

Amend Regulation Section 1860.2

Section 1860.2. Definitions.

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

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

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

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

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

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“Form SAB 70-01” means the *Application for Funding*, Form SAB 70-01 (Rev. 09/22~~3~~), which is incorporated by reference.

“Form SAB 70-02” means the *Fund Release Authorization*, Form SAB 70-02 (Rev. ~~04/22~~09/23), which is incorporated by reference.

“Form SAB 70-03” means the *Expenditure Report*, Form SAB 70-03 (Rev. 09/22~~3~~), which is incorporated by reference.

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“Grant Agreement” means *Grant Agreement* (Rev. ~~04/22~~09/23), for the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program, which is incorporated by reference.

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

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

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

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

Amend Regulation Section 1860.3

Section 1860.3. General.

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

- (a) Assembly Bill 1808 created the Program, effective June 27, 2018, and allocated \$100 million to provide one-time grants as specified in EC Section 17375 and Program regulations. New Construction Grant and Retrofit Grant funding may be provided for a project if the district entered into a construction contract for that project on or after June 27, 2018.
- (b) The Program is revised through Assembly Bill 130, effective July 9, 2021, which makes \$490 million available to provide one-time grants as specified in EC Section 17375. The Board shall only provide funding if construction contracts, for the construction or retrofit of the classrooms in a full-day kindergarten project, were signed on or after July 1, 2018. The Board shall only provide funding if construction contracts, for the construction or retrofit of the classrooms in a preschool or transitional kindergarten project, were signed on or after July 1, 2021.
- (c) The Program is amended under Assembly Bill 181, effective June 30, 2022, and allocated an additional \$100 million to the Program. Subject to Legislature appropriation, an additional \$550 million is allocated to the Program in the 2023/2024/2024/25 fiscal year.

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

Reference: Section 17375(h), Education Code.

Amend Regulation Section 1860.4

Section 1860.4. Funding Guidelines

- (a) For the funding provided pursuant to Section 1860.3(a), funds available for the Program from the 2018-2019 Budget Act must be encumbered by the Board by June 30, 2021. Funds that are not completely encumbered or that return to the Program through project rescissions may be applied as follows:
- (1) Any funds that return on or before June 30, 2021, shall be returned to the Full-Day Kindergarten Facilities Grant Program Account and may be used to provide additional Apportionments.
 - (2) Any funds that return, or remain unencumbered by the Board, after June 30, 2021, shall be returned to the General Fund.
- (b) For the funding provided pursuant to Section 1860.3(b), funds available for the Program from the 2021-22 Budget Act must be encumbered by the Board by ~~June 30, 2024~~ June 30, 2027. Funds that are not completely encumbered or that return to the Program through project rescissions may be applied as follows:
- (1) Any funds that return on or before ~~June 30, 2024~~ June 30, 2027, shall be returned to the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program Account and may be used to provide additional Apportionments.
 - (2) Any funds that return or remain unencumbered by the Board, after ~~June 30, 2024~~ June 30, 2027, shall be returned to the General Fund.
- (c) For the funding provided pursuant to Section 1860.3(c), funds available for the Program from the 2022-23 Budget Act must be encumbered by the Board by ~~June 30, 2025~~ June 30, 2028. Funds that are not completely encumbered or that return to the Program through project rescissions may be applied as follows:
- (1) Any funds that return on or before ~~June 30, 2025~~ June 30, 2028, shall be returned to the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program Account and may be used to provide additional Apportionments.
 - (2) Any funds that are returned and remain unencumbered by the Board, after ~~June 30, 2025~~ June 30, 2028, shall be returned to the General Fund.
- (d) For the funding provided pursuant to Section 1860.3(c), funds available for the Program from the 2023~~4~~-24~~5~~ Budget Act must be encumbered by the Board by ~~June 30, 2026~~ June 30, 2030. Funds that are not completely encumbered or that return to the Program through project rescissions may be applied as follows:
- (1) Any funds that return on or before ~~June 30, 2026~~ June 30, 2030, shall be returned to the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program Account and may be used to provide additional Apportionments.
 - (2) Any funds that are returned and remain unencumbered by the Board, after ~~June 30, 2026~~ June 30, 2030, shall be returned to the General Fund.
- (e) New school facilities built in accordance with the Program shall not be included in the eligibility determination used for the purposes of the School Facilities Program pursuant to EC Section 17071.25.
- (f) A school district shall not use Program funds to purchase, or install, Portable Classrooms.

