentage based on the Construction Classification and the Stage of Design outlined in the chart in the Current Construction Remodeling Costs Publication, in Section 1.4000 000. That percentage is then applied to the sum of the OPSC Allowance subtotal plus the allowance for General Conditions, Overhead Profit & Bond, and Escalation. Note: Applications with funding based on plans with final DSA approval are ineligible for contingencies.
Part II- Construction Subtotal			\$ -	Sum of Part I and Part II.

PART III- Design Costs & Fees

Design Costs	Multiplier	Allowance	Calculation Detail
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School District:	Application Number:
School Name:	DSA Number:
County:	

Project Inspection Allowance	1.00%	-	Allowance provided for the services of a DSA certified inspector for the duration of the project. The allowance provided is 1.00%, based on Construction Subtotal. Only allowed if project required DSA approval.
Industry Specialist Report	\$10,000 or 1.00%	10,000	Allowance provided for the services of an Industry Specialist to completing the required report. The allowance provided is the greater of either the Construction Subtotal multiplied by 1%, or \$10,000 .
Construction Testing Allowance	1.00%	-	For rehabilitation projects that require specialized testing and inspection of materials during construction such as soil tests, foundation tests, exploratory borings, and similar testing prior to construction, enter 1%. The District must submit written verification of the specialized testing required for the scope of work. For all other projects, enter 0%. The allowance is the applicable percentage multiplied by the Construction Subtotal.
Design Specialist Cost Allowance *See Sliding Scale, below.	Sliding Scale	-	Based on Construction Subtotal, using the Design Cost Allowance chart below.
CDE Plan Review Fee	0.07%	-	Allowance is for the proportionate amount of fees charged by the California Department of Education, as required by law, for the hardship portion of the project. The allowance provided will be CDE's fee calculation applied to the Construction Subtotal.
DSA Plan Review Fee	DSA Project Fee Calculator		Allowance is for the proportionate amount of fees charged by the Department of the State Architect, as required by law, for the hardship portion of the project. Based on the product of the Construction Subtotal applied to the DSA Project Fee Calculator: https://www.apps2.dgs.ca.gov/dsa/tracker/FeeCalculator.aspx.
Part III- OPSC Approved Total Project Cost:		10,000	Sum of Part II and Part III

Design Cost Allowance

Contruccion Subtotal (from above): \$ -

For Reference:

Design Specialist Cost Allowance Sliding Scale	Multiplier	Allowance
Construction Subtotal (from above):		\$ -
First \$500,000	12.00%	\$ -
next \$500,000	11.50%	\$ -
next \$1 million	11.00%	\$ -
next \$4 million	10.00%	\$ -
next \$4 million	9.00%	\$ -
Beyond	8.00%	\$ -
Design Cost Allowance:		\$ -

I certify, as the District Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized district representative by the governing board of the district; and,
- under penalty of perjury, under the laws of the State of California, the foregoing statements are true and correct to the best of my knowledge and belief; and,
- this form is an exact duplicate (verbatim) of the form provided by Office of Public School Construction. No variations of this form may be used.

Name of District Representative (Print):	Phone Number:
Signature of District Representative:	Date: