

Amend Regulation Section 1859.2

Regulation 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:

...  
“Critically Overcrowded School (COS)” means a school that has a pupil population density greater than 115 pupils per useable acre in grades Transitional Kindergarten ~~Kindergarten~~ through six, or a pupil population density greater than 90 pupils per useable acre in grades seven through twelve based on the 2001 CBEDS enrollment.

...  
“Elementary School Pupil” means a student housed in a school serving Transitional Kindergarten ~~Kindergarten~~ through sixth grade, or any combination of Transitional Kindergarten ~~Kindergarten~~ through sixth grade.

...  
“Existing School Site” for purposes of Joint-Use, means real property that has a public school with any grades ~~TKK~~-12 and that has at minimum administration and classroom facilities for any grades ~~TKK~~-12 and has been assigned a county district school (CDS) code, which meets the criteria of Regulation Section 1859.23.

...  
“Form SAB 50-01” means the *Enrollment Certification/Projection*, Form SAB 50-01 (Rev. ~~05/09~~ 02/26), and, when utilizing HSAA residency reporting, the High School Attendance Area Residency Worksheet (New 06/08), which are incorporated by reference.

“Form SAB 50-02” means the *Existing School Building Capacity*, Form SAB 50-02 (Rev. ~~05/09~~ 02/26), which is incorporated by reference.

“Form SAB 50-03” means the *Eligibility Determination*, Form SAB 50-03 (Rev. ~~03/25~~ 02/26), which is incorporated by reference.

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

...  
“Form SAB 50-09” means the *Application For Charter School Preliminary Apportionment*, Form SAB 50-09 (Rev. ~~04/26~~ 02/26), which is incorporated by reference.

...  
“Form SAB 195” means the *Application for Natural Disaster Assistance*, Form SAB 195 (Rev. ~~04/26~~ 02/26), which is incorporated by reference.

...  
“Pupil” means a student enrolled in any grade Transitional Kindergarten ~~Kindergarten~~ through grade twelve.

...  
“Qualifying Pupils” means enrollment in excess of 86 pupils per useable acre for Transitional Kindergarten ~~Kindergarten~~ through sixth grade or 68 pupils per useable acre for grades seven through twelve.

...  
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 1859.33

Regulation Section 1859.33. Classroom Identification and Determination of Existing School Building Capacity.

The School and District shall identify by grade level, based on its most typical use for grades TKK-6, 7-8 or 9-12, or non-severe or severe Special Day Class education, each eClassroom included in the classroom inventory determined pursuant to Section 1859.31 and not excluded pursuant to Section 1859.32. These eClassrooms shall be reported on the Form SAB 50-02.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.25, 17071.30, 17071.33, 17071.35 and 17071.40, Education Code.

Amend Regulation Section 1859.35

Regulation Section 1859.35. Calculation of Existing School Building Capacity.

The School and District's eExisting sSchool bBuilding eCapacity shall be determined by totaling the amount calculated in (a) and (b).

- (a) With the exception of eClassrooms for Special Day Class pupils for which the multiplier is indicated on the Form SAB 50-02, multiply the number of available eClassrooms in the School and District, the HSAA or the Super HSAA by the following: 25 for each TKK-6 eClassroom and 27 for each 7-12 eClassroom. Available eClassrooms shall be determined by the reduction of eClassrooms identified in Section 1859.32 from the gross classroom inventory prepared pursuant to Section 1859.31 and the inclusion of Pportable CeClassrooms as provided pursuant to Education Code Section 17071.30 (a) or (b).
- (b) Multiply the TKK-6 pupil capacity of the elementary district, the unified district, the HSAA or the Super HSAA in a unified district as determined by the results of the calculations in (a) at the time of the initial determination of eligibility by six percent. When the elementary or unified district meets the Substantial Enrollment Requirement (SER) or qualifies for a waiver of the SER authorized by Education Code Sections 17017.6 and 17017.7(c), the amount reported in (b) shall be zero. For High School Districts, the amount reported in (b) shall be zero.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.25, 17071.33, 17071.35, 17071.40 and 42270, Education Code.

Amend Regulation Section 1859.42

Regulation Section 1859.42. Projecting Non-Special Day Class Enrollment.

The School and District enrollment, as reported on the Form SAB 50-01, shall be used to calculate the School and District's projected enrollment other than Special Day Class enrollment. The OPSC shall use either (a) or (b) to determine the School and District's projected enrollment:

- (a) Fifth-year projected enrollment with the exception of Special Day Class enrollment shall be calculated pursuant to the cohort survival enrollment projection system which is described as follows:
  - (1) For all grades, using the current and three previous years of enrollment, determine the numerical change in enrollment between the current grade and the next lower grade in the

- previous year; determine the numerical change in enrollment between the previous year grade and the next lower grade in the second previous year; determine the numerical change in enrollment between the second previous year grade and the next lower grade in the third previous year. Determine the numerical change of Transitional Kindergarten and kindergarten enrollment on the second previous and third previous year respectively. A School dDistrict utilizing a fifth-year enrollment projection may calculate the Transitional Kindergarten kindergarten-enrollment projection in accordance with Section 1859.42.1(b).
- (2) Compute the annual change in enrollment as explained in (1) for each grade. The annual change shall then be weighted by multiplying the most recent annual change in enrollment by three, the next most recent annual change by two, and the earliest annual change by one, and dividing the sum of the annual weighted changes for each grade by six. The result shall be the average annual change.
  - (3) Calculate enrollment for each projection year by advancing the enrollment in each grade level through the five- year projection period, modifying the grade progression each year by the average annual change for each grade as computed in (2).
- (b) Tenth-year projected enrollment with the exception of Special Day Class enrollment shall be calculated pursuant to the cohort survival enrollment projection system which is described as follows:
- (1) For all grades, using the current and seven previous years of enrollment, determine the numerical change in enrollment between:
    - (A) The current grade and the next lower grade in the first previous year;
    - (B) The first previous year grade and the next lower grade in the second previous year;
    - (C) The second previous year grade and the next lower grade in the third previous year;
    - (D) The third previous year grade and the next lower grade in the fourth previous year;
    - (E) The fourth previous year grade and the next lower grade in the fifth previous year;
    - (F) The fifth previous year grade and the next lower grade in the sixth previous year;
    - (G) The sixth previous year grade and the next lower grade in the seventh previous year;
    - (H) Determine the numerical change of Transitional Kindergarten and kindergarten enrollment using the previous year's Transitional Kindergarten and kindergarten enrollment in place of the next lower grade in the previous year for each step in (A) through (G), respectively.
  - (2) Compute the annual change in enrollment as explained in (1) for each grade. The annual change shall then be weighted by multiplying the most recent annual change in enrollment by seven, the next most recent annual change by six, the next most recent annual change by five, the next most recent annual change by four, the next most recent annual change by three, the next most recent annual change by two, and the earliest annual change by one, and dividing the sum of the annual weighted changes for each grade by 28. The result shall be the average annual change.
  - (3) Calculate enrollment for each projection year by advancing the latest enrollment in each grade through the ten- year projection period, modifying the grade progression each year by the average annual change for each grade as computed in (2).
- (c) The projected enrollment of a HSAA or Super HSAA shall be computed in the same manner as that set forth in this section, except that the enrollment used in such computation shall be that of the HSAA or Super HSAA rather than the entire School dDistrict.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

Amend Regulation Section 1859.42.1

Regulation Section 1859.42.1. Supplements to the Fifth-Year Projection of Non-Special Day Class Enrollment.

A School ~~and~~ District utilizing a fifth-year enrollment projection pursuant to Section 1859.42(a), except when reporting on a HSAA or Super HSAA basis pursuant to Section 1859.41.1(b), may supplement the enrollment projection with any of the following:

- (a) The number of pupils as reported by the School ~~and~~ District on Form SAB 50-01, that will reside in dwelling units included in an approved and valid tentative or final subdivision map that exceed the number of pupils projected as a result of the cohort survival method for that tentative or final subdivision map. The augmentation shall be calculated as follows:
  - (1) Calculate a first year projection by advancing the current enrollment as reported on Form SAB 50-01 by one year for each grade level without applying the average annual change. For Transitional Kindergarten and kindergarten, the first year projection shall be the same as the reported current enrollment.
  - (2) Subtract the current enrollment progressed one year for each grade level as determined in (1) from the one- year projection of enrollment for each grade level as determined in Section 1859.42(a). If the computation results in a negative number, the number shall be zero.
  - (3) Divide the current enrollment progressed one year for each grade level by the sum of the current enrollment progressed one year in all grade levels.
  - (4) Multiply the number of housing units in the approved and valid tentative or final subdivision maps by the pupil yield factor provided on the Form SAB 50-01.
  - (5) Multiply the number of pupils determined in (4) by the percentages determined in (3) for each grade.
  - (6) Subtract five times the value determined in (2) from the value determined in (5). If the computation results in a negative number, the number shall be zero.
  - (7) Add the value in (6) to the fifth year of projected enrollment as computed in Section 1859.42(a) to establish the augmented projection of enrollment.
  - (8) For School ~~and~~ Districts with HSAA reporting, the augmentation as provided in this section may include only dwelling units located in the HSAA or Super HSAA.
- (b) The number of children born as reported on the Form SAB 50-01 that will attend Transitional Kindergarten within the School District or HSAA in the enrollment year that begins during the fourth calendar year following the year in which the children were born, as determined through the birth-attendance rate. For the purposes of this section, children born in a given calendar year will be considered to all begin school in the same enrollment year. For the purposes of this section, the number of children born shall be referred to as births. The augmentation shall be calculated as follows:
  - (1) For current and each of the three previous years of enrollment reported on the Form SAB 50-01, determine the yearly birth-attendance rate by dividing the Transitional Kindergarten enrollment by the number of births from the fourth preceding calendar year. Add the four yearly birth-attendance rates together and divide by four. The result will be the average birth-attendance rate.
  - (2) The number of births must be as reported by the Department of Health Services by place of residence. A School District may utilize one of the following:
    - (A) Births as reported by County.
    - (B) Births as reported by Zip Code. The School District must report the ZIP Codes the School District or HSAA will serve for the current year and three previous years. If a School District

serves only a portion of a ZIP Code, and if less than 10 percent of the population of that ZIP Code resides within the portion served by the School District, the School District must report that ZIP Code, but may choose not to count the births within that ZIP Code for the purposes of this section.

- (3) Calculate the Transitional Kindergarten enrollment projection by multiplying the average birth-attendance rate by the number of births five years prior to the applicable projected enrollment year.
- (4) For years in which the Department of Health Services has not yet reported the number of births, the number of births shall be determined by:
  - (A) Adding the three previous years' number of births and dividing by three.
  - (B) For years in which more than one year of births has not yet been reported, the first birth number shall be calculated per (A), and subsequent years shall be calculated using (A), with the previous averaged births acting as the previous year births.
- (c) ~~(b)~~ The number of children born as reported on the Form SAB 50-01 that will attend kindergarten within the School dDistrict or HSAA in the enrollment year that begins during the fifth calendar year following the year in which the children were born, as determined through the birth-attendance rate. For the purposes of this section, children born in a given calendar year will be considered to all begin school in the same enrollment year. For the purposes of this section, the number of children born shall be referred to as births. The augmentation shall be calculated as follows:
  - (1) For current and each of the three previous years of enrollment reported on the Form SAB 50-01, determine the yearly birth-attendance rate by dividing the kindergarten enrollment by the number of births from the fifth preceding calendar year. Add the four yearly birth-attendance rates together and divide by four. The result will be the average birth-attendance rate.
  - (2) The number of births must be as reported by the Department of Health Services by place of residence. A School dDistrict may utilize one of the following:
    - (A) Births as reported by County.
    - (B) Births as reported by Zip Code. The School dDistrict must report the ZIP Codes the School dDistrict or HSAA will serve for the current year and three previous years. If a School dDistrict serves only a portion of a ZIP Code, and if less than 10 percent of the population of that ZIP Code resides within the portion served by the School dDistrict, the School dDistrict must report that ZIP Code, but may choose not to count the births within that ZIP Code for the purposes of this section.
  - (3) Calculate the kindergarten enrollment projection by multiplying the average birth-attendance rate by the number of births five years prior to the applicable projected enrollment year.
  - (4) For years in which the Department of Health Services has not yet reported the number of births, the number of births shall be determined by:
    - (A) Adding the three previous years' number of births and dividing by three.
    - (B) For years in which more than one year of births has not yet been reported, the first birth number shall be calculated per (A), and subsequent years shall be calculated using (A), with the previous averaged births acting as the previous year births.
- (d) ~~(c)~~ Modified weighting that best represents the enrollment trends of the School dDistrict to supplant the weighting method used to calculate the average annual change in Section 1859.42(a)(2). The modified weighting shall be calculated as follows:
  - (1) A School dDistrict choosing to utilize a modified weighting method must submit enrollment data from 14 years immediately prior to those included on the Form SAB 50-01. In total, 18

consecutive years of enrollment must be submitted. Any enrollment information submitted in addition to the Form SAB 50-01 must meet all the requirements as provided for Parts A and C on the Form SAB 50-01.

- (2) Utilizing the 18 years of enrollment data, calculate three sets of ten historical enrollment projections. These projections cannot be supplemented with (a) and (b) above and are made as follows:
  - (A) For each of the ten enrollment projections determine the numerical change in enrollment utilizing the calculations in Section 1859.42(a)(1), starting with the 14<sup>th</sup> previous year as the current year, progressing one year for each of the projections with the tenth projection being made with the fifth previous year as the current year. When calculating the ten enrollment projections, the five most recent enrollment years shall not be used.
  - (B) Compute the average annual change for each of the ten projections utilizing the calculations per Section 1859.42(a)(2). Calculate enrollment for each projection year by advancing the enrollment in each grade level through the five-year projection period, modifying the grade progression each year by the average annual change for each grade as computed in this paragraph. This set of ten projections shall be the “1-2-3” projections.
  - (C) Repeat (A) above, but calculate the average annual change by multiplying the most recent annual change in the enrollment by one, the next most recent annual change by two, and the earliest annual change by three, and dividing the sum of the annual weight changes for each grade by six. Calculate enrollment for each projection year by advancing the enrollment in each grade level through the five-year projection period, modifying the grade progression each year by the average annual change for each grade as computed in this paragraph.  
This set of ten projections shall be the “3-2-1” projections.
  - (D) Repeat (A) above, but calculate the average annual change by dividing the sum of the annual changes for each grade by three. Calculate enrollment for each projection year by advancing the enrollment in each grade level through the five-year projection period, modifying the grade progression each year by the average annual change for each grade as computed in this paragraph. This set of ten projections shall be the “1-1-1” projections.
- (3) For the ninth previous year through the current year as reported on the Form SAB 50-01 determine the actual enrollment for that year per grade category. For the purposes of this section, grade category shall mean Transitional Kindergarten ~~kindergarten~~ through sixth grade, seventh grade through eighth grade, and ninth grade through twelfth grade. Determine the actual enrollment for each grade category by totaling the enrollment from the grades within that grade category.
- (4) For each of the ten enrollment projections within each of the three projection types, “1-2-3”, “3-2-1” and “1-1-1”, determine the percentage of accuracy. The percentage of accuracy shall be the projected total enrollment for a grade category minus the actual total enrollment for that grade category five years after divided by the actual grade category total five years later and multiplied by 100, rounded to two significant figures.
- (5) Calculate the absolute value of the percentage of accuracy as determined in (4) above.
- (6) Determine the (x,y) coordinate for each percentage of accuracy as determined in (5), with x being the distance from the y-axis and representing time, and y being the distance from the x-axis and representing the percentage of accuracy, as follows:
  - (A) The x coordinate shall be assigned based on 30 enrollment projections made in (2). Projections made with the fourteenth previous year as the current year shall have an x value of one, progressing one year for each of the projections with the tenth projection being made with the fifth previous year as the current year and having an x value of ten.

- (B) The  $y$  coordinate shall be the distance from zero as calculated in (5), above.
- (7) Using Microsoft Office Excel 2003 or a similar tool, plot each point from (6) onto graphs. School and Districts must only generate graphs for the grade categories that are reported on the Form SAB 50-01. The points shall be graphed as follows:
- (A) Graph one shall be all Transitional Kindergarten kindergarten through sixth grade comparisons for “1-2-3” projections.
- (B) Graph two shall be all seventh grade through eighth grade comparisons for “1-2-3” projections.
- (C) Graph three shall be all ninth grade through twelfth grade comparisons for “1-2-3” projections.
- (D) Graph four shall be all Transitional Kindergarten kindergarten through sixth grade comparisons for “3-2-1” projections.
- (E) Graph five shall be all seventh grade through eighth grade comparisons for “3-2-1” projections.
- (F) Graph six shall be all ninth grade through twelfth grade comparisons for “3-2-1” projections.
- (G) Graph seven shall be all Transitional Kindergarten kindergarten through sixth grade comparisons for “1-1-1” projections.
- (H) Graph eight shall be all seventh grade through eighth grade comparisons for “1-1-1” projections.
- (I) Graph nine shall be all ninth grade through twelfth grade comparisons for “1-1-1” projections.
- (8) For each of the graphs in (7), using Microsoft Office Excel 2003 or a similar tool, determine the Linear Regression equation.
- (9) For each projection type, “1-2-3”, “3-2-1” and “1-1-1”, determine the average Linear Regression equation:
- (A) Each equation shall be in the format  $y = (m * x) + b$ , where  $m$  is the slope and  $b$  is the  $y$ -axis intercept.
- (B) Determine the average  $m$  for each projection type by adding the  $m$ 's together and dividing by the number of  $m$ 's. The number should be one to three and equal to the number of grade categories a School and District reports on the Form SAB 50-01.
- (C) Determine the average  $b$  for each projection type by adding the  $b$ 's together and dividing by the number of  $b$ 's. The number should be one to three and equal to the number of grade categories a School and District reports on the Form SAB 50-01.
- (D) Generate the average Linear Regression equation as show in (A) above, for each projection type by creating three new equations using the average  $m$  and  $b$  from (B) and (C) above.
- (10) Determine the modified weighting that best represents the trends of the School and District by:
- (A) Calculate the three average Linear Regression equations by replacing the  $x$  variable with 15.
- (B) Determine the absolute value of  $y$  for the three results
- (C) The projection type with the result closest to zero, or the smallest number, shall be the modified weighting method that best represents the trends of the School and District. For the purposes of (c), this shall be the weighting method used when determining the School and District's projection in Section 1859.42(a)(2).
- (11) Additionally, a School and District may propose a fourth weighting method for consideration. The alternative weights shall be only positive whole numbers. The School and District must follow steps (2) through (10) in this Section using the proposed additional alternative weighting method and determine that the result of (10) is closer to zero than any of the three projection types, “1-2-3”, “3-2-1” and “1-1-1”.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

### Amend Regulation Section 1859.51

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

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

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

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

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

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

- (f) Adjusted as a result of errors or omissions by the School District or by the OPSC.
- (g) Adjusted as a result of amendments to these Regulations that effect the eligibility.
- (h) Increased by the number of pupils eligible for grants pursuant to Section 1859.82.1(b)(4)(A) or 1859.82.2(b)(4)(A).
- (i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any Classroom Provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a eClassroom:
  - (1) That is a trailer and transportable/towed on its own wheels and axles.
  - (2) Of less than 700 interior square feet.
  - (3) That is a Portable Classroom, leased pursuant to Chapter 14 (commencing with Section 17085) of the Education Code.
  - (4) That is a Portable Classroom leased for a period of less than five years, whether in a single lease or cumulative total of several leases.
  - (5) That is a Portable Classroom that needs to be leased beyond five years to provide Interim

Housing provided the cumulative lease term does not exceed a specified time period as determined by the Board not to exceed three years on each qualifying project, and the Portable Classroom was not funded with a grant provided pursuant to Education Code Section 17075.20(a). For this purpose, a project means all work contained in a single set of construction plans.

- (6) Where the contract for the lease, lease-purchase, purchase, or construction of the Classroom was made prior to January 1, 2000.
- (7) That is included in a SFP project where the School District has funded a portion of the project beyond its required district contribution and the pupil capacity of the Classroom does not exceed 150 percent of the number of pupils receiving a nNew eConstruction gGrant (rounded up) for the SFP project.
- (8) That was acquired with joint-use funds specifically available for that purpose.
- (9) That was acquired with career technical education funds specifically available pursuant to Education Code Section 17078.72.
- (10) That was built or acquired exclusively for regional occupational centers, regional occupational programs, child care, preschool and/or Adult Education Programs, and with funds specifically available for those purposes.
- (11) That replaces a Classroom, previously included in the determination of the School District's nNew eConstruction eEligibility pursuant to Education Code Section 17071.75, in a project funded by the School District without participation from the State and the School District permanently removes the replaced facility from eClassroom use immediately after the replacement eClassroom is occupied.
- (12) That was constructed with Overcrowding Relief Grant funds specifically available for that purpose.
- (13) That was constructed with a grant provided pursuant to Education Code Section 17075.20, unless the eClassroom is a Portable Classroom purchased pursuant to subdivision (a) of Education Code Section 17075.20.
  - (j) For Small School Districts:
    - (1) Decreased by any reduction in projected enrollment that follows a five-year period after the 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.
  - (k) Adjusted for any change in classroom inventory as a result of a reorganization election.
  - (l) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
  - (m) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.
  - (n) Increased by the number of pupils that received a Preliminary Apportionment that was rescinded pursuant to Section 1859.148 or a Preliminary Charter School Apportionment that was rescinded pursuant to Section 1859.166.
  - (o) Adjusted for operational grant changes as determined/provided by the California Department of Education.
  - (p) For a HSAA School District with Preliminary Apportionments within the 2002 or 2004

Critically Overcrowded School Facilities Account as follows:

- (1) Decreased by the number of pupils that received a Preliminary Apportionment, distributed proportionately among HSAs in which the pupils used to justify the conversion of the Preliminary Apportionment were enrolled but did not reside.
- (2) In the subsequent enrollment reporting year after verification of Occupancy of a project, increased by the number of pupils equal to the reduction due to Section 1859.51(p)(1), for the project which was occupied.
- (3) Increased by the number of pupils equal to the reduction due to Section 1859.51(p)(1), for a Preliminary Apportionment rescinded pursuant to the provisions of Section 1859.148.
- (q) Adjusted by the difference between the Alternative Enrollment Projection for the current enrollment reporting year and the projected enrollment determined pursuant to Section 1859.42 for the current enrollment reporting year, or by the eligibility remaining from this calculation that can no longer be utilized if the funds made available pursuant to Education Code Section 17071.75(a)(1)(A) have been exhausted.
- (r) Adjusted pursuant to Education Code Section 17071.75(b)(2) by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any Classroom(s) where title was relinquished to the School District receiving the transferred eClassroom(s).
- (s) Increased by the capacity of Classrooms that meet all of the following:
  - (1) The eClassrooms are included in an Approved Application that have a qualifying health and safety threat pursuant to Sections 1859.82.1 or 1859.82.2 that were originally included in the School District's baseline eligibility, except the School District did not have the current enrollment to support the replacement and funding of those Classrooms.
  - (2) The Classrooms are included in an Approved Application pursuant to Sections 1859.82.1 or 1859.82.2 and did not receive funding as part of that project and were demolished or removed from Classroom use. Buildings removed from TKK-12 eClassroom use that remain on the school site will be identified on a list published on OPSC's website.
  - (3) The Board shall approve the adjustment upon receiving the local school board resolution acknowledging that the buildings have been removed from TKK-12 Classroom use.
- (t) Reduced by the number of pupils housed in additional Transitional Kindergarten Classrooms constructed, pursuant to Education Code Section 17073.16(c) in an SFP mModernization project.
- (u) Adjusted by the capacity of Classrooms, as applicable:
  - (1) Decreased by the number of pupils housed in Portable Classrooms purchased for purposes of Interim Housing pursuant to Education Code Section 17075.20.
  - (2) Increased by the number of pupils housed in Portable Classrooms purchased pursuant to Section 1859.51(t)(1) that are permanently removed from the School District within eight years of occupancy.
- (v) Increased by the capacity of Classrooms that were destroyed or rendered unsafe to occupy due to a natural disaster for which the Governor declared a state of emergency on or after July 3, 2024, that the School District elected not to replace. The Board may consider adjustments for Classrooms that were destroyed or rendered unsafe to occupy due to a natural disaster that occurred prior to July 3, 2024, that the School District elected not to replace, on a case-by-case basis.

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, 17375, 42268 and 42270, Education Code.

Amend Regulation Section 1859.60

SFP Regulation Section 1859.60. Calculation to Determine Modernization Baseline Eligibility.

The School and District shall calculate its Modernization Eligibility for each school site with the completion of the Form SAB 50-03. The eligibility determination may be made by either identifying all Classrooms on the site pursuant to (a) or by the identification of all Square Footage on the site pursuant to (b), as follows:

(a) Identify all Classrooms at the school site that would have been included in the Gross Classroom Inventory pursuant to Section 1859.31 that are:

- (1) Permanent and at least 25 years old.
- (2) Portable and at least 20 years old.
- (3) The remaining Classrooms not reported in (1) or (2) above.

(b) Identify all Square Footage at the school site that is:

- (1) Permanent area and at least 25 years old.
- (2) Portable Classroom area and at least 20 years old.
- (3) The remaining Square Footage on the site not reported in (1) or (2) above.

(c) Identify all Classrooms at the school site located on a military installation where the site is a recipient of a federal grant for facilities modernization that requires a local matching share that are:

- (1) Permanent at least 10 years old.
- (2) Portable at least 10 years old.

(d) Identify all Square Footage at the school site located on a military installation where the site is a recipient of a federal grant for facilities modernization that requires a local matching share that are:

- (1) Permanent at least 10 years old.
- (2) Portable at least 10 years.

The age of the Classroom or Square Footage shall begin 12 months after the plans for the building were approved by the DSA. In the case of Permanent or Portable Classrooms that were previously modernized with State funds or rehabilitated under the Charter School Facilities Program, the 25/20 year period shall begin on the date of its previous Apportionment. For Permanent or Portable Classrooms that were previously modernized with State funds and are located on a military installation, pursuant to subsection (c) and (d), the 10 year period shall begin after the date of the previous Modernization Apportionment. For purposes of identifying Square Footage at a school site, include the total enclosed exterior Square Footage of the school buildings. For multilevel buildings, include the Square Footage at each level.

Portable buildings modernized pursuant to subsection (c) and (d) shall be replaced with a permanent structure.

Enrollment at the school shall be the latest CBEDS report for TKK-6, 7-8 and 9-12 pupils. If the school is closed at the time of Application for eligibility determination for Modernization, and the School and District intends to reopen it and use it as a school for at least the next five years, the enrollment may be estimated based on district demographic data.

The calculated eligibility determined on the Form SAB 50-03, shall be referred to as the Modernization baseline eligibility for the specific school site.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17073.15, 17073.20 and 17074.10, Education Code.

## Amend Regulation Section 1859.61

### Regulation Section 1859.61. Adjustments to the Modernization Baseline Eligibility.

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

- (a) Reduced by the number of pupils provided grants in a Modernization SFP project or a CSFP Rehabilitation project at the specific site.
- (b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2), in a Modernization LPP project funded under the LPP pursuant to Sections 1859.14 and 1859.15.
- (c) Increased by changes in projected enrollment in subsequent enrollment reporting years.
- (d) Increased for additional facilities not previously modernized with State funds, that become 25 years old, if permanent, or 20 years old, if portable or as a result of audit findings made pursuant to Sections 1859.90, 1859.90.3 and 1859.105.
- (e) Adjusted as a result of errors or omissions by the School district or by the OPSC.
- (f) Adjusted as a result of amendments to these Subgroup 5.5 Regulations that affect the eligibility.
- (g) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
- (h) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.
- (i) Increased for facilities previously modernized with State funds, which qualify for an additional Modernization apportionment pursuant to Section 1859.78.8 or Education Code Section 17073.15(b).
- (j) Decreased for facilities that were deemed eligible for Modernization pursuant to Sections 1859.60 and 1859.61(d) and subsequently replaced, or will be replaced under a signed contract for construction or acquisition of facilities, in a project funded by the School district without participation from the State.
- (k) Adjusted as a result of replaced eligible portables funded with the Overcrowding Relief Grant, pursuant to Education Code Section 17079, et seq.
- (l) Increased for additional facilities located on a military installation pursuant to Education Code Section 17073.15(b) not previously modernized with State funds, that become 10 years old, if permanent or portable. Portable buildings modernized pursuant to this subsection shall be replaced with a permanent structure.
- (m) Adjusted upon Board receipt of the local school board resolution acknowledging that the buildings have been removed from TKK-12 use, as follows:
  - (1) School Buildings and/or Classrooms that receive replacement funding via the New Construction Grant or the Facility Hardship Square Footage Grant pursuant to Section 1859.82.1 or Section 1859.82.2.
  - (2) School Buildings and/or Classrooms that were originally included in the School district's baseline eligibility and were later demolished or removed from Classroom use due to health and/or safety concerns that meet the requirements of Regulation Section 1859.82.1 or 1859.82.2 as verified by OPSC, except the School district did not have the current enrollment to support the replacement and funding of those School Buildings and/or Classrooms. Buildings and/or Classrooms removed from TKK-12 Classroom use that

remain on the school site will be identified on a list published on OPSC's website.

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

Note: Authority cited: Section 17070.35, Education Code.

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

## Amend Regulation Section 1859.73.2

### Regulation Section 1859.73.2. New Construction Additional Grant for Replaced Facilities.

- (a) In addition to any other funding authorized by these Regulations, the Board shall provide funding for the amount(s) in (b) below for the replacement cost of single-story building(s) that are demolished at a school and replaced with multistory building(s) in order to increase pupil capacity of that school if all the following conditions are met:
- (1) The site size as determined by the CDE for the existing capacity of the school is less than 75 percent of the recommended CDE site size.
  - (2) The pupil capacity of the school must be increased by at least the greater of (A) or (B) below:
    - (A) Twenty percent of the existing permanent single-story pupil capacity (before replacement) of the school. Existing permanent single-story pupil capacity shall be determined by multiplying ~~e~~Classrooms contained within single-story permanent buildings intended for grades ~~Transitional Kindergarten Kindergarten~~ through six by 25, ~~e~~Classrooms intended for grades seven through 12 by 27, ~~e~~Classrooms intended for Non-Severely Disabled Individuals with Exceptional Needs by 13 and ~~e~~Classrooms intended for Severely Disabled Individuals with Exceptional Needs by nine. Classrooms shall not include any ~~e~~Classrooms reduced from the ~~G~~gross ~~C~~lassroom ~~f~~inventory pursuant to Section 1859.32.
    - (B) 200 pupils.
  - (3) The sum of (A) and (B) below is less than the sum of (E) and (F) below:
    - (A) Determine the estimated cost of demolition of the single-story building(s) to be replaced. The cost estimate shall be subject to review by the OPSC for conformance with the Current Construction Costs publication by the Sierra West Group.
    - (B) Multiply the total ~~s~~Square ~~f~~ootage of the proposed multistory replacement building(s) by the Current Replacement Cost.
    - (C) Multiply the pupil capacity as determined in (a)(2) by .01775 for ~~TKK~~-6, .021 for 7-8 and .02472 for 9-12. For purposes of this calculation, assign Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupil grants requested on Form SAB 50-04 as either ~~TKK~~-6, 7-8 or 9-12 based on the type of project selected by the ~~School d~~District on Form SAB 50-04.
    - (D) Determine the average value of land per acre as follows:
      1. Previous actual site acquisition costs within the ~~School d~~District's boundaries. If unable to reference prior OPSC-reviewed and approved projects at the time of a ~~a~~Application submittal, the ~~School d~~District should submit documentation for review that complies with Section 1859.74.
      2. Applications submitted with a separate certification letter, signed by the authorized ~~D~~istrict ~~R~~epresentative, certifying there are no site acquisitions as required in 1. above, must use one of the following calculation methods:

- a. A complete appraisal or a preliminary appraisal of property in the General Location of the school site made or updated within six months from the Approved Application submittal date to the OPSC, using the guidelines outlined in Section 1859.74.1. The preliminary appraisal may be made without access to the property.
  - b. The Median Cost of an acre of land in the General Location of the school site using historical information from the General Location. Historical information that may be considered to determine land cost shall 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 Approved Application was submitted to the OPSC. Relocation expenses, for this method, will be calculated based upon OPSC historical data.
- (E) Multiply the sums of the products determined in (C) above by the average value of land per acre determined in (D) above.
  - (F) Multiply the square footage of the single-story building(s) to be replaced by the Current Replacement Cost, then subtract this product from the amount determined in (a)(3)(B) above.
- (4) The CDE has determined that the replacement of the single-story building(s) on the existing site with multistory building(s) would be the best available alternative and will not create a school with an inappropriate number of pupils in relation to the size of the site.
  - (5) The single-story building(s) to be replaced on the existing site may not be leased facilities and/or eclassrooms excluded pursuant to Education Code Section 17071.30(b). Portable Classrooms that were included in the classroom capacity as identified on Line 1, Part III, of the Form SAB 50-02 may be replaced.
  - (6) With the exception of portables acquired with Class Size Reduction funds, the single-story building(s) to be replaced on the site may not have been funded for either new construction or modernization with funds from Proposition 1A or subsequent SFP bonds.
- (b) If the criteria in (a) are met, the additional funding is determined by multiplying \$173.30 per square foot for Toilet Facilities and by \$96.30 per square foot for all other facilities included in the single-story building(s) to be replaced adjusted for the following:
    - (1) The amounts shall be adjusted in the manner prescribed in Section 1859.71.
    - (2) The amounts shall be increased by the percentage authorized in Section 1859.73, as appropriate.

The School district is eligible for site development in accordance with Section 1859.76 including the demolition of the replacement structures as part of the SFP project.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.46 and 17074.56, Education Code.

#### Amend Regulation Section 1859.77.2

Regulation Section 1859.77.2. Use of New Construction Grant Funds for Projects Accepted by the DSA on or before January 22, 2003.

New Construction Grant funds and any other funds provided by these Regulations shall be expended as set forth in Education Code Section 17072.35; and may also be utilized for the cost incurred by the School district for the development and implementation of remedial action plan approved by the DTSC pursuant to Education Code Section 17213.

Authorization for use of New Construction Grants for which the final plans and specifications for the project were accepted by the DSA on or before January 22, 2003 may be requested as follows:

- (a) A School district may request new construction grants that do not to exceed 135 percent of the number of pupils that will be housed in the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations if the grant requests above 100 percent of the number of pupils to be housed do not include eligibility based on Special Day Class pupils and if the School district has adopted a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the School district's governing board on a date preceding the Application filing that includes the following:
  - (1) A plan that identifies how the School district has housed or will house the excess pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan may not include housing the excess pupils in portables excluded from existing school building capacity pursuant to Education Code Section 17071.30 or housing in facilities to be constructed with School district funds if the School district has received financial hardship approval pursuant to Section 1859.81. The plan shall not utilize Multi-track Year Round Education schedules for the purposes of housing excess pupils.
  - (2) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.
  - (3) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.
- (b) A School district may request new construction grant eligibility determined at a different grade level than the proposed project that does not exceed 135 percent of the number of pupils that will be housed in the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations subject to all the following:
  - (1) The School district has adopted a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the School district's governing board on a date preceding the Application filing that includes the following:
    - (A) A plan that identifies how the School district has housed or will house the excess pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan may not include housing the excess pupils in portables excluded from existing school building capacity pursuant to Education Code Section 17071.30 or housing in facilities to be constructed with district funds if the School district has received financial hardship approval pursuant to Section 1859.81. The plan shall not utilize Multi-track Year Round Education schedules for the purposes of housing excess pupils.
    - (B) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.
    - (C) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.
  - (2) Only New Construction Grant eligibility for grades Transitional Kindergarten ~~Kindergarten~~ through 12 can be requested pursuant to this subsection (b), and the School district must use its New Construction Grant eligibility, pursuant to subsection (b) in the following order:
    - (A) At the grade level of the proposed project.
    - (B) At the lowest grade level other than the proposed project.
    - (C) At the next highest grade level other than the proposed project.
- (c) A School district may request new construction eligibility based on the SFP Regulation Section 1859.77.2 in place as of the date of a local bond election provided that

clear language was included in the local bond that specifically identified the proposed project, and provided that the project meets all laws and regulations of the SFP.

If a School district wishes to amend its Approved Application to include or increase its use of grants request after the submittal to the OPSC, the School district must request in writing that the Approved Application be withdrawn and removed from the OPSC workload list. The resubmitted aApplication will receive a new processing date by the OPSC.

The New Construction Grant amount provided shall be determined based on the grant amount provided in Education Code Section 17072.10 for the grade level that generated the eligibility and any New Construction Additional Grant or New Construction Excessive Cost Hardship Grant the School district qualifies for as provided by these regulations.

Note: Authority cited: Section 17072.13, Education Code.

Reference: Sections 17072.13 and 17072.35, Education Code.

### Amend Regulation Section 1859.77.3

Regulation Section 1859.77.3. Use of New Construction Grant Funds for Projects Accepted by the DSA after January 22, 2003.

