

## Proposed Regulation Text

### Amend Regulation Section 1859.2

#### Section 1859.2. Definitions.

For the purpose of these regulations, the terms set forth below shall have the following meanings, subject to the provisions of the Act:

...

“Form SAB 50-05” means the Fund Release Authorization, Form SAB 50-05 (Revised 06/17 08/25), which is incorporated by reference.

...

“Form SAB 195” means the Application for Natural Disaster Assistance, Form SAB 195 (New 08/25), which is incorporated by reference.

...

“Grant Agreement [Interim Housing Assistance Following A Natural Disaster]” means Grant Agreement [Interim Housing Assistance Following A Natural Disaster] (New 08/25), which is incorporated by reference and applies to funding applications received by OPSC on or after October 31, 2024.

“Grant Agreement [Other Assistance Following A Natural Disaster]” means Grant Agreement [Other Assistance Following A Natural Disaster] (New 08/25), which is incorporated by reference and applies to funding applications received by OPSC on or after October 31, 2024.

...

“Interim Housing” means the rental or lease of eClassrooms used to house pupils temporarily displaced as a result of the modernization or construction of classroom facilities; or the lease or purchase of Classrooms or ancillary facilities including but not limited to, restrooms, school administration, or Minimum Essential Facilities obtained due to a natural disaster for which the Governor has declared a state of emergency, pursuant to Education Code Section 17075.20.

...

Note: Authority cited: Sections 17070.35, 17075.20 and 17078.64, Education Code.

Reference: Sections 8974, 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.59, 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.75, 17071.76, 17072.10, 17072.12, 17072.18, 17072.30, 17072.33, 17073.16, 17073.25, 17074.10, 17074.16, 17074.30, 17075.10, 17075.15, 17077.30, 17077.35, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17078.72(k), 17079, 17079.10, 17280, 56026 and 101012(a)(8), Education Code; Section 53311, Government Code; and Sections 1771.3 in effect on January 1, 2012 through June 19, 2014 and 1771.5, Labor Code.

### Amend Regulation Section 1859.31

#### Section 1859.31. Gross Classroom Inventory.

The School eDistrict shall prepare a gross inventory consisting of all eClassrooms owned or leased in the School eDistrict, the HSAA or Super HSAA as appropriate. For the purpose of this gross eClassroom inventory, the following shall be considered a eClassroom. Any eClassroom:

(a) for which a contract was signed for the construction or acquisition of facilities or for which construction work has commenced at the time the SFP application for determination of eligibility is submitted to the OPSC;

(b) constructed with funds from the LPP;

- (c) used for Special Day Class or Resource Specialist Programs;
- (d) that are standard classrooms, shops, science laboratories, computer laboratories, or computer eClassrooms;
- (e) acquired or created for Class Size Reduction purposes;
- (f) used for preschool programs;
- (g) converted to any non-classroom purpose including use by others;
- (h) with Housing and Community Development or Department of Housing insignia;
- (i) acquired for ~~Interim Housing for a modernization project~~ Housing for a modernization project;
- (j) leased or purchased under the State Relocatable Program pursuant to Chapter 14 of Part 10 of the Education Code;
- (k) that have a waiver for continued use by the Board for Field Act exemptions;
- (l) used for Community School purposes;
- (m) included in a closed school.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.25, 17071.30 and 17075.20, Education Code.

### Amend Regulation Section 1859.51

#### Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

The baseline eligibility for new construction determined on the Form SAB 50-03 will be adjusted as follows:

- (a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.
- (b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.
- (c) Reduced by the number of pupils housed in additional classrooms constructed or purchased based on the loading standards, pursuant to Education Code Section 17071.25(a)(2)(A), in a modernization SFP project.
- (d) Adjusted as a result of the audit findings made pursuant to Sections 1859.90, 1859.90.3 and 1859.105.
- (e) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years for all districts using a fifth-year projection or a tenth-year projection, except decreases as provided in (j) below.

For all funding requests received by OPSC on or after June 6, 2017, OPSC will notify the School District in writing that OPSC is scheduled to begin processing the School District's Form SAB 50-04 and that the School District shall submit the Form SAB 50-01 based on ~~s~~School ~~d~~District enrollment data, as shown in the table below:

OPSC Received Date of Form SAB 50-01	Enrollment Reporting Year
July 1 through October 31	Submit Prior Fiscal Year Enrollment Data
November 1 through June 30	Submit Current Fiscal Year Enrollment Data

OPSC may return the Form SAB 50-04 to the School District for failure to submit the Form SAB 50-01 within 90 calendar days of OPSC's notification.

- (f) Adjusted as a result of errors or omissions by the School dDistrict or by the OPSC.
- (g) Adjusted as a result of amendments to these Regulations that effect the eligibility.
- (h) Increased by the number of pupils eligible for grants pursuant to Section 1859.82.1(b)(4)(A) or 1859.82.2(b)(4)(A).
- (i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any Classroom Provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:
  - (1) That is a trailer and transportable/towed on its own wheels and axles.
  - (2) Of less than 700 interior square feet.
  - (3) That is a Pportable eClassroom, leased pursuant to Chapter 14 (commencing with Section 17085) of the Education Code.
  - (4) That is a Pportable eClassroom leased for a period of less than five years, whether in a single lease or cumulative total of several leases.
  - (5) That is a Pportable eClassroom that needs to be leased beyond five years to provide ~~Interim hHousing in a modernization or new construction project~~ provided the cumulative lease term does not exceed a specified time period as determined by the Board not to exceed three years on each qualifying project, and the Portable Classroom was not funded with a grant provided pursuant to Education Code Section 17075.20(a). For this purpose, a project means all work contained in a single set of construction plans.
  - (6) Where the contract for the lease, lease-purchase, purchase, or construction of the eClassroom was made prior to January 1, 2000.
  - (7) That is included in a SFP project where the School dDistrict has funded a portion of the project beyond its required district contribution and the pupil capacity of the eClassroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.
  - (8) That was acquired with joint-use funds specifically available for that purpose.
  - (9) That was acquired with career technical education funds specifically available pursuant to Education Code Section 17078.72.
  - (10) That was built or acquired exclusively for regional occupational centers, regional occupational programs, child care, preschool and/or Adult Education Programs, and with funds specifically available for those purposes.
  - (11) That replaces a eClassroom, previously included in the determination of the School dDistrict's new construction eligibility pursuant to Education Code Section 17071.75, in a project funded by the School dDistrict without participation from the State and the School dDistrict permanently removes the replaced facility from classroom use immediately after the replacement classroom is occupied.
  - (12) That was constructed with Overcrowding Relief Grant funds specifically available for that purpose.
  - (13) That was constructed with a grant provided pursuant to Education Code Section 17075.20, unless the classroom is a Portable Classroom purchased pursuant to subdivision (a) of Education Code Section 17075.20.
- (j) For Small School Districts:
  - (1) Decreased by any reduction in projected enrollment that follows a five-year period after the district's eligibility was approved by the Board, and either (A) or (B), as applicable:
    - (A) Increased/decreased by changes in projected enrollment in the 2016/2017 enrollment year using a fifth-year projection or a tenth-year projection if the Form SAB 50-01 was received at OPSC by October 31, 2017.
    - (B) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years following 2016/2017 using a fifth-year projection or a tenth-year projection.
  - (2) If the Small School District does not submit an adjustment under (A) or (B) prior to OPSC

notification of its schedule to begin processing the School District's request for new construction funding that was received by OPSC on or after November 1, 2012, then the requirements of (e) shall apply.

- (k) Adjusted for any change in classroom inventory as a result of a reorganization election.
- (l) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
- (m) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.
- (n) Increased by the number of pupils that received a Preliminary Apportionment that was rescinded pursuant to Section 1859.148 or a Preliminary Charter School Apportionment that was rescinded pursuant to Section 1859.166.
- (o) Adjusted for operational grant changes as determined/provided by the California Department of Education.
- (p) For a HSAA School and District with Preliminary Apportionments within the 2002 or 2004 Critically Overcrowded School Facilities Account as follows:
  - (1) Decreased by the number of pupils that received a Preliminary Apportionment, distributed proportionately among HSAAs in which the pupils used to justify the conversion of the Preliminary Apportionment were enrolled but did not reside.
  - (2) In the subsequent enrollment reporting year after verification of Occupancy of a project, increased by the number of pupils equal to the reduction due to Section 1859.51(p)(1), for the project which was occupied.
  - (3) Increased by the number of pupils equal to the reduction due to Section 1859.51(p)(1), for a Preliminary Apportionment rescinded pursuant to the provisions of Section 1859.148.
- (q) Adjusted by the difference between the Alternative Enrollment Projection for the current enrollment reporting year and the projected enrollment determined pursuant to Section 1859.42 for the current enrollment reporting year, or by the eligibility remaining from this calculation that can no longer be utilized if the funds made available pursuant to Education Code Section 17071.75(a)(1)(A) have been exhausted.
- (r) Adjusted pursuant to Education Code Section 17071.75(b)(2) by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any eClassroom(s) where title was relinquished to the School District receiving the transferred classroom(s).
- (s) Increased by the capacity of eClassrooms that meet all of the following:
  - (1) The classrooms are included in an Approved Application that have a qualifying health and safety threat pursuant to Sections 1859.82.1 or 1859.82.2 that were originally included in the School and District's baseline eligibility, except the School and District did not have the current enrollment to support the replacement and funding of those eClassrooms.
  - (2) The eClassrooms are included in an Approved Application pursuant to Sections 1859.82.1 or 1859.82.2 and did not receive funding as part of that project and were demolished or removed from eClassroom use. Buildings removed from K-12 classroom use that remain on the school site will be identified on a list published on OPSC's website.
  - (3) The Board shall approve the adjustment upon receiving the local school board resolution acknowledging that the buildings have been removed from K-12 eClassroom use.
- (t) Reduced by the number of pupils housed in additional Transitional Kindergarten Classrooms constructed, pursuant to Education Code Section 17073.16(c) in an SFP modernization project.
- (u) Adjusted by the capacity of Classrooms, as applicable:
  - (1) Decreased by the number of pupils housed in Portable Classrooms purchased for purposes of Interim Housing pursuant to Education Code Section 17075.20.

(2) Increased by the number of pupils housed in Portable Classrooms purchased pursuant to Section 1859.51(tu)(1) that are permanently removed from the School District within eight years of occupancy.

(v) Increased by the capacity of Classrooms that were destroyed or rendered unsafe to occupy due to a natural disaster for which the Governor declared a state of emergency on or after July 3, 2024, that the School District elected not to replace. The Board may consider adjustments for Classrooms that were destroyed or rendered unsafe to occupy due to a natural disaster that occurred prior to July 3, 2024, that the School District elected not to replace, **on a case-by-case basis. For those School Districts that elected not to replace Classrooms that were destroyed or rendered unsafe to occupy due to a natural disaster that occurred prior to July 3, 2024, the Board will consider factors, including, but not limited to, insufficient insurance proceeds and/or government disaster assistance received, declining enrollment in the School District, site soil conditions (soil cannot be cleaned and is unusable), and all information submitted on the Form SAB 195.**

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20, 17073.16, 17075.20, 17077.40, 17078.72, 17375, 17079.20, 42268 and 42270, Education Code.

Amend Regulation Section 1859.80

Section 1859.80. General.

A School dDistrict shall qualify for hardship assistance by demonstrating one or more of the following:

(a) A financial hardship, as provided in Section 1859.81, which prevents the School dDistrict from funding all or a portion of the matching share requirement for a SFP grant.

(b) Qualification for facility hardship as provided in Sections 1859.82.1 or 1859.82.2.

(c) An Excessive Cost Hardship Grant as a result of added construction costs due to unusual circumstances as provided in Section 1859.83.

(d) Qualification for natural disaster assistance pursuant to Sections 1859.84.1 or 1859.84.2 as a result of a natural disaster for which the Governor has declared a state of emergency.

Note: Authority cited: Sections 17070.35, 17075.10 in effect as of January 1, 2024 and as amended by Assembly Bill 247, Chapter 81, Statutes of 2024, and with the successful passage of Proposition 2 on November 5, 2024; and 17075.20, and Education Code.

Reference: Sections 17075.10 and 17070.15, Education Code.

Amend Regulation Section 1859.81.1

Section 1859.81.1. Separate Apportionment for Site Acquisition and Design Costs.

A district that meets the Financial Hardship criteria in Section 1859.81 is eligible for the following:

(a) For a new construction project, a separate apportionment for site acquisition, with the exception of site acquisition funding authorized by Section 1859.81.2 or for projects receiving funding pursuant to the Overcrowding Relief Grant, Section 1859.180, when all of the following requirements are met:

(1) The School District has eligibility for grants that equal at least 50 percent of the CDE master plan capacity of the site.

(2) The School District has received a contingent site approval letter from the CDE indicating that the proposed site is the best available.

(3) The School District has obtained a preliminary appraisal of the property by a qualified appraiser utilizing criteria outlined in Section 1859.74.1. This report may be made without access to the site.

(b) If the conditions in (a) are met on a site that does not require a RA, the Board will apportion all of the following less any district funds available for the project pursuant to Section 1859.81(a):

(1) An amount not to exceed 100 percent of the lesser of the preliminary appraised value of the site as determined by Section 1859.74.1 or the amount the district reasonably expects to pay for the site including any hazardous material clean-up.

(2) The estimated relocation expenses that will conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment, and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.

(3) Four percent of the lesser of the preliminary appraised value of the site or the amount the School District reasonably expects to pay for the site acquisition including any hazardous material clean-up but not less than \$50,000.

(4) The estimated DTSC costs for review, approval, and oversight of the POESA and the PEA.

(c) If the conditions in (a) are met on a site that will require a RA, the district is eligible for a separate site apportionment not to exceed 50 percent of one and one half times the value of an appraisal that conforms to Section 1859.74.1 for the costs included in (c)(1) and (c)(4) plus the additional costs included in (c)(2) and (c)(3). The costs included in (c)(2) and (c)(3) are in addition to 50 percent of one and one half times the appraisal value cap.

(1) The cost of the site as determined in Section 1859.74.1 and the amount the School District reasonably expects to pay for any hazardous materials/waste removal and/or remediation costs for the site.

(2) Fifty percent of the estimated relocation expenses that will conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment, and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.

