

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 50-04" means the *Application for Funding*, Form SAB 50-04 (Revised ~~08/25~~12/25), which is incorporated by reference.

...

"Form SAB 50-09" means the *Application for Charter School Preliminary Apportionment*, Form SAB 50-09 (Revised ~~40/44~~12/25), which is incorporated by reference.

...

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 1859.71.3

Section 1859.71.3. New Construction Additional Grant for Energy Efficiency.

(a) ~~For Approved Applications received on or before October 30, 2024,~~ in addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in (b) if all the following are met:

(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.

(2) The average energy efficiency score of all the buildings in the project, as determined by EnergyPro 3.1 or a similar computer program approved by the State Energy Resources Conservation and Development Commission, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 15 percent.

(3) ~~The~~ DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.

(4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the State Energy Resources Conservation and Development Commission.

(5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).

(b) An amount equal to the lesser of the following:

(1) The New Construction Grant multiplied by one percent if the percentage of energy efficiency as concurred by ~~the~~ DSA in (a)(3) is 15 percent, or by one percent plus 0.04 percent for each 0.1 percent increment of increased energy efficiency up to 25 percent. The multiplier may not exceed five percent.

(2) The funds available in the Energy Efficiency Account set aside for this Section.

~~If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1),~~

~~the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the new construction project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).~~

If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1), the School District may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the Approved Application and accept a full and final Apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).

(c) For Approved Applications received on or after October 31, 2024, in addition to any other funding authorized by these Regulations, the Board shall provide the amount in (d) if all of the following are met:

(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.

(2) DSA confirmed the project exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations through the performance approach to Energy Code compliance or through a combination of prescriptive and/or performance approaches to Energy Code compliance, and the OPSC CA-CHPS requirements in (d).

(d) The New Construction Grant amount multiplied by one of the following:

(1) If the project uses the performance only approach to Energy Code compliance, with exception only of mandatory prescriptive measures, 1 percent if no OPSC CA-CHPS score card is submitted; 3 percent if the CA-CHPS score is 10 to 50; or 5 percent if the OPSC CA-CHPS point score is 51 to 130.

(2) If the project uses either an all prescriptive approach to Energy Code compliance or a combination of prescriptive/performance approaches to Energy Code compliance, 0 percent if no OPSC CA-CHPS score card is submitted; 2 percent if the total OPSC CA-CHPS score is 10 to 50; or 4 percent if the OPCS CA-CHPS point score is 51 to 130.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17077.35, Education Code.

Amend Regulation Section 1859.77.1

Section 1859.77.1. New Construction District Matching Share Requirement.

For applications received before October 31, 2024, any funding provided by these Regulations shall require a School District matching share contribution on a dollar-for-dollar basis with the exception of ~~F~~financial ~~H~~hardship provided by Section 1859.81 or any additional grant provided for a district-owned site acquisition cost pursuant to Sections 1859.74.5 or 1859.81.2.

For applications received on or after October 31, 2024, any funding provided by these Regulations shall require a School District matching share contribution pursuant to Education Code Sections 17070.59 and 17072.30 and adjusted for the Local Funding Adjustment Grant using the points determined in Section 1859.70.5, with the exception of Financial Hardship provided by Section 1859.81 or any additional grant provided for a district-owned site acquisition cost pursuant to Sections 1859.74.5 or 1859.81.2.

The School District may include as its School District matching share any amounts expended on the project for an ~~E~~nergy ~~A~~udit made pursuant to Education Code Section ~~17077.10~~

17077.30 and any amounts applied to the project for incentive grants or rebates received by the School District from a program funded pursuant to Public Utilities Code Section 381.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.30, 17074.16 and 17077.30, ~~17077.10~~, Education Code.

Amend Regulation Section 1859.78.5

Section 1859.78.5. Modernization Additional Grant for Energy Efficiency.

(a) For Approved Applications received on or before October 30, 2024, in addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in

(b) if all the following are met:

(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.

(2) The average energy efficiency score of all the buildings in the project, as determined by EnergyPro 3.1 or a similar computer program approved by the State Energy Resources Conservation and Development Commission, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 10 percent.

(3) ~~The~~ DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.

(4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the State Energy Resources Conservation and Development Commission.

(5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).

(b) An amount equal to the lesser of (b)(1) or (b)(2):

(1) The Modernization Grant multiplied by one percent if the percentage of energy efficiency as concurred by ~~the~~ DSA in (a)(3) is 10 percent, or by one percent plus 0.1 percent for each 0.1 percent increment of increased energy efficiency up to 14 percent. The multiplier may not exceed five percent.

(2) The remaining funds available in the Energy Efficiency Account set aside for this Section.

~~If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1), the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the modernization project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).~~

If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1), the School District may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the Approved Application and accept a full and final Apportionment without the additional grant authorized by (b)(1) or the lesser Apportionment authorized by (b)(2).

(c) For Approved Applications received on or after October 31, 2024, in addition to any other funding authorized by these Regulations, the Board shall provide the amount in (d) if all of the following are met:

(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.

(2) DSA confirmed the project exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations through the performance approach to Energy Code compliance or through a combination of prescriptive and/or performance approaches to Energy Code compliance, and the OPSC CA-CHPS requirements in (d).

(d) The Modernization Grant amount multiplied by one of the following:

(1) If the project uses the performance only approach to Energy Code compliance, with exception only of mandatory prescriptive measures, 1 percent if no OPSC CA-CHPS scorecard is submitted; 3 percent if the OPSC CA-CHPS score is 10 to 50; or 5 percent if the OPSC CA-CHPS score is 51 to 130.

(2) If the project uses either an all prescriptive approach to Energy Code compliance or a combination of prescriptive/performance approaches to Energy Code compliance, 0 percent if no OPSC CA-CHPS score card is submitted; 2 percent if the total OPSC CA-CHPS score is from 10-50; or 4 percent if the OPSC CA-CHPS score is 51 to 130.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17077.35, Education Code.

Adopt Regulation Section 1859.78.10

Section 1859.78.10. Modernization Additional Grant for Career Technical Education Components.

This Section shall apply to Approved Applications requesting a Modernization Grant received on or after October 31, 2024.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amount identified in (b) for the costs associated with the design, purchase, and installation of components, and/or modernization or reconfiguration of facilities and structures, that promote career technical educational opportunities for pupils in existing middle and high schools if all the following are met:

(1) The project includes at least one career technical education component that conforms to Education Code Section 17078.74(c).

(2) The applicant certifies that the costs for the career technical education portion of the project exceed the amount of funding otherwise available to the applicant for the qualifying modernization scope of work, and that the career technical education components are necessary to maintain industry standards.

(3) The applicant:

(A) Is a local educational agency operating a comprehensive high school pursuant to Education Code Sections 51224, 51225.3 and 51228.

(B) Has an active career technical advisory committee pursuant to Education Code Section 8070.

(C) The applicant submitted project plans to CDE and the application received a career technical education plan score from CDE with a minimum score of 105 points on or after July 3, 2024.

(4) The project meets the criteria in Education Code Section 17078.72(b) and Education Code Section 17078.74(f), as verified by CDE.

(5) Contracts and/or purchase orders for the career technical education components in the project were signed on or after July 3, 2024.

(b) The grant amount shall be the lesser of (b)(1) or (b)(2):

(1) Five percent of the Modernization Grant.

(2) 60 percent of the OPSC-approved costs for the career technical education scope of work, inclusive of equipment, included in an Approved Application for a Modernization Grant. The applicant must provide an itemized list of equipment and detailed cost estimate for the career technical education scope of work. Costs associated with new construction must be provided in conformance with the Current Construction Costs publication by Sierra West Publishing. Costs associated with reconfiguration or modernization of a school building must conform to the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing, at the F2 total unit cost amounts.

Equipment costs are only eligible if the equipment has an average useful life expectancy of at least 10 years.

Approved Applications for a Modernization Grant received on or after October 31, 2024, that are on OPSC's workload list or the Applications Received Beyond Bond Authority List, may request this additional grant, provided there is a career technical education component that conforms to Education Code Section 17078.74(c) in the project that was included in the original scope of work and the applicant meets all requirements of this section.

An applicant shall not be eligible to receive this additional grant for any career technical education component(s) on a school site that were funded previously through the Career Technical Education Facilities Program or pursuant to this section.

Note: Authority cited: Section 17070.35 and 17078.74, Education Code.

Reference: Section 17078.74, Education Code.

Amend Regulation Section 1859.79

Section 1859.79. Modernization District Matching Share Requirement.

Except in the case of Financial Hardship as provided in Section 1859.81 a School District matching share for a modernization project shall be required as follows:

- (a) If the Approved Application is received on or before April 29, 2002, any Modernization Grant plus any other funding provided by these Regulations shall require a School District matching share equal to at least 20 percent of those amounts which, combined with the State's Modernization Adjusted Grant, shall represent 100 percent of the total project cost.
- (b) If the Approved Application is received after April 29, 2002 and before October 31, 2024, any Modernization Grant, plus any other funding authorized by these Regulations shall require a School District matching share equal to at least 40 percent of those amounts which, combined with the State's Modernization Adjusted Grant, shall represent 100 percent of the total project cost.
- (c) If the Approved Application is received on or after October 31, 2024, any Modernization Grant, plus any other funding authorized by these Regulations shall require a School District matching share contribution pursuant to Education Code Sections 17070.59 and 17074.16 and adjusted for the Local Funding Adjustment Grant using the points determined in Section 1859.70.5.

The School District may include as its School District matching share any amounts expended on the project for an Energy Audit made pursuant to Education Code Section ~~17077.10~~ 17077.30 and any amounts applied to the project for incentive grants or rebates received by the School District from a program funded pursuant to Public Utilities Code Section 381.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.15, 17074.16, and 17077.30, 17077.40, Education Code.

Amend Regulation Section 1859.83

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, 1859.78.7.1, 1859.78.9.1, 1859.78.9.2, 1859.78.10, 1859.82.1, 1859.82.2, 1859.83(b), (c), (d) and (e) and 1859.125(a)(1) through (a)(2).

...

Note: Authority cited: Sections 17070.35, 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, and 17075.11, and 17075.45, 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, 17075.11, 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.

Amend Regulation Section 1859.163.1

Section 1859.163.1. Preliminary Charter School New Construction Apportionment Determination.

The Preliminary Charter School New Construction Apportionment shall be determined as follows:

(a) The Preliminary Charter School Apportionment for construction costs shall be equal to the sum of (1) through (98) below:

(1) The amounts shown below for each pupil, based on the project capacity, included in a Preliminary Charter School Application:

(A) \$5,227 for each elementary school pupil.

(B) \$5,534 for each middle school pupil.

(C) \$7,226 for each high school pupil.

(D) \$16,653 for each pupil that is a Severely Disabled Individual with Exceptional Needs.

(E) \$11,137 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.

(2) An amount equal to 12 percent of the amount determined in (1) for multilevel construction, if requested by the applicant.

(3) An amount for site development cost determined, at the option of the applicant, by one of the following:

(A) One-half of the site development cost for the specific site as authorized by Section 1859.76.

(B) One-half of the site development cost as authorized by Section 1859.76 using historical information in the Charter School General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the Charter School General Location.

(C) \$70,000 multiplied by the proposed acres requested on the Form SAB 50-09.

(4) General Site Development costs within school property lines for an addition to an existing school site project wherein additional acreage is acquired or a new school project, determined as follows:

(A) \$9,600 per proposed acre requested on the Form SAB 50-09. This sum may be increased pursuant to the provisions in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.

(B) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(1). For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the applicant on the Form SAB 50-09.

(C) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(2) and (5).

(5) If the Preliminary Application request is for a small project that will house no more than 200 pupils, an amount pursuant to the following:

(A) If the project will house less than 101 pupils, the applicant is eligible for an amount equal to 12 percent of the funding provided by (a)(1).

(B) If the project will house between 101 and 200 pupils, the applicant is eligible for an amount equal to four percent of the funding provided by (a)(1).

(6) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (1) and (5), plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent when the following criteria are met:

(A) The applicant has requested an increase for multilevel construction pursuant to (2) above.

(B) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size.

(C) The value of the property as determined in Section 1859.163.2(a) is at least \$750,000 per Useable Acre. This criterion does not apply to an application for an addition to an existing school site.

(7) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (1), (2), (3)(C), (4)(A) and (B), (5) and (6) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).

(8) An amount equal to 5 percent of the funding provided in 1859.163.1(a)(1) for energy efficiency, if requested by the applicant.

~~(8)~~(9) For all Preliminary Apportionments received after February 23, 2005, an amount equal to the sum of the amounts determined in (1) through ~~(68)~~ multiplied by a factor determined as follows:

(A) Divide the January Class B Construction Cost Index in effect at the time of the Preliminary Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Apportionment. Round to four decimal places.

