

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:

...

“Final Small School District Program Apportionment” shall mean a Preliminary Small School District Program Apportionment that has been converted to a Final Small School District Program Apportionment in accordance with Sections 1859.157.4 through 1859.157.7.

...

“Form SAB 50-04” means the *Application For Funding*, Form SAB 50-04 (Revised ~~04/26~~ 02/26), which is incorporated by reference.

“Form SAB 50-05” means the *Fund Release Authorization*, Form SAB 50-05 (Revised ~~08/25~~ 02/26), which is incorporated by reference.

...

“Form SAB 50-12” means the *Application For Small School District Program Preliminary Apportionment*, Form SAB 50-12 (New 02/26), which is incorporated by reference.

...

“General Location” means the proposed location of a new school as set forth in Education Code Section 17078.22 and Regulation Sections 1859.142 and 1859.157.1.

...

“Grant Agreement [Proposition 2]” means *Grant Agreement [Proposition 2]* (~~New 03/25~~ Revised 04/26), which is incorporated by reference and applies to funding applications received by OPSC on or after October 31, 2024.

...

“Median Cost” means, for purposes of a Preliminary Apportionment pursuant to Education Code Section 17078.24 and a Preliminary Small School District Program Apportionment pursuant to Education Code Section 17078.37, the middle number in a given sequence of property value numbers, or the average of the middle two property value numbers when the given sequence of property value numbers has an even number of numbers.

...

“Preliminary Small School District Program Apportionment” means a reservation of bond authority for eligible applicants under Article 11.5 of Chapter 12.5 of the Education Code. The reservation of bond authority is in advance of full compliance with all of the application requirements otherwise required for a Final Small School District Program Apportionment pursuant to Chapter 12.5 of the Education Code.

...

“Project and Construction Management Grant” means a grant for purposes of obtaining the services from a county office of education, other local educational agency with applicable school facilities construction expertise, applicable state department, or a certified private construction consulting entity from the list maintained pursuant to paragraph (2) of subdivision (d) of

Education Code Section 17078.47, to assist with the planning, site acquisition, preconstruction, construction, and closeout of a project.

...

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), 17070.54, 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 1859.18.1

Section 1859.18.1. Master Plan Submittal Time Frames.

When submittal of a Master Plan or updated Master Plan is required pursuant to subsections (a) through (c) of Section 1859.18, inclusive, School Districts shall submit a complete and valid Master Plan and a local governing board resolution, as applicable, to OPSC within the time frames stated below. If a complete and valid Master Plan or a local governing board resolution is not submitted within the specified time frame, the application for funding shall be returned or the Apportionment may be rescinded.

...

(f) Applicants to the Small School District Program beginning with Section 1859.156 must submit a Master Plan as follows:

- (1) If the School District receives a Preliminary Small School District Apportionment on or after October 31, 2024, the Master Plan must be submitted with the Form SAB 50-04 request for Final Small School District Apportionment.
- (2) A local governing board resolution acknowledging the requirement in (f)(1) must be submitted with the Form SAB 50-12 requesting a Preliminary Small School District Apportionment.

Note: Authority cited: Sections 17070.35, Education Code.

Reference: Sections 17070.54, 17070.75, 17071.10, 17071.25, 17071.75, and 17071.76 ~~and 44024~~, 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:

...

(e) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years for all School ~~D~~istricts 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~~ a complete and valid Form SAB 50-01 based on School 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.

...

(j) For Small School Districts:

(1) Decreased by any reduction in projected enrollment that follows a five-year period after the Small School 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.

...

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, 17079.20; and 17375, 42268 and 42270; Education Code.

Amend Regulation Section 1859.74.1

Section 1859.74.1. Site Acquisition Guidelines.

To receive the funding authorized by Section 1859.74, the School District must certify on the Form SAB 50-04 or Form SAB 50-12, as applicable, that the appraisal of the property was made utilizing the following criteria:

(a) The land improvements and appurtenances, excluding fixtures, equipment and personal property, were appraised in an as is condition with the following exceptions:

(1) The site shall be appraised as if it were a clean site, safe of all toxic contaminants in accordance with CDE guidelines and pursuant to Title 5, California Code of Regulations commencing with Section 14001.

(2) The site valuation included only proposed site improvements associated with grading the site to a mass graded or super pad condition, defined as a site graded to construction readiness without foundation or paving and proposed utilities stubbed to the site. Any proposed site improvements or utilities not covered by a performance bond equal to 100 percent of the estimated cost of the site improvements and utilities must be completed prior to the close of escrow and detailed separately in the report.

(b) Consideration in the appraisal was made for net useable acreage and severance damages.

(c) The School District or its legal counsel has contracted for appraisal services.

(d) The appraiser has certified to the School District that the appraisal complies with the Uniform Standards of Professional Appraisal Practices as promulgated by the Appraisal Standards Board of the Appraisal Foundation.

(e) The amount of a court award for a site acquired in condemnation may be used in lieu of the appraised value determined in (a) through (d) above, when specifically approved by the Board.

The School District shall be required to submit one appraisal. If the application includes a request for ~~f~~Financial HHardship as provided in Section 1859.81, the OPSC will review the appraisal for conformance with (a), (b), (c) and (d) prior to a recommendation for SFP funding to the Board.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35 and 17072.12, Education Code.

Amend Regulation Section 1859.90.2

Section 1859.90.2. Priority Funding Process.

The priority funding process allows the Board to distribute available funds to School Districts or charter schools that request, pursuant to (a) or (b) below, as applicable, an Apportionment or an advance release of funds from a Preliminary Apportionment, Preliminary Small School District Program Apportionment, or Preliminary Charter School Apportionment, during specific 30-calendar day filing periods beginning with July 27, 2011 and continuing with the 2nd Wednesday of January and the 2nd Wednesday of July of 2012. Requests submitted during the filing periods described above are valid until the next filing period begins. The specific 30-calendar day filing periods subsequent to 2012 begin with January 9, 2013 and continue with the 2nd Wednesday of May and the 2nd Wednesday of November, each calendar year. Requests submitted during the filing period beginning with January 9, 2013 are valid until June 30, 2013. Requests submitted during a filing period beginning with the 2nd Wednesday of May are valid from July 1 until December 31 of that year. Requests submitted during a filing period beginning with the 2nd Wednesday in November are valid from January 1 until June 30 of the following year. Requests must be physically received by the OPSC by the 30th calendar day of each filing period to be considered valid.

(a) In order to be considered for an Apportionment; approved advance release of design, project assistance, the Project and Construction Management Grant, and/or any site acquisition funds from a Preliminary Small School District Program Apportionment; approved advance release of design funds from a Preliminary Charter School Apportionment; or approved advance release of environmental hardship site acquisition funds from a Preliminary Apportionment, the School District or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative that includes each of the project Application numbers, and the type of Apportionment request (e.g., Apportionment, separate Apportionment for design or site acquisition), within the 30-calendar day filing period, and shall contain the following:

(1) Statement that the request is to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and

(2) Acknowledgement that a complete and valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 90 calendar days of Apportionment or approved advance release of funds request, except for a Career Technical Education Facilities

Project in (a)(5), and that failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and

(3) Acknowledgement that a Grant Agreement must be submitted pursuant to Section 1859.90.4 and physically received by ~~the~~ OPSC prior to, or concurrently with, the Form SAB 50-05 referenced in (a)(2); and

(4) Acknowledgement that, if the School District submits the Form SAB 50-05 on or after July 1, 2013 and is required to submit an LCP third party report, pursuant to Section 1859.97(b), the report will be submitted to ~~the~~ OPSC and ~~the~~ DIR at least 60 days prior to submitting the Form SAB 50-05; and

(5) For those receiving an Apportionment, acknowledgement that by participating in the priority funding process, the School District or Charter School is waiving its right to the timeline for fund release submittal described in Section 1859.90.

(6) For a Career Technical Education Facilities Project that was granted an unfunded approval without the required CDE plan approval and/or required DSA-approved plans and specifications, the applicant's request must include:

(A) Acknowledgement that the applicant must submit the required approval(s) to ~~the~~ OPSC within 12 months from the date of the Apportionment. If the required submittal(s) is not received within 12 months, the Apportionment shall be rescinded without further Board action pursuant to Section 1859.197(c)(1); and

(B) Acknowledgement that a complete and valid, original signature Form SAB 50-05 must be submitted and ~~physically~~ received by ~~the~~ OPSC within 90 calendar days of the submittal described in (6)(A) and that failure to do so will result in the rescission of the Apportionment without further Board action; and

(C) Acknowledgement that a Grant Agreement must be submitted pursuant to Section 1859.90.4 and ~~physically~~ received by the OPSC prior to, or concurrently with, the Form SAB 50-05 referenced in (a)(6)(B).

(b) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Charter School Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized District Representative within the 30-calendar day filing period, ~~which~~ and shall contain all of the following:

(1) Statement that the request is to convert the advance release of funds to an approved advance release of funds request; and,

(2) Acknowledgement that a complete and valid, original signature Form SAB 50-05 must be submitted and ~~physically~~ received by ~~the~~ OPSC within 180 calendar days of the approved advance release of funds request and that failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and

(3) Acknowledgement that a Grant Agreement must be submitted pursuant to Section 1859.90.4 and physically received by ~~the~~ OPSC prior to, or concurrently with, the Form SAB 50-05 referenced in (b)(2); and

(4) Acknowledgement that it must provide evidence that it has entered into the Charter School Agreements within 90 calendar days of approval of the advance release of funds request and that failure to do so will result in the rescission of the approval without further Board action.

(c) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Small School District Program Apportionment, the School District shall provide a priority funding request in the form of a written statement signed by an authorized District Representative within the 30-calendar day filing period, which shall contain all of the following:

(1) Statement that the request is to convert the advance release of funds to an approved advance release of funds request; and

(2) Acknowledgement that a complete and valid Form SAB 50-05 shall be submitted and received by OPSC within 180 calendar days of the approved advance release of funds request and that failure to do so shall result in the rescission of the approved advance release of funds request without further Board action; and

(3) Acknowledgement that a Grant Agreement shall be submitted pursuant to Section 1859.90.4 and received by OPSC prior to, or concurrently with, the Form SAB 50-05 referenced in (c)(2).

~~(e)~~ If a School ~~and~~ District or charter school receives an Apportionment or approved advance release of funds request through the priority funding process, the OPSC must receive a valid, original signature copy of the Form SAB 50-05 within the specified time period, pursuant to (a)(2), (a)(6) or (b)(2), as applicable, and a Grant Agreement, pursuant to (a)(3), (a)(6)(C), or (b)(3), as applicable. Upon submittal of the original signature copy of the Form SAB 50-05, if OPSC determines that the Form SAB 50-05 is not valid, the district will have ten business days to amend the Form SAB 50-05 in order to make the Form SAB 50-05 valid. If the OPSC does not receive a valid, original signature copy of the Form SAB 50-05 within the time period:

(1) The priority funding Apportionment or approved advance release of funds request shall be rescinded without further Board action, and

(2) If the Application is not subject to rescission pursuant to Section 1859.90.3(c) as defined in Section 1859.90.3(d), the Application shall return to the Unfunded List (Lack of AB 55 Loans) with a new unfunded approval date that is 90 calendar days from the date of Apportionment or approval of the advance release of funds request.

~~(e)~~ In the event that the amount of requests received during a specific 30-calendar day filing period exceeds the funds available, the Board shall apportion based on the unfunded approval date and the Application received date up to the available cash from each bond source. Projects that have requested to participate in the priority funding process for which an Apportionment cannot be provided shall retain their date order position on the Unfunded List (Lack of AB 55 Loans). Requests not converted to Apportionments will not be returned to the School ~~and~~ District or kept by ~~the~~ OPSC.

~~(e)~~ In the event that unexpected cash proceeds from sources other than bond funds become available for use for priority funding Apportionments, at a public meeting the Board may, based on considerations relevant to the amount of time available to effect a distribution of funds, waive the 30-calendar day filing provision specified in this section for impacted ~~s~~ School ~~and~~ Districts to provide funds more rapidly.

...

~~(f)~~ For purposes of this section “rescinded” or “rescission” shall mean that the Apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date, except for (a)(5)(A). The new unfunded approval date will be 90 calendar days from the Apportionment date. The School ~~and~~ District or Charter School will not be required to re-submit the Application and no further Application review will be required.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.41, 17071.75, 17072.12, 17072.30, 17073.10, 17074.16, 17076.10, 17077.40, 17077.42 and 17077.45, 17078.35, 17078.36, 17078.37 and 17078.38, Education Code.

Amend Regulation Section 1859.90.3

Section 1859.90.3. Participation in the Priority Funding Process.

This section applies to Applications for funding for new construction, modernization, Overcrowding Relief Grant, Career Technical Education Facilities Program, Facility Hardship pursuant to Sections 1859.82.1 and 1859.82.2, ~~and~~ Charter School Facilities Program, and

Small School District Program, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment, and excluding advance release of design, project assistance, the Project and Construction Management Grant, and any site acquisition funds from a Preliminary Small School District Program Apportionment.

(a) For each Application on the Unfunded List (Lack of AB 55 Loans) for new construction, modernization, Facility Hardship pursuant to Sections 1859.82.1 or 1859.82.2, the occurrences of (1) or (2) below shall be limited after the effective date of this regulation section [March 25, 2013]. For each Application on the Unfunded List (Lack of AB 55 Loans) for Overcrowding Relief Grant, Career Technical Education Facilities Program, Small School District Program, and Charter School Facilities Program, excluding advance release of design, project assistance, the Project and Construction Management Grant, and any site acquisition funds from a Preliminary Small School District Program Apportionment; or an advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment, the occurrences of (1) or (2) below shall be limited after the effective date of this regulation section [October 1, 2014]:

...

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.16, and 17076.10, 17078.35, 17078.36, 17078.37 and 17078.38, 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 District 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 District 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 District 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 District 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).
- (d) 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.

(f) The value of the Project and Construction Management Grant, and associated required matching share, provided pursuant to Section 1859.157.1 or 1859.157.2 if the Small School District does not obtain project and/or construction management services from a county office of education, other local educational agency with applicable school facilities construction expertise, applicable state department, or a certified private construction consulting entity and does not expend any funds on these services.

...

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, 17078.35, 17078.36, 17078.37, 17078.38, 17078.52; and 17251, Education Code; and Section 1771.3, Labor Code.

Amend Regulation Section 1859.107

Section 1859.107. Amending and Withdrawal of Applications.

A funding application that received an apportionment under Chapter 12 or Chapter 12.5 may not be rescinded and re-approved under the provisions of any amended law or administrative regulation unless specifically authorized by other applicable law.

...

(e) Any Approved Application request that meets the requirements of Subsection (a) will be withdrawn 60 calendar days after the date Subsection (a) becomes effective (September 16, 2002) if the district does not submit a new Form SAB 50-04 conforming to either Subsections (b) or (c).

...

Any application for modernization eligibility determination that has not received an approval must be amended to conform to Form SAB 50-03 prior to submittal of Form SAB 50-04.

School Districts that have received an approval of eligibility on a HSAA or Super HSAA are not required to re-establish eligibility under the provisions of Section 1859.41(a).

School Districts that have requested eligibility determination on a HSAA or Super HSAA that have not received an approval must comply with the provisions of Section 1859.41(a) prior to submittal of Form SAB 50-04. The amended eligibility application shall retain its original OPSC processing date.

A School District that has received an approval of its eligibility determination on a district-wide, HSAA or Super HSAA basis, but received no New Construction Grant(s), may re-file on another eligibility determination basis provided it withdraws all previously submitted Form SAB 50-04 requests for New Construction Grant(s), including those on the Unfunded List.

If a School District submits more than one application for funding for the same scope of work under one or more Board-administered program(s), OPSC will return all other application(s) for funding containing the common scope of work upon the first Board action on an application for funding sharing the common scope of work. Prior to the first Board action on an application for funding sharing the common scope of work, the School District may request other application(s) for funding not be returned by requesting to OPSC, in writing, that the scope of work be modified in other application(s) for funding by clearly delineating the remaining eligible scope of

work. The School District may not add additional scope of work to other application(s) for funding.

Note: Authority cited: Sections 17070.35 and 17078.72(l), Education Code.

Reference: Sections 17070.35, 17070.63, 17070.965, 17074.15, 17074.16, 17074.56, 17078.35, 17078.36, 17078.37, 17078.38 and 17078.73, Education Code.

Article 13.5. Small School District Program

Adopt Regulation Section 1859.156

Section 1859.156. General.

Eligible applicants to the Small School District Program must meet the definition of a Small School District stated in Section 1859.2. A Small School District seeking a Preliminary Small School District Program Apportionment pursuant to the provisions of Education Code Sections 17078.35 through 17078.38 for New Construction or Modernization funding shall complete and file an *Application For Small School District Program Preliminary Apportionment*, Form SAB 50-12. Applications will be processed in order of receipt of a complete and valid Form SAB 50-12.

Applicants must meet the following requirements:

- (a) New Construction Eligibility shall be established pursuant to Section 1859.20 or updated pursuant to Section 1859.51, as applicable, prior to or concurrent with submittal of a complete and valid Form SAB 50-12. An applicant's New Construction Eligibility pursuant to Section 1859.51 must be valid at the time of OPSC's receipt of a Form SAB 50-04 requesting a Final Small School District Program Apportionment. If New Construction Eligibility is not valid, the applicant must submit a complete and valid Form SAB 50-01 pursuant to Section 1859.51(e).
- (b) Modernization Eligibility shall be established pursuant to Section 1859.60 prior to or concurrent with the submittal of a complete and valid Form SAB 50-12.
- (c) Occupancy requirements pursuant to Section 1859.70(a).

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

Reference: Sections 17070.15, 17078.35, 17078.36, 17078.37 and 17078.38, Education Code.

Adopt Regulation Section 1859.157

Section 1859.157. Application Process.

The Board shall accept complete and valid Forms SAB 50-12 for a Preliminary Small School District Program Apportionment for Modernization applications beginning on November 2, 2026.

The Board shall accept complete and valid Forms SAB 50-12 for a Preliminary Small School District Program Apportionment for New Construction applications beginning on January 15, 2027.

Complete and valid applications will be processed and funded in date order received by OPSC. In the event there are more applications submitted on the same date than can be funded with available program authority, a lottery system will be used to select the project(s) that is/are funded from the applications submitted on that same date.

When the Small School District Program funds set aside, pursuant to Education Code Sections 101412(a)(1)(A) and 101412(a)(2)(A) are exhausted, the Board shall cease accepting Forms SAB 50-12. Any Form(s) SAB 50-12 not apportioned because insufficient funding is available shall be returned to the applicant.

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

Reference: Sections 17070.15, 17078.35, 17078.36, 17078.37, and 17078.38, Education Code.

Adopt Regulation Section 1859.157.1

Section 1859.157.1. Preliminary Apportionment Grant Determination for New Construction Applications.

A Preliminary Small School District Program Apportionment for New Construction funding shall be equal to the sum of (a) through (c)(2) below:

(a) A New Construction Grant for all eligible pupils included on the Form SAB 50-12 at the per-pupil grant amounts in effect at the time the Preliminary Small School District Program Apportionment is approved by the Board, and eligible New Construction additional grants as follows:

(1) Fire code requirements pursuant to Section 1859.71.2,

(2) Energy efficiency pursuant to Section 1859.71.3,

(3) Individuals with Exceptional Needs pursuant to Section 1859.72,

(4) An amount equal to 12 percent of the amount determined in (a) for multilevel construction pursuant to Section 1859.73,

(5) Project assistance pursuant to Section 1859.73.1,

(6) An amount equal to one-half of the site acquisition value pursuant to Sections 1859.74, 1859.74.5, and 1859.75.1, for the lesser of the following:

(A) The value of the property, determined by one of the following:

1. Actual Site Cost pursuant to Section 1859.74(a), or

2. An appraisal or preliminary appraisal of the property made no more than six months prior to the date the complete and valid Form SAB 50-12 is accepted by OPSC, pursuant to Section 1859.74.1. The preliminary appraisal may be made without access to the property. The acreage identified in the appraisal or the preliminary appraisal may not exceed the proposed useable acreage requested on the Form SAB 50-12, or

3. The Median Cost of an acre of land in the General Location of the proposed project using historical information in the General Location multiplied by the number of proposed useable acres requested on Form SAB 50-12. Historical information that may be considered to determine land cost may include prior real-estate sales consummated and documented by the county recorder or pending real-estate sales documented by a title insurance company's escrow instructions. For purposes of historical information, include all real-estate sales consummated and documented by the county recorder for a minimum of six months and a maximum of up to two years prior to the date the Form SAB 50-12 is accepted by OPSC.

(B) An amount for the estimated relocation cost and estimated DTSC costs for review, approval and oversight of the POESA and the PEA as determined by one of the following:

1. 15 percent of the value determined in (a)(6)(A)(2.), or

2. Half of the sum of the following:

a. The approved relocation expenses for the specific site to be acquired that conform to Title 25, California Code of Regulations, Section 6000, et. seq.

b. The DTSC cost for review, approval, and oversight of the POESA and the PEA for the specific site to be acquired.

3. The estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA using historical information in the General Location. Historical information that may be considered to determine these estimated costs may include prior real-estate acquisitions of the School District or other School Districts in the General Location.
4. Four percent of the amount determined in (a)(6)(A), but not less than \$50,000. This amount shall provide an allowance of any appraisal, escrow, survey, site testing, CDE review/approvals and preparation of the POESA and the PEA.
5. For allowable costs of hazardous material/waste removal and remediation costs, up to one-half times the value of the property determined in either (a)(6)(A)(2.) or (a)(6)(A)(3.), pursuant to Sections 1859.74.2, 1859.74.3, and 1859.74.4.
- (7) An amount for site development cost determined, at the option of the School District, 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 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 General Location.
- (C) \$70,000 multiplied by the proposed acres requested on the Form SAB 50-12.
- (D) 35 percent of the New Construction base grant.
- (8) Energy Efficiency pursuant to Section 1859.71.3.
- (9) An amount for the geographic location of the proposed project pursuant to Section 1859.83(a)
- (10) If the Form SAB 50-12 request is for a new school on a site with no existing school facilities, an amount equal to the difference in the amount determined in (a) and the amount shown in the chart in Section 1859.83(c). To determine the number of classrooms in the proposed project, divide the number of pupils requested on the Form SAB 50-12, by 25 for elementary school pupils, 27 for middle and high school pupils, 13 for Non-Severely Disabled Individuals with Exceptional Needs and 9 for Severely Disabled Individuals with Exceptional Needs. Round up, and
- (11) Small size projects pursuant to Section 1859.83(b).
- (12) An amount due to urban location, security requirements, and impacted site equal to 15 percent of the amount determined in (a) for a site that is 60 percent of the CDE recommended site size 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 School District has requested an increase for multilevel construction pursuant to (a)(4) above.
- (B) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size determined by multiplying the sum of the pupil grants requested on the Form SAB 50-12, and the current CBEDS enrollment on the site (if applicable) by .01775 for elementary school pupils, .021 for middle school pupils and .02472 for high school pupils. For purposes of this calculation, assign Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupil grants requested on the Form SAB 50-12 as either elementary, middle or high school pupils based on the type of project selected by the School District on the Form SAB 50-12.
- (C) The value of the property as determined in (a)(6)(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.

(b) For all Preliminary Small School District Program Apportionments, the inflator factor shall be an amount equal to the sum of the amount determined in (a) and multiplied by a factor determined as follows:

(1) Divide the January Class B Construction Cost Index in effect at the time of the Preliminary Small School District Program Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Small School District Program Apportionment. Round to two decimal places.

(2) Subtract 1 from the quotient in (1). Convert to a percentage with zero decimal places.

(c) The Project and Construction Management Grant shall be equal to five percent of the sum of the amounts determined in (a) and (b).

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

Reference: Sections 17070.15, 17078.24, 17078.35, 17078.36, 17078.37 and 17078.38, Education Code.

Adopt Regulation Section 1859.157.2

Section 1859.157.2. Preliminary Apportionment Grant Determination for Modernization Applications.

The Preliminary Small School District Program Apportionment for Modernization funding shall be equal to the sum of (a) through (c)(2) below:

(a) A Modernization Grant for all eligible pupils included on the Form SAB 50-12 at the per-pupil grant amounts in effect at the time the Preliminary Small School District Program Apportionment is approved by the Board, and eligible Modernization additional grants as follows:

(1) Prevailing wage monitoring and enforcement costs pursuant to Section 1859.78.1,

(2) Project assistance pursuant to Section 1859.78.2,

(3) Energy efficiency pursuant to Section 1859.78.5,

(4) Site development necessary for 50 years or older permanent buildings pursuant to the amount allowable in Section 1859.78.7(b),

(5) Replacement of 75 years or older buildings and necessary site development pursuant to Section 1859.78.7.1,

(6) Fire code requirements pursuant to Section 1859.78.4,

(7) Minimum Essential Facilities and site development pursuant to Section 1859.78.9.1,

(8) Transitional Kindergarten Classroom(s) and site development pursuant to Section 1859.78.9.2,

(9) Career Technical Education components pursuant to Section 1859.78.10,

(10) Geographic location pursuant to Section 1859.83(a),

(11) Small size projects pursuant to Section 1859.83(b),

(12) Urban location and security requirements and impacted site pursuant to Section 1859.83(d),

(13) Accessibility and fire code pursuant to Section 1859.83(e), and

(14) Individuals with Exceptional Needs pursuant to Section 1859.78.3.

(b) For all Preliminary Small School District Program Apportionments, the inflator factor shall be an amount equal to the sum of the amount determined in (a) and multiplied by a factor determined as follows:

(1) Divide the January Class B Construction Cost Index in effect at the time of the Preliminary Small School District Program Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Small School District Program Apportionment. Round to two decimal places.

(2) Subtract 1 from the quotient in (1). Convert to a percentage with zero decimal places.
(c) The Project and Construction Management Grant shall be equal to five percent of the sum of the amounts determined in (a) and (b).

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

Reference: Sections 17070.15, 17078.35, 17078.36, 17078.37 and 17078.38, Education Code.

Adopt Regulation Section 1859.157.3

Section 1859.157.3. Preliminary Small School District Program Apportionment Fund Release.

Once the provisions in Section 1859.157.5 have been met, an applicant that meets the following may request an advance release of funds from a Preliminary Small School District Apportionment:

(a) An applicant that meets the Financial Hardship criteria in Section 1859.81 is eligible for an amount not to exceed the following:

(1) 40 percent of the New Construction Grant and the amounts determined in Sections 1859.157.1(a)(5), and 1859.157.1(c).

(2) 25 percent of the Modernization Grant and the amount determined in Sections 1859.157.2(a)(2), and 1859.157.2(c).