(3) Fifty percent of four percent of the lesser of the appraised value of the site or the amount the School District reasonably expects to pay for the site acquisition including any hazardous materials/waste removal and/or remediation costs for the site, but not less than 50 percent of \$50,000.

(4) The estimated DTSC costs for review, approval and oversight of the POESA and the PEA.

(d) The limitation of 50 percent of one and one half times the value of an appraisal for costs in subsections (c), (c)(1) and (c)(4) may be exceeded when the Board finds that unforeseen circumstances exist, and when both of the following exist:

(1) CDE determines that the site is the best available site for meeting the educational and safety needs of the School District.

(2) Substantiation that the costs are limited to the minimum required to complete the evaluation and RA approved by the DTSC.

(e) For new construction projects, 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), plus \$150,000 for new school projects and \$250,000 for new construction addition projects that will be pursuing high performance incentive grants as indicated on the School District governing board resolution that shall be submitted to the OPSC as part of a

funding request pursuant to this Section. For modernization projects, the Board will apportion an amount not to exceed the following:

(1) If the Approved Application is received on or before April 29, 2002, 20 percent of the modernization grant less any district funds available for the project pursuant to Section 1859.81(a).

(2) If the Approved Application is received after April 29, 2002, 25 percent of the modernization grant less any School District funds available for the project pursuant to Section 1859.81(a), plus \$250,000 for projects that will be pursuing high performance incentive grants as indicated on the School District governing board resolution that shall be submitted to the OPSC as part of a funding request pursuant to this Section.

(f) For applications for other assistance following a natural disaster pursuant to Section 1859.84.2, the Board will apportion an amount not to exceed 25 percent of the state share of the grant less any School District funds available for the project pursuant to Section 1859.81(a). The amount provided as a separate Apportionment shall be offset from the full grant amount the School District would otherwise be eligible for pursuant to Section 1859.84.2 when the School District submits an additional Form SAB 195, Application for Natural Disaster Assistance. (New 08/25), which is incorporated by reference, to request additional funding.

The amount apportioned 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 new construction project. Those projects requesting an Overcrowding Relief Grant, pursuant to Section 1859.180, do not qualify for these separate Apportionments.

The amount provided as a separate Apportionment shall be offset from the New Construction Adjusted Grant or the Modernization Adjusted Grant amount the district would otherwise be eligible for pursuant to Sections 1859.70, 1859.71.6, 1859.77.4 and 1859.81 when the district submits the Form SAB 50-04. A district seeking a separate Apportionment for site acquisition or design costs shall submit the Form SAB 50-04. If a new construction project received a previous design Apportionment, the district may request an additional design Apportionment for that project up to the 40 percent maximum design Apportionment allowed pursuant to this Section.

The Form SAB 50-04 that is subsequently submitted for the New Construction Adjusted Grant must be for at least 50 percent of the New Construction Grant the district requested as a separate design Apportionment.

The Form SAB 50-04 that is subsequently submitted for the Modernization Adjusted Grant must be for at least 80 percent of the Modernization Grant the district requested as a separate design Apportionment that was received on or before April 29, 2002.

The Form SAB 50-04 that is subsequently submitted for the Modernization Adjusted Grant must be for at least 60 percent of the Modernization Grant the district requested as a separate design Apportionment that was received after April 29, 2002.

When the Board is accepting applications pursuant to Section 1859.95, the funding of the new construction or modernization grant may be made from funds set aside by the Board for financial hardship. The amount provided as a separate Apportionment shall be adjusted at a future date to assure that hardship funding for the project does not exceed the amount the district was otherwise eligible to receive.

Note: Authority cited: Sections 17070.35, 17072.13, ~~and~~17075.15 and 17075.20, Education Code.

Reference: Sections 17072.12, 17072.20, 17072.33, 17074.15, 17074.16, 17075.20 and 17079.20, Education Code.

#### Adopt Regulation Section 1859.84

##### Section 1859.84. Natural Disaster Assistance Program.

A School District may apply for Interim Housing and any other assistance as a result of a natural disaster for which the Governor has declared a state of emergency pursuant to Education Code Section 17075.20, subject to verification with the Governor's Office of Emergency Services to confirm the state of emergency is still open at the time of application submittal.

For purposes of this Section, a natural disaster may include, but is not limited to, events such as earthquakes, wildfires, floods, landslides, storms, hurricanes, tsunamis, and other natural catastrophes.

Applications received on or after October 31, 2024 are subject to matching share requirements in accordance with Sections 1859.77.1 or 1859.79, as applicable.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17075.20, Education Code.

#### Adopt Regulation Section 1859.84.1

##### Section 1859.84.1. Interim Housing Assistance Following a Natural Disaster.

Any funding provided by this Section is subject to the availability of New Construction bond authority and shall supplement insurance, local, state, and federal disaster funding.