(B) Subtract 1 from the quotient in (A). Round to two decimal places.

~~(9)~~(10) If the applicant is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to the items in (1) through ~~(89)~~ above.

(b) The Preliminary Charter School Apportionment for site acquisition costs shall be:

(1) Equal to one-half of the site acquisition value determined in Section 1859.163.2(a) and (c).

(2) If the applicant is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to (1) above.

(c) The Preliminary Charter School Apportionment to initiate and enforce a LCP or to provide for the prevailing wage monitoring and enforcement costs shall be:

(1) 50 percent of the amount to initiate and enforce a LCP as prescribed in Section 1859.71.4(a), if required by the Labor Code, or

(2) 50 percent of the amount of the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code, and

(3) If the applicant is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to either (1) or (2) above, as applicable.

(d) The total amount calculated in (a) above will be added to any amount calculated in (b) and (c) above, which will provide the Preliminary Charter School Apportionment amount.

The amounts shown in (a)(1) shall be adjusted annually in the manner prescribed in Section 1859.71.

Subsection (a)(4) of this section shall be suspended no later than January 1, 2008, unless otherwise extended by amendments as adopted by the Board.

(e) Pursuant to Labor Code Section 1771.3 in effect on January 1, 2012 through June 19, 2014, any public works project paid in whole or in part from public funds that are derived from bonds issued by the State and for which the construction contract is awarded on January 1, 2012 through June 19, 2014, is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b) in effect on January 1, 2012 through June 19, 2014.

(f) Any applicant failing to meet these requirements shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the applicant until the date of the Board's finding.

(g) If the DIR revokes the applicant's internal LCP's approval and the applicant fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3 in effect on January 1, 2012 through June 19, 2014, the ~~school district~~ applicant shall return to the State any State funding received for the project, including interest, as calculated in subsection (f) above for any construction projects for which the violations occurred.

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

Reference: Sections 17077.35, 17078.52, 17078.58, and 17250.30, Education Code, and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

Amend Regulation Section 1859.163.5

Section 1859.163.5. Preliminary Charter School Rehabilitation Apportionment Determination.

The Preliminary Charter School Rehabilitation Apportionment will be determined based on the eligible square footage included in the project. For purposes of the Preliminary Charter School Rehabilitation Apportionment, eligible square footage is defined as the total enclosed exterior

square footage of the school buildings. For multilevel buildings, include the square footage at each level.

The amount of funding for each Preliminary Charter School Rehabilitation Apportionment will be equal to the sum of the amounts determined in (a)(1) through (a)(96) and (b) below:

(a)(1) The lesser of the amount determined in (A) or (B) below:

(A) The dollar value calculated using a per square foot amount and the total eligible square footage for the site as follows:

1. Determine the total square footage for each classroom included in the project (limited by the Charter School's projected enrollment).
2. Determine the total square footage for any multi-purpose room included in the project.
3. Determine the total square footage for any gymnasium included in the project.
4. Determine the total square footage for any library included in the project.
5. Determine the total square footage for any administration building included in the project.
6. Add the total square footage in 1. through 5. above to obtain the total square footage for the project.
7. From the total determined in 6., determine the total square footage for toilet facilities and the total square footage for other facilities. Multiply the toilet facilities square footage by \$173.30 and the other facilities square footage by \$96.30. The sum of these figures is the square footage dollar value for the project.

(B) The dollar value calculated using the new construction grant amount and the project capacity based on the State loading standards as follows:

1. Determine the proposed grade level usage of each classroom in the project (limited by the Charter School's projected enrollment).
2. Multiply the number of classrooms at the K-6 grade level by 25, the number of classrooms at the 7-12 grade level by 27, the number of non-severe classrooms by 13, and the number of severe classrooms by 9.
3. Multiply the number of pupils calculated pursuant to 2. by the appropriate dollar value determined in Section 1859.163.1(a)(1).

(2) If the Preliminary Application request is for a small project that will house no more than 200 pupils, an amount pursuant to the following:

(A) If the project will house less than 101 pupils, as determined by the project's classroom capacity, calculated pursuant to Education Code Section 17071.25(a)(2)(A), the applicant is eligible for an amount equal to 12 percent of the funding provided by (a)(1).

(B) If the project will house between 101 and 200 pupils, as determined by the project's classroom capacity, calculated pursuant to Education Code Section 17071.25(a)(2)(A), the applicant is eligible for an amount equal to four percent of the funding provided by (a)(1).