(b) An applicant that meets the Financial Hardship criteria in Section 1859.81 is eligible for an amount, not to exceed the Preliminary Small School District Program Apportionment, for site acquisition pursuant to Section 1859.81.1(a), (b) or (c) after submittal of a Form SAB 50-12 pursuant to Section 1859.157.

(c) An applicant is eligible for an amount, not to exceed the Preliminary Small School District Program Apportionment, for environmental hardship site acquisition pursuant to Section 1859.75.1 after submittal of a Form SAB 50-12 pursuant to Section 1859.157.

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 Section 1859.157.3(a) and/or (b) must have been approved and maintained Financial Hardship status pursuant to Section 1859.81. OPSC will release State funds included in a Preliminary Small School District Program Apportionment pursuant to (a), (b), or (c) to the School District after submittal of a complete and valid Form SAB 50-05.

Subject to the availability of funding to the Board for bond-funded projects, OPSC will release State funds included in a Preliminary Small School District Program Apportionment, pursuant to subsections (a) and/or (b) and (c). State funds released from a Preliminary Small School District Program Apportionment pursuant to this Section shall be subject to the provisions in Sections 1859.90 and 1859.90.2.

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

Reference: Sections 17070.15, 17078.35, 17078.36, 17078.37 and 17078.38, Education Code.

Adopt Regulation Section 1859.157.4

Section 1859.157.4. Conversion of Preliminary Small School District Program Apportionment.

To request to convert a Preliminary Small School District Program Apportionment to a Final Small School District Program Apportionment, an applicant must submit a complete and valid Form SAB 50-04 and meet all the following criteria:

(a) The total number of pupil grants requested on the Form SAB 50-04 cannot exceed the number approved on the Preliminary Small School District Program Apportionment. The number of pupil grants on the Form SAB 50-04 shall be for at least 50 percent of the pupil grants approved by the Board on the Preliminary Small School District Program Apportionment for New Construction funding or for at least 60 percent of the pupil grants approved by the Board on the Preliminary Small School District Program Apportionment for Modernization funding.

(b) An applicant seeking Financial Hardship assistance, in accordance with Sections 1859.81 through 1859.81.3, must request Financial Hardship assistance on the Form SAB 50-04.

(c) Any applicant that qualified to participate in the program and received a Preliminary Small School District Program Apportionment as a Small School District based on the applicant's total enrollment at the time of the Preliminary Small School District Program Apportionment, may submit a complete and valid Form SAB 50-04 to convert a Preliminary Small School District Program Apportionment to a Final Small School District Program Apportionment.

(d) At the time of converting the Preliminary Small School District Program Apportionment to a Final Small School District Program Apportionment, additional funding for Modernization supplemental grants shall be calculated using the qualifying enrollment demonstrated at the time of the Preliminary Small School District Program Apportionment for the following additional grants:

(1) Minimum Essential Facility pursuant to Section 1859.78.9.1.

(2) Transitional Kindergarten Classroom pursuant to Section 1859.78.9.2.

An applicant may submit a Form SAB 50-04 concurrently or following the submittal of a complete and valid Form SAB 50-12, but no later than the time limit prescribed within Section 1859.157.5. Board action on the Form SAB 50-12 does not need to occur prior to the Form SAB 50-04 submittal.

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

Reference: Section 17070.15, 17078.35, 17078.36, 17078.37 and 17078.38, Education Code.

Adopt Regulation Section 1859.157.5

Section 1859.157.5. Time Limit on Preliminary Small School District Program Apportionment.

(a) A complete and valid request to convert a Preliminary Small School District Program Apportionment to a Final Small School District Program Apportionment, pursuant to Section 1859.157.4, shall be made within four years of the date of the Preliminary Small School District Program Apportionment, unless the applicant receives approval for an extension pursuant to Section 1859.157.6.

(b) If (a) is not met, the Preliminary Small School District Program Apportionment shall be rescinded without further Board action and returned to the fund source.

(c) If (a) is not met, and the applicant has received an advance release of funds as provided in Section 1859.157.3, the following shall occur:

(1) The Preliminary Small School District Program Apportionment shall be rescinded without further Board action and any remaining Preliminary Small School District Program Apportionment not released to the applicant, shall be returned to the fund source.

(2) The New Construction Eligibility or Modernization Eligibility shall be adjusted by the number of pupil grants not used. The number of pupil grants returned shall be equal to the number of pupil grants requested on the Form SAB 50-12, less the pupil grants equivalent to the total amount of state funding retained by the applicant.

(3) Funds released pursuant to Section 1859.157.3(a) or (b) shall be reduced to cost incurred and closed out, pursuant to Section 1859.106, with a corresponding New Construction or Modernization baseline eligibility adjustment for the pupil grants assigned to the Preliminary Small School District Program Application. Funds returned pursuant to Section 1859.106 shall be returned to the fund source.