An impacted School District is eligible for funding to procure Interim Housing if the School District has had facilities lost or damaged by a natural disaster for which the Governor has declared a state of emergency. The declared state of emergency must be "open" on the date OPSC receives a completed, valid Form SAB 195, *Application for Natural Disaster Assistance*, (New 08/25), which is incorporated by reference.

(a) To request funding to lease or purchase facilities, the School District must submit a completed, valid Form SAB 195 signed by an Authorized District Representative.

(b) The School District must submit one of the following to demonstrate that any funding provided by this Section will supplement funding from insurance or any other government disaster assistance:

(1) If the School District will not receive insurance proceeds or other government disaster assistance for Interim Housing, documentation in the form of a letter of denial or a certification, demonstrating that costs associated with Interim Housing have not been covered by insurance proceeds or any other local, state, or federal government disaster assistance.

(2) If the School District reasonably expects to receive future insurance proceeds or any other government disaster assistance attributable to costs of Interim Housing, the School District must provide all of the following:

- (A) An estimate of the insurance proceeds or any other government disaster assistance the School District may receive for Interim Housing expenses;
- (B) A narrative statement indicating the necessity for Interim Housing assistance prior to receipt of insurance proceeds or any other government disaster assistance for this purpose; and
- (C) Acknowledgement of the reporting requirement and potential future adjustment to any Apportionment, pursuant to subsection (c).
- (c) Any Apportionment provided in accordance with this Section shall be adjusted for funding received from insurance proceeds or government disaster assistance for Interim Housing. The Apportionment will be reduced by 50 percent of the funding received from insurance proceeds and/or government disaster assistance for Interim Housing, or a commensurate amount adjusted for the district matching share pursuant to Section 1859.77.1. Any insurance proceeds and/or government disaster assistance collected shall be reported to OPSC in the form of an annual narrative from the date the application was submitted to OPSC until all claims for insurance proceeds and requests for government disaster assistance are closed.
- (d) The Board shall provide an Apportionment subject to the requirements of Section 1859.90 or Section 1859.90.2.
- (e) A Grant Agreement pursuant to Section 1859.90.4. is required as a condition of receiving funding pursuant to this Section.
- (f) The School District is subject to the requirements in Sections 1859.104 and 1859.105.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17075.20, Education Code.

Adopt Regulation Section 1859.84.2

Section 1859.84.2. Other Assistance Following a Natural Disaster.

Any funding provided by this Section is subject to the availability of New Construction or Modernization bond authority, as applicable to the scope of work in the request, and shall supplement insurance, local, state, and federal disaster funding.

A School District may qualify for funding at the Board's discretion if it is determined by the Board to be impacted by a natural disaster for which the Governor has declared a state of emergency. The declared state of emergency must be "open" on the date OPSC receives a completed, valid Form SAB 195, *Application for Natural Disaster Assistance*, (New 08/25), which is incorporated by reference.

(a) In making a determination to provide any other assistance following a natural disaster, the Board may consider factors including, but not limited to, the following:

(1) Any previous SFP Approved Applications that received an Apportionment for the impacted site as it relates to the natural disaster.

(2) All information required on the Form SAB 195.

(b) To request funding pursuant to this Section, the School District must submit a completed, valid Form SAB 195 signed by an Authorized District Representative.

(c) The School District must submit one of the following to demonstrate that any funding provided by this Section will supplement funding from insurance or any other government disaster assistance:

(1) If the School District will not receive insurance proceeds or other government disaster assistance for the scope of work in the Form SAB 195, documentation in the form of a letter of denial or a certification, demonstrating that costs associated with the scope of work in the Form

SAB 195 have not been covered by insurance proceeds or any other local, state, or federal government disaster assistance.

(2) If the School District reasonably expects to receive future insurance proceeds or any other government disaster assistance attributable to the scope of work in the Form SAB 195, the School District must provide all of the following:

(A) An estimate of the insurance proceeds or any other government disaster assistance the School District may receive for the scope of work in the Form SAB 195;

(B) A narrative statement indicating the necessity for assistance under this Section prior to receipt of insurance proceeds or any other government disaster assistance for this purpose; and

(C) Acknowledgement of the reporting requirement and potential future adjustment to any Apportionment, pursuant to subsection (d).

(d) Any Apportionment provided in accordance with this Section shall be adjusted for funding received from insurance proceeds or government disaster assistance for the same purpose or scope of work funded by the Apportionment, as follows:

(1) Reduced by 50 percent of the funding received from insurance proceeds and/or government disaster assistance, or a commensurate amount adjusted for the district matching share pursuant to Section 1859.77.1, or

(2) Reduced by 60 percent of the funding received from insurance proceeds and/or government disaster assistance, or a commensurate amount adjusted for the district matching share pursuant to Section 1859.79.

(e) Any insurance proceeds and/or government disaster assistance collected shall be reported to OPSC in the form of an annual narrative from the date the application was submitted to OPSC until all claims for insurance proceeds and requests for government disaster assistance are closed.