(3) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (a)(1) and (a)(2), plus for a project with a site that is 60 percent or less of the CDE recommended site size plus 0.333 percent for each percentage decrease in the CDE recommended site size below 60 percent.

(4) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (a)(1), (a)(2), (a)(3), and (a)(5) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).

(5) \$84,082 for each new two-stop elevator required to be included in the project by the DSA, and \$15,133 for each additional stop.

(6) An amount equal to 3 percent of the funding provided in (a)(1) for accessibility and fire code requirements if requested by the applicant.

(7) An amount equal to 5 percent of the funding provided in (a)(1) for energy efficiency if requested by the applicant.

(8) An amount equal to 5 percent of the funding provided in (a)(1) for career technical education component(s) if requested by the applicant.

~~(6)~~(9) For all Preliminary Apportionments received after February 23, 2005, an amount equal to the sum of the amounts determined in (a)(1) through (a)~~(85)~~ multiplied by a factor determined as follows:

(A) Divide the January Class B Construction Cost Index in effect at the time of the Preliminary Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Apportionment. Round to four decimal places.

(B) Subtract 1 from the quotient in (A). Round to two decimal places.

~~(7)~~(10) If the applicant is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to the items in (a)(1) through (a)~~(69)~~ above.

(b) The Preliminary Charter School Rehabilitation Apportionment to initiate and enforce a LCP or to provide for the prevailing wage enforcement costs shall be determined according to (1) or (2) below, as applicable:

(1) After determining all other funding authorized by these Regulations, for any project funded in whole or in part from Proposition 47 or Proposition 55 for which the construction contract is awarded prior to January 1, 2012, and for which the applicant is required under Labor Code Section 1771.7(a) and (b) to initiate and enforce a LCP, the Board shall increase the Preliminary Charter School Rehabilitation Apportionment by 50 percent of the following calculation:

(A) Using the chart in Section 1859.71.4(b), determine the total amount of funding to be provided for the increased costs of a Charter School Facilities Program Rehabilitation project due to the initiation and enforcement of a LCP.

(B) If the applicant is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority shall be included in the calculation of (A) above.

(2) After determining all other funding authorized by these Regulations, the Board shall increase the grant by 50 percent of one-fourth of one percent of the Total Projected Bond Apportionment for any project for which the construction contract is awarded on or after January 1, 2012.

(A) If the applicant is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority shall be included in the calculation of (2) above.

The amounts determined in (a)(1) and (a)(5) shall be adjusted annually in the manner prescribed in Section 1859.71.

(c) Pursuant to Labor Code Section 1771.3 in effect on January 1, 2012 through June 19, 2014, any public works project paid in whole or in part from public funds that are derived from bonds issued by the state and for which the construction contract is awarded on January 1, 2012 through June 19, 2014, is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b) in effect on January 1, 2012 through June 19, 2014.

(d) Any applicant failing to meet these requirements shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the applicant until the date of the Board's finding.

(e) If the DIR revokes the applicant's internal LCP's approval and the applicant fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3 in effect on January 1, 2012 through June 19, 2014, the applicant shall return to the State any State funding received for the project, including interest, as calculated in subsection (d) above for any construction projects for which the violations occurred.

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

Reference: Sections 17071.25, 17077.35, 17078.52, 17078.54, 17078.56, 17078.58, 17078.74 and 17250.30, Education Code, and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

Amend Regulation Section 1859.164.2

Section 1859.164.2. Preliminary Charter School Apportionment Fund Release.

An applicant receiving a Preliminary Charter School Apportionment from the Board after July 2, 2003 may request an advance release of funds for either of the following:

- (a) A separate advance release of funds for design equal to 20 percent of the amount determined in Section 1859.163.1(a)(1) through (~~98~~) and Section 1859.163.1(c)(1) and (2) or Section 1859.163.5(a)(1) through (~~69~~) and Section 1859.163.5(b)(1) and (2).
- (b) A separate advance release of funds for site acquisition once the requirements in Section 1859.81.1(a)(2) and (3) are met for an amount not to exceed the Preliminary Charter School Apportionment for site acquisition. The Board shall release to the applicant an amount up to the Preliminary Charter School Apportionment determined in Section 1859.163.1(b).