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

Reference: Section 17375, Education Code.

Amend Regulation Section 1860.16

Section 1860.16. Fund Release Process.

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

- (a) For an advance fund release for design costs, 40 percent of the grant determined in 1860.9(a) or 25 percent of the grant determined in 1860.12(a) will be released once an executed design, or design and site, Grant Agreement, as required by Section 1860.17, has been received by OPSC.
- (b) For an advance fund release for two percent site other costs, funds will be released once an executed site, or design and site, Grant Agreement, as required by Section 1860.17, has been received by OPSC.
- (c) For an advance fund release for site acquisition costs, other than two percent site other, funds will be released once an executed site, or design and site, Grant Agreement, as required by Section 1860.17, has been received by OPSC and the following requirements have been met:

- (1) The School District has entered escrow for the site.
- (2) There has been a final appraisal of the site.
- (3) The School District received either contingent or final site approval from the California Department of Education.
- (4) A complete Form SAB 70-02 has been received by OPSC.
- (d) For New Construction Grant or Retrofit Grant funding, all unreleased funds will be released once an executed full grant agreement, as required by Section 1860.17, has been received by OPSC and the following requirements have been met:
 - (1) The School District's applicable matching share has already been deposited or expended by the School District for the project, unless the School District meets the requirements for Financial Hardship pursuant to Section 1860.14.
 - (2) The School District has entered into a binding contract(s) for ~~the completion of the project~~ at least 90 percent of the building construction activities for the project.
 - (3) The plans and specifications applicable to the state funded project have been approved by DSA.
 - (4) If the project includes site acquisition, there has been a final appraisal of the site, the site received written final approval by CDE and the School District has entered escrow for the site.
 - (5) A complete Form SAB 70-02 has been received by OPSC.
 - (e) For New Construction Grant or Retrofit Grant funding, without a request for an advance release of funds pursuant to Sections 1860.7(a) and 1860.7(c), a complete *Fund Release Request* (Form SAB 70-02) with all required approvals must be submitted within ~~180 days~~ 18 months of the first Apportionment. If a complete Form SAB 70-02 is not received within ~~180 days~~ 18 months of the first Apportionment, the Apportionment shall be rescinded without further board action.
 - (f) For an Apportionment received pursuant to Section 1860.7(b) and 1860.7(d), where submittal of the necessary CDE plan approval and/or DSA-approved plans and specifications were not required at the time the Board granted an Apportionment, the School District has up to ~~42~~ 18 months to submit the required approvals and a complete *Fund Release Request* (Form SAB 70-02) from the date of the first Apportionment. The School District may submit in writing other evidence satisfactory to the Board of circumstances beyond the control of the School District that precludes the School District from submitting the required CDE plan approval, DSA-approved plans and specifications, and a complete Form SAB 70-02 within 18 months from the date of the first Apportionment. If the required submittals or other evidence in writing are not received within ~~42~~ 18 months of the first Apportionment, the Apportionment shall be rescinded and the Full-Day Kindergarten Facilities Grant will return to the Program for reallocation without further Board action.
 - (1) School Districts submitting other evidence shall have up to three years from the date of the first Apportionment to submit the required approvals and a complete *Fund Release Authorization* (Form SAB 70-02). This shall not extend the deadline in Section 1860.18.
 - (g) Subject to available funds, site acquisition grants shall be adjusted based on actual costs prior to the release of funds.
 - (h) Prior to fund release, OPSC will verify that the School District has included multilevel classrooms in the plans for the project, if multilevel funding was requested.
 - (i) Financial hardship approval status by OPSC for a design and/or site advance will apply to any subsequent funding phases for the project(s) during the same application filing round, as established in Section 1860.6.

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

Reference: Section 17375(c), Education Code.

Amend Regulation Section 1860.18

Section 1860.18. Program Reporting Requirements.

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

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

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