New Construction Grant funds and any other funds provided by these Regulations shall be expended as set forth in Education Code Section 17072.35; and may also be utilized for the cost incurred by the School district for the development and implementation of remedial action plan approved by the DTSC pursuant to Education Code Section 17213.

Authorization for use of New Construction Grants for which the final plans and specifications for the project were accepted by the DSA after January 22, 2003 may be requested as follows:

- (a) A School district may request aNew eConstruction gGrants that exceed the capacity of the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations if the project is to construct a multipurpose, gymnasium, Multipurpose/Gymnasium Hybrid, and/or library, or for an Alternative Education school to construct a multipurpose/gymnasium, library, counseling offices, and/or conference rooms, at an existing site that does not have an existing or adequate facility of the type being requested when all of the following is met:
  - (1) The School district must adopt a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the School district's governing board on a date preceding the aApplication filing that includes the following:
    - (A) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.
    - (B) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.
    - (C) A plan outlined in the resolution that identifies how the School district has housed or will house the pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan must certify one of the following methods:
      - 1. The School district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB, and the School district must identify the source of the funds; or

2. The School eDistrict will utilize higher district loading standards providing the loading standards are within the approved School eDistrict's teacher contract and do not exceed 33:1 per eClassroom.
- (2) The existing school site was not constructed under the SFP.
- (3) The proposed project includes no more than eight eClassrooms.
- (4) Grants requests, above 100 percent of the number of pupils to be housed, based on Special Day Class pupil eligibility are only permitted under this subsection (a) when building a Special Day Class facility.
- (5) For purposes of this Section, a Multipurpose/Gymnasium Hybrid is considered to be both a multipurpose and a gymnasium. A school site with a middle school and/or high school pupils is eligible for one multipurpose and one gymnasium; therefore, if a school site has an adequate multipurpose and an adequate gymnasium, it is not eligible for a Multipurpose/Gymnasium Hybrid under this Section.
- (6) For purposes of this section to determine if an existing facility is inadequate, the existing eSquare fFootage is less than 60 percent of the eSquare fFootage necessary for the current CBEDS for the site plus the Net School Building Capacity of the proposed project as calculated pursuant to Section 1859.82.1(b)(4)(B)2., except for Alternative Education Schools. For Alternative Education Schools, refer to the following:

ALTERNATIVE EDUCATION			
Support Facility	Existing Site Plus Proposed Project Contain 1 or 2 Classrooms	Existing Site Plus Proposed Project Contain 3 to 10 Classrooms *	Existing Site Plus Proposed Project Contain 11 or More Classrooms*
Multipurpose Facility or Gymnasium (includes food service)	2,500 sq. ft.	6.3 sq. ft. per pupil minimum 4,000 sq. ft.	6.3 sq. ft. per pupil minimum 7,200 sq. ft., maximum of 18, 000 sq. ft.
Counseling Offices, and/or Conference Rooms	1,000 sq. ft. Combined Total	1,000 sq. ft.	1,000 sq. ft.
Library/Media Space		4.3 sq. ft. per pupil plus 600 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft.

\*The proposed project cannot include more than eight eClassrooms.

- (7) The maximum excess pupil amount being requested for this type of use of grants request, is calculated by the following:
  - (A) Multiply the current CBEDS for the site plus the Net School Building Capacity for the proposed project by the eSquare fFootage for the type of facility being requested, as follows:
    1. For Alternative Education Schools, refer to the chart above.
    2. For a multipurpose room, gymnasium, and/or library, refer to the chart in Section 1859.82.1(b)(4)(B)2.
    3. For a Multipurpose/Gym Hybrid:
      - a. For school sites with middle school pupils, use 15.2 square feet per pupil, with a minimum of 8,056 square feet and a maximum of 18,848 square feet.
      - b. For school sites with high school pupils, use 18.6 square feet per pupil, with a minimum of

10,193 square feet and a maximum of 21,874 square feet.

- (B) Multiply the product in (a)(7)(A) above by the per square foot grant amount of \$154. This per square foot grant amount will be adjusted in the manner prescribed in Section 1859.71.
- (C) Divide the product in (a)(7)(B) above by the New Construction Grant amount for the project grade level, rounded up to the nearest whole number.
- (b) A School district may request a New Construction Grant eligibility determined at a different grade level than the proposed project that does not exceed the capacity of the project, unless the project includes a request as indicated in Section 1859.77.3(a), based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations when all of the following is met:
  - (1) The School district must adopt a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the School district's governing board on a date preceding the Application filing that include the following:
    - (A) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.
    - (B) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.
    - (C) A plan outlined in the resolution that identifies how the School district has housed or will house the pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan must certify one of the following methods:
      - 1. The School district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB, and the School district must identify the source of the funds; or
      - 2. The School district will utilize higher district loading standards providing the loading standards are within the approved School district's teacher contract and do not exceed 33:1 per Classroom; or
      - 3. The pupils requested from a different grade level will be housed in Classrooms at an existing school in the School district which will have its grade level changed, to the grade level requested, at the completion of the proposed SFP project.
  - (2) Only New Construction Grant eligibility for grades Transitional Kindergarten Kindergarten through 12 can be requested pursuant to this subsection (b), and the School district must use its New Construction Grant eligibility, pursuant to subsection (b), in the following order:
    - (A) At the grade level of the proposed project, if available.
    - (B) At the lowest grade level other than the proposed project, if available.
    - (C) At the next highest grade level other than the proposed project.
  - (c) A School district may request a New Construction Eligibility based on the SFP Regulation Section 1859.77.2 or 1859.77.3, as appropriate, in place as of the date of a local bond election provided that clear language was included in the local bond that specifically identified the proposed project, and provided that the project meets all laws and regulations of the SFP.

If a School district wishes to amend its Approved Application to include or increase its use of grants request after the submittal to the OPSC, the School district must request in writing that the Approved Application be withdrawn and removed from the OPSC workload list. The resubmitted Application will receive a new processing date by the OPSC.

The New Construction Grant amount provided shall be determined based on the grant amount

provided in Education Code Section 17072.10 for the grade level that generated the eligibility and any New Construction Additional Grant or New Construction Excessive Cost Hardship Grant the School and District qualifies for as provided by these regulations.

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

Reference: Sections 17072.13 and 17072.35, Education Code.