Qualified applicants may request a separate advance release of funds for the design and for the site acquisition for the same project. An applicant seeking an advance release of funds pursuant to (a) and/or (b) must have been deemed and maintained financial soundness status from the Authority. Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release State funds included in a Preliminary Charter School Apportionment pursuant to (a) or (b) to the applicant after submittal of the Form SAB 50-05. The OPSC shall not release funds in excess of the Preliminary Charter School Apportionment. State funds released from a Preliminary Charter School Apportionment pursuant to this Section shall be subject to the provisions in Section 1859.166. Once the Preliminary Charter School Apportionment is converted to a Final Charter School Apportionment pursuant to Section 1859.167, the applicant may request a release of the remaining funds as prescribed in Section 1859.90 or 1859.90.2. Prior to the release of any funds, the Charter School Agreements must be executed.

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

Reference: Sections 17078.53 and 17078.58, Education Code.

Amend Regulation Section 1859.167.1

Section 1859.167.1. Final Charter School Apportionment Determination for Charter School Facilities Program Rehabilitation.

The Final Charter School Apportionment for Charter School Facilities Program Rehabilitation is the sum of the Charter School Facilities Program Rehabilitation Grant and the applicable grants provided in Sections 1859.77.4, 1859.78.5, 1859.78.10, 1859.167.2, and 1859.167.3, and is subject to the adjustments pursuant to Section 1859.163.6 and Section 1859.167. The Charter School Facilities Program Rehabilitation Grant will be used in place of the Modernization Grant to calculate the funding provided by Sections 1859.78.5 and 1859.78.10. Funding provided by Section 1859.78.10(b)(2) will be 50 percent of the OPSC-approved costs for the career technical education scope of work, inclusive of equipment, included in an Approved Application for a Charter School Facilities Program Rehabilitation Grant.

(a) The Charter School Facilities Program Rehabilitation Grant will be determined based on the square footage included in the project. The Charter School Facilities Program Rehabilitation Grant will be the lesser of the amount determined in (1) or (2) below:

(1) The dollar value calculated using a per square foot amount and the total eligible square footage for the site as follows:

(A) Determine the total square footage for each classroom included in the project.

(B) Determine the total square footage for any multi-purpose room included in the project.

(C) Determine the total square footage for any gymnasium included in the project.

(D) Determine the total square footage for any library included in the project.

(E) Determine the total square footage for any administration building included in the project.

(F) Add the total square footage in (A) through (E) above to obtain the total square footage for the project.

(G) From the total determined in (F), determine the total square footage for toilet facilities and the total square footage for other facilities, not to exceed the square footage determined pursuant to Section 1859.163.5(a)(1)(A)6. Multiply the toilet facilities square footage by \$173.30 and the other facilities square footage by \$96.30. The sum of these figures is the square footage dollar value for the project. The per-square foot amounts for toilet and other facilities shall be adjusted annually in the manner prescribed in Section 1859.71.

(2) The dollar value calculated using the New Construction Grant amount and the project capacity based on the State loading standards as follows in (A) through (C):

(A) Determine the proposed grade level usage of each classroom in the project.

(B) Multiply the number of classrooms at the K-6 grade level by 25, the number of classrooms at the 7-12 grade level by 27, the number of non-severe classrooms by 13, and the number of severe classrooms by 9.

(C) Multiply the number of pupils calculated pursuant to (B) by the New Construction Grant per-pupil amounts corresponding to the appropriate grade levels. The per-pupil new construction grant amounts shall be adjusted annually in the manner prescribed in Section 1859.71.

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

Reference: Sections 17071.25, 17077.35, 17078.52, 17078.54, ~~and 17078.58~~ and 17078.72, Education Code.

Amend Regulation Section 1859.168

Section 1859.168. Preliminary Charter School Apportionment Matching Share Requirement.

The applicant will be subject to the matching share requirements in ~~Section 1859.77.1 and~~ Education Code Section 17078.54(d) that may be paid through lease payments authorized by the Authority in lieu of the matching share. All lease payments shall be paid to the Board to be redeposited to the Unrestricted Charter School Fund in the appropriate Charter School Facility Account. Any funds deposited in either Account shall be first used to fund remaining site acquisition costs off the Unfunded List pursuant to Section 1859.163.3. Should no projects remain on the Unfunded List the Board may use the funds for purposes of this Article.

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

Reference: Sections 17078.54 and 17078.58, Education Code.