(f) The Board shall provide an Apportionment subject to the requirements of Section 1859.90 or Section 1859.90.2.

(g) A Grant Agreement pursuant to Section 1859.90.4. is required as a condition of receiving funding pursuant to this Section.

(h) The School District is subject to the requirements in Sections 1859.104 and 1859.105.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17075.20, Education Code.

Amend Regulation Section 1859.90

Section 1859.90. Fund Release Process.

(a) With the exception of an Apportionment made pursuant to Sections 1859.81.1(e), 1859.81.1(f), or 1859.81.2, Apportionments provided through the Priority Funding Process and subject to 1859.90.2, the OPSC will release State funds that the Board has apportioned to the district after submittal, by the School dDistrict, of the Form SAB 50-05 and a Grant Agreement, pursuant to Section 1859.90.4.

(b) With the exception of Apportionments described in paragraphs (1) and (2) of subsection (c), a district must submit the Form SAB 50-05 and Grant Agreement, within 180 calendar days of the Apportionment of the SFP grant for the project or within 365 calendar days for Apportionments that include Ffinancial Hhardship assistance. If the School dDistrict does not submit the Form SAB 50-05 and Grant Agreement within the above-specified time, the entire New Construction Adjusted Grant, or Modernization Adjusted Grant or Type I or II, part of a qualifying SFP Modernization project, or Joint-Use Project Apportionment shall be rescinded without further Board action, and the pupils housed in the project, if applicable, will be added back to the School dDistrict's baseline eligibility. The School dDistrict may

refile a new Application for the project subject to district eligibility and available State funds at the time of resubmittal.

(c)(1) Notwithstanding subsection (b), if an Apportionment is made for an Application pertaining to a school facility located on a military installation that is the recipient of a federal grant that requires a local matching share, and the district has received an invitation for federal funding, the Board may authorize 18 months from the date of the Apportionment instead of the applicable fund release timeline in subsection (b) for the district to submit the Form SAB 50-05 and Grant Agreement for the project. In determining whether to authorize 18 months from the date of Apportionment, the Board shall consider whether additional time is needed for the district to align with federal timelines. If the district does not submit the Form SAB 50-05 and Grant Agreement within the above-specified time, the entire Apportionment shall be rescinded without further Board action, and the pupils housed in the project, if applicable, will be added back to the district's baseline eligibility. The district may refile a new Application for the project subject to district eligibility and available State funds at the time of resubmittal.

(2) Notwithstanding subsection (b), if the Apportionment was made for a Type II Joint-Use Project, not part of a qualifying SFP Modernization project, pursuant to Article 12 of these Regulations, the School ~~d~~District must submit the Form SAB 50-05 and a Grant Agreement within 18 months of the date the plans and specifications for the Joint-Use Project that have been approved by the DSA and the CDE are submitted to the OPSC or the Apportionment shall be rescinded without further Board action.

(d) OPSC will release State funds that have been apportioned by the Board pursuant to Sections 1859.81.1(e) or 1859.81.1(f) to the School ~~d~~District within 30 calendar days of the following, whichever occurs last: an Apportionment or upon submittal by the School ~~d~~District of a Grant Agreement pursuant to Section 1859.90.4. Submittal of the Grant Agreement must occur within 365 days of the Apportionment. If the School ~~d~~District received an Apportionment pursuant to 1859.90.2, the Grant Agreement must be submitted within the specified time period in 1859.90.2.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.15, 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.

## Amend Regulation Section 1859.93

### Section 1859.93. Modernization Project Funding Order.

Applications shall be funded as follows:

(a) First, to applications for Facility Hardship rehabilitation projects pursuant to Sections 1859.82.1(c) and 1859.82.2(c) in order of receipt of an Approved Application for funding; then,

(b) Second, to applications for Modernization projects pursuant to Section 1859.84.2 in order of receipt of a Form SAB 195, *Application for Natural Disaster Assistance*, (New 08/25), which is incorporated by reference; then

~~(b)~~ If there are no applications pursuant to subsection (a) or (b), to applications for modernization funds in order of receipt of an Approved Application for funding.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.15 ~~and~~ 17075.15 and 17075.20, Education Code.

Amend Regulation Section 1859.93.1

Section 1859.93.1. New Construction Project Funding Order.

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

~~(a) First, to applications for Facility Hardship pursuant to Section 1859.82 in order of receipt of an Approved Application for funding; then, to applications pursuant to Section 1859.84.1 in order of receipt of a Form SAB 195, Application for Natural Disaster Assistance, (New 08/25), which is incorporated by reference; then~~

(b) Second, 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,

(c) Third, to applications pursuant to Section 1859.84.2 in order of receipt of a Form SAB 195; then

~~(bd)~~ If there are no applications pursuant to subsection (a), (b) or (c), to applications for New Construction Grant(s) in order of receipt of an Approved Application for funding.