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

Reference: Sections 17070.15, 17078.35, 17078.36, 17078.37 and 17078.38, Education Code.

Adopt Regulation Section 1859.157.6

Section 1859.157.6. Preliminary Small School District Program Apportionment Time Limit Extension.

An applicant that has received a Preliminary Small School District Program Apportionment pursuant to Section 1859.157.1 or 1859.157.2 may request a single one-year extension of the time limit prescribed in Section 1859.157.5. The Board may approve the request provided the criteria in (a) or (b) are met:

(a) The applicant has provided evidence of both of the following:

(1) CDE has made a contingent or final approval for the project or of the proposed site; and,
(2) DSA has confirmed that the final plans for the project have been submitted to the DSA for review and approval.

(b) Other evidence satisfactory to the Board justifying the extension.

A single one-year extension request from an applicant may be approved by the Board to extend the time limit prescribed in Section 1859.157.5. OPSC must receive the single one-year extension request from the applicant on or prior to the time limit prescribed in Section 1859.157.5.

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

Reference: Section 17070.15, 17078.35, 17078.36, 17078.37 and 17078.38, Education Code.

Adopt Regulation Section 1859.157.7

Section 1859.157.7. Final Small School District Program Apportionment Grant Determination.

The amount of the Final Small School District Program Apportionment shall be based on the provisions of any amended or new regulations that are effective at the time the complete and valid Form SAB 50-04 for the Final Small School District Program Apportionment is accepted by OPSC. The Board shall approve conversions from the Preliminary Small School District Program Apportionment to the Final Small School District Program Apportionment as follows:

(a) If the Final Small School District Program Apportionment is equal to or less than the Preliminary Small School District Program Apportionment, the Final Small School District Program Apportionment shall be funded entirely. The difference in the Final Small School

District Program Apportionment and the Preliminary Small School District Program Apportionment shall be returned to the fund source. The Final Small School District Program Apportionment shall be the full and final Apportionment for the project.

(b) If the Final Small School District Program Apportionment is greater than the Preliminary Small School District Program Apportionment, the applicant shall receive an increase using any remaining balance in the fund source, if applicable.

(1) Availability of any remaining balance in the fund source shall be prioritized in date order that OPSC received a complete and valid Form SAB 50-04.

(2) In the event there are more applications submitted on the same date than can be funded with the balance in the fund source, a lottery system will be used to determine the funding order.

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

Reference: Section 17070.15, 17078.35, 17078.36, 17078.37 and 17078.38, Education Code.

Adopt Regulation Section 1859.157.8

Section 1859.157.8. Final Small School District Program Apportionment Fund Release.

Once the Preliminary Small School District Program Apportionment is converted to a Final Small School District Program Apportionment pursuant to Sections 1859.157.4 through 1859.157.7, the applicant may request a release of the remaining funds as prescribed in Section 1859.90 or 1859.90.2.

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

Reference: Sections 17070.15, 17078.35, 17078.36, 17078.37 and 17078.38, Education Code.

Adopt Regulation Section 1859.158

Section 1859.158. Substantial Progress and Expenditure Reporting Timelines.

A Small School District receiving funds pursuant to this Article shall submit the following:

(a) An expenditure report from the Small School District 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 Small School District for the project pursuant to Section 1859.90 or 1859.90.2, or upon notice of completion of the project to OPSC, 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 with OPSC, all outstanding invoices, claims, and change orders have been satisfied, and the facility is currently in use by the Small School District.

(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.

(2) The second and subsequent expenditure reports, if necessary, shall be due annually beginning one year from the first report, or upon notice of completion of the project to OPSC, 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) A progress report, in the form of a narrative from the Small School District, shall be due 18 months from the date any funds were released to the Small School District for the project, pursuant to Section 1859.90 or 1859.90.2. The progress report shall include information

regarding the progress the Small School District has made towards substantial completion of the project. If the notice of completion to OPSC 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 Small School District, shall be due 12 months from the date the site acquisition funds were apportioned to the Small School District for the project pursuant to Section 1859.75.1. The progress report shall include information regarding the progress the Small School District 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 apportionment as authorized by Education Code Section 17072.13(c)(2).

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

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

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

Note: Authority cited: Sections 17070.35, 17072.13, 17075.15 and 17079.30, Education Code.

Reference: Sections 17070.15, 17070.35, 17070.99, 17072.12, 17072.13, 17076.10, 17078.35, 17078.36, 17078.37, 17078.38 and 17079.30, Education Code.