~~(ee)~~ Approved Applications for New Construction Grant(s) funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.

~~(df)~~ Approved Applications for New Construction Grant(s) authorized by Education Code Sections 17078.10 through 17078.30.

~~(eg)~~ 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~~ 17075.15 and 17075.20, Education Code.

Amend Regulation Section 1859.104

Section 1859.104. Program Reporting Requirements.

A School dDistrict receiving funds in accordance with the Act shall submit the following:

(a) An expenditure report from the School dDistrict on the Form SAB 50-06. The program reporting requirements are as follows:

(1) The first expenditure report shall be due one year from the date that any funds were released to the School dDistrict for the project pursuant to Section 1859.90 or 1859.90.2, or upon completion of the project, whichever occurs first. A project shall be deemed complete when either of the following occur:

(A) When the notice of completion for the project has been filed, all outstanding invoices, claims, change orders have been satisfied and the facility is currently in use by the School dDistrict.

(B) Three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.

(C) Notwithstanding (B), eight years from the date of the final fund release for projects receiving funding pursuant to Section 1859.84.1 or Section 1859.84.2.

(2) The second and subsequent expenditure reports, if necessary, shall be due annually beginning one year from the first report, or upon completion of the project, whichever occurs first. The final expenditure report must be made no later than three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.

(b) With the exception of projects that qualify for an aAppportionment pursuant to Section 1859.75.1, a progress report, in the form of a narrative from the School dDistrict, shall be due 18 months from the date any funds were released to the School dDistrict for the project pursuant to Section 1859.90 or 1859.90.2. The progress report shall include information regarding the progress the district has made towards substantial completion of the project. If the notice of completion has been filed within 18 months of the release of funds pursuant to Section 1859.90 or 1859.90.2, or the expenditure reports required in (a)(1) or (2) indicate that substantial progress (as defined in Section 1859.105) on the project has occurred, no progress report is required.

(c) A progress report, in the form of a narrative from the district, shall be due 12 months from the date the site acquisition funds were apportioned to the School dDistrict for the project pursuant to Section 1859.75.1. The progress report shall include information regarding the progress the School dDistrict has made towards acquiring the site as outlined in Section 1859.105.1 and may contain other evidence of reasonable effort to substantiate progress towards acquiring the site for purposes of an extension of the site aAppportionment as authorized by Education Code Section 17072.13(c)(2).

(d) If an aAppportionment was made for a district-owned site pursuant to Section 1859.74.5, a certification that the non-school function currently taking place on the district-owned site has been discontinued or relocated. The certification must be submitted to the OPSC no later than the following dates:

(1) If the project is for an elementary school, 66 months from the date of the site aAppportionment.

(2) For all other projects, 78 months from the date of the site aAppportionment.

(e) If an Appportionment was made under the Overcrowding Relief Grant pursuant to Section 1859.180, the School District must provide a certification that the replaced Portable Classrooms ~~portables~~ were removed from the eligible site and from service pursuant to Education Code Section 17079.30.

(f) A School District receiving an Appportionment for high performance incentive grants pursuant to Section 1859.71.6 or 1859.77.4 shall submit a completed Project Information Worksheet to the OPSC for all expenditures related to the additional design and construction costs of the high performance building components. In addition, the School District shall provide information related to resulting energy savings and efficiency, as well as other resulting benefits. The Project Information Worksheet shall be submitted with the Form SAB 50-05 and the School District's first and final Forms SAB 50-06 pursuant to (a)(1) and (2) above.

(g) A School District receiving funds shall submit a summary report of expenditures of state funds and of Sschool District matching funds annually until all state funds and Sschool District matching funds are expended, pursuant to Education Code Section 17076.10(a).

(h) If an Appportionment was made under the Natural Disaster Assistance Program pursuant to Section 1859.84.1, the School District must provide a certification for the following:

(1) Upon either project completion or no later than 60 months from the date the lease was signed for purposes of Interim Housing, that leased Portable Classrooms have either been removed or remain in use within the School District. For leased Portable Classrooms that have a qualifying project and receive an extension by the Board pursuant to Section 1859.51(i)(5), the School District shall provide an additional certification no later than the approval date of the extension as approved by the Board.

(2) Upon either project completion, or no later than 96 months from the date of the Appportionment, that the Portable Classrooms purchased for Interim Housing have either been removed or remain in use within the School District.

Note: Authority cited: Sections 17070.35, 17072.13, 17075.20 and 17079.30, Education Code.

Reference: Sections 17070.35, 17070.99, 17072.12, 17072.13, 17076.10 and 17079.30, Education Code.

Amend Regulation Section 1859.106

Section 1859.106. Program Accountability Expenditure Audit.

The projects will be audited to assure that the expenditures incurred by the School ~~D~~istrict were made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, and Education Code Section 17074.25 and Section 1859.79.2 for modernization projects. The audit will also assure that the School ~~D~~istrict complied with all site acquisition guidelines as provided in Education Code Sections 17072.13 and 17072.14 and Sections 1859.74, 1859.74.1, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75 and 1859.75.1.

An adjustment in the SFP grant will be made for the following:

- (a) The difference in the value of the site, relocation costs, DTSC fees, and hazardous waste/materials removal costs that were used to determine the New Construction Additional Grant and the actual amount paid by the School ~~D~~istrict for the site, relocation costs, DTSC fees, and hazardous waste/materials removal costs. For applications received on or after January 1, 2004, the adjustment may be made regardless of whether the hazardous waste/materials removal costs were requested on the application for funding.
- (b) For any insurance proceeds collectable by the School ~~D~~istrict for displaced facilities and net proceeds available from the disposition of displaced facilities pursuant to Sections 1859.82.1(d) and 1859.82.2(d).
- (c) For any insurance proceeds or other government disaster assistance collected by the School District for any project that received funding pursuant to Sections 1859.84.1(c), or 1859.84.2(d).
- (~~e~~) For any project that received funding pursuant to 1859.71.4(c) or 1859.78.1(b), 50 percent of one-fourth of one percent of the difference between the original Total Projected Bond Apportionment and the newly calculated amount.
- (~~e~~) Any adjustments made pursuant to this Section will be made only if sufficient bond authority is available for the adjustment. If an Unfunded List has been created by the Board, then any adjustments made pursuant to this Section will be placed on the Unfunded List.

When the OPSC receives the final expenditure report from the School ~~D~~istrict on Form SAB 50-06, an audit of the expenditures by the OPSC shall commence within two years of the report. If the School ~~D~~istrict is not notified by the OPSC within the two-year period that an audit will be made, there will be no audit of the project by the OPSC and the expenditures reported by the district shall be deemed appropriate. If the School ~~D~~istrict has been notified that an audit of the expenditures will be made by the OPSC, the OPSC shall complete the audit within six months of the notification, unless additional information requested from the district has not been received.

School Districts shall be required to maintain all appropriate records that support all district certifications and expenditures for all costs associated with SFP, Charter School, and Joint-Use projects for a period of not less than four years from the date the notice of completion is filed for the project in order to allow other agencies, including, without limitation, the Bureau of State Audits and the State Controller to perform their audit responsibilities.

The School ~~D~~istrict is responsible to substantiate expenditures from the Joint-Use Partner(s) financial contribution pursuant to Section 1859.127 and from other local sources.

Should the OPSC conduct an audit of the School eDistrict certifications or the expenditures for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Sections 1859.84, 1859.84.1 or 1859.84.2 for projects following a natural disaster, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, Education Code Section 17074.25 and Section 1859.79.2 for modernization projects, and Education Code Sections 17072.13 and 17072.14 for projects with additional costs imposed by the DTSC, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings.

Should the CDE make a finding that a project did not meet the standards that were adopted by the CDE pursuant to Education Code Section 17251(b) and (c) when the district had self-certified that the project met those standards pursuant to Education Code Section 17070.50(b), the Board may request that the CDE make a recommendation that the apportionment for the project be adjusted based on the CDE finding. Any adjustment in the apportionment shall be based on the percentage of space in the project that the CDE determined did not meet those standards.

If title to special education program facilities is transferred between a School eDistrict and a county office of education pursuant to Education Code Sections 17071.75(b)(2) and (f), the receiving School District shall remit payment to the State within 60 days or up to five years, pursuant to an approved repayment schedule, as requested by the School District. If a repayment schedule is requested, it shall be in equal annual installments and shall include interest at the same rate as that earned on the State's Pooled Money Investment Account on the date a repayment schedule is approved by the Board. The repayment amount shall be determined by prorating the Financial Hardship assistance received on the initial Apportionment for the transferred facilities, including site acquisition costs apportioned for any land transferred, by the percentage of building area being transferred divided by the total amount of building area approved on the initial Application containing the transfer of facilities, if all of the following conditions are met:

- (a) The transferred facilities were constructed with State funds under Chapter 12.5.
- (b) Transfer of the facilities took place within ten years of initial occupancy.
- (c) The School District that initially acquired or constructed the transferred facilities had approved Financial Hardship status at the time of Apportionment of the project.
- (d) The School District receiving the facility did not have approved Financial Hardship status at either the time of the title transfer or the time that the adjustment request is submitted to the OPSC.

For any project that received funding pursuant to Sections 1859.84.1 or 1859.84.2, the School District must report the receipt of any insurance proceeds or other government disaster assistance received after the completion of the expenditure audit to OPSC within 60 days.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17071.75, 17072.13, 17072.14, 17072.18, 17072.35, 17074.25, 17075.20, 17076.10, 17077.40, 17078.52 and 17251, Education Code; and Section 1771.3, Labor Code.