#### Amend Regulation Section 1859.78.7.1

#### Regulation Section 1859.78.7.1. Modernization Additional Grant for 75 Years or Older Buildings.

In lieu of the funding provided by subdivision (a) of Education Code Section 17074.10 and Section 1859.78.3, the Board shall provide funding to Approved Applications received on or after October 31, 2024 for projects that include the demolition and replacement of 75 years or older permanent or portable school building(s) if a contract for the work was awarded on or after July 3, 2024.

A School District may replace the 75 Years or Older Building in the same location or an alternate location on the same site. Site development funding for the minimum work required to replace the qualifying building may be provided pursuant to subdivision (e).

- (a) To receive 75 Years or Older funding pursuant to Education Code Section 17074.265, all of the following must be met:
  - (1) The existing permanent or portable building must be at least 75 years or older. For purposes of determining the age of the building, the 75 years or older period shall begin 12 months after the original plans for the construction of the building were approved by the Department or DSA as applicable.
  - (2) Each building on the site that is 75 years or older must qualify on an individual basis.
  - (3) If the school building was demolished prior to OPSC's receipt of an Approved Application, the school building must have been 75 years old prior to the demolition.
  - (4) The existing permanent or portable building must be replaced on the same site.
  - (5) The School District must complete and submit to OPSC a *75 Years or Older Building Cost/Benefit Analysis* (Form SAB 57-75) that demonstrates the total cost to modernize a 75 years or older school building and comply with current Title 24 Building Code is at least 50 percent of the Current Replacement Cost for the applicable building type; permanent or portable. The cost/benefit analysis for each building proposed for replacement under this section must meet the following criteria:
    - (A) The Form SAB 57-75 must demonstrate the minimum work required to modernize and continue to occupy the 75 years or older school building is at least 50 percent of the Current Replacement Cost of the existing Square Footage of the school building.
    - (B) The work in the Form SAB 57-75 may only include work directly related to the ~~modernization~~ modernization of the qualifying 75-year old school building, which may include improvements to extend the useful life of, or to enhance the physical environment of the qualifying 75-year old building. The Form SAB 57-75 may only include:
      - 1. The cost of design, engineering, testing, inspection, plan checking, construction management, demolition, construction, necessary utility costs, utility connection and other fees, the purchase and installation of air-conditioning equipment and insulation materials and related costs, costs to limit pupil exposure to harmful air pollutants by updating air filtration systems, telecommunication equipment to increase school security, fire safety improvements, and the upgrading of electrical systems or wiring or cabling of Classrooms in

- order to accommodate educational technology.
2. The cost of designs and materials that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high-performance schools.
- (C) The Form SAB 57-75 may not include costs associated with the acquisition of real property.
  - (D) The Form SAB 57-75 must be completed using the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed, the amounts entered on the Form SAB 57-75 must use the unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the School District must provide supporting documentation to demonstrate that the costs for the unique work are reasonable and appropriate.
  - (E) All requested line items shall include Construction Specifications Institute reference number (CSI #), description, F2 total unit cost amount, and quantity. Any line items that include amounts in lump-sum formats will not be reviewed or approved. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the School District must provide supporting documentation to demonstrate that the costs for the unique work are reasonable and appropriate.
- (b) For each qualifying Classroom replaced, funding shall be provided on a per pupil grant basis for the number of pupils to be housed as follows: 25 for each ~~TKK~~-6 Classroom, 27 for each 7-12 Classroom, 13 for each Special Day Class Non-Severe Classroom, and 9 for each Special Day Class Severe Classroom. Beginning September 8, 2025, the Board shall provide the following grant amounts:
    - (1) \$19,016 for each elementary pupil.
    - (2) \$20,113 for each middle school pupil.
    - (3) \$25,592 for each high school pupil.
    - (4) \$53,437 for each Special Day Class Severe pupil.
    - (5) \$35,738 for each Special Day Class Non-Severe pupil.The amounts in (1), (2), (3), (4) and (5) above shall be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January, pursuant to Education Code Section 17072.10.
  - (c) For qualifying non-classroom space, funding provided shall be based on the eligible Square Footage. The eligible Square Footage shall be the lesser of the following:
    - (1) Non-classroom Square Footage that was on the site at the time ~~an~~Modernization eligibility was established pursuant to Section 1859.60
    - (2) Non-classroom Square Footage constructed to replace the qualifying Square Footage, justified by enrollment pursuant to the chart in Section 1859.82.1(b)(4)(B)2. Excess Square Footage required as part of California Code of Regulations, Title 5 requirements needed to obtain plan approvals are permissible per Regulation Section 1859.79.2 and considered an eligible expenditure, not to exceed Square Footage allowances provided in the chart in Regulation Section 1859.82.1(b)(4)(B)(2.). Any excess Square Footage not due to California Code of Regulations, Title 5 requirements will not be eligible and must be locally funded by the School District.
  - (d) The funding for the replacement Square Footage is calculated as follows:
    - (1) Multiply the Square Footage determined in (c) by \$312. This amount shall be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January, pursuant to Education Code Section 17072.10.
    - (2) Divide the product by the per pupil allowance in (b) to determine the total allowable pupil

grants for the Square Footage being constructed. For school sites serving multiple grade levels, select the amount for the highest grade level served by the building.

- (e) An additional grant for site development may be provided for the minimum work required to replace the qualifying building. Any site development provided will be reduced, on a prorated basis, by the percentage of excess building Square Footage constructed. The Board shall provide 60 percent of the following approved site development and applicable design costs:
  - (1) Service site development cost, within school property lines, attributable only to the replacement of the qualifying building(s) for:
    - (A) Site clearance including the removal of trees, brush, and debris within footprint of the replacement building(s).
    - (B) Demolition and removal of the qualifying building(s) and existing buildings and site improvements which lie in the footprint of a proposed replacement building(s).
    - (C) Removal and rerouting of existing utility service which lie in the footprint of a proposed replacement building(s).
    - (D) Rough grading including cut and fill and leveling and terracing operations required in the design.
    - (E) Soil compaction adhering to common engineering practices and engineered fill that is required by a soils report that is available for review by OPSC.
    - (F) On-site drainage facilities including inlets below grade drainage facilities and retention basins.
    - (G) Erosion control improvements such as plant material, temporary sprinkler systems, jute mesh and straw, due to embankments having a slope of at least two to one and a vertical height greater than six feet.
    - (H) Outside stairways, handicap ramps and retaining walls due to embankments having a slope of at least two to one and a vertical height greater than six feet.
    - (I) Fire code requirements on site that are not a part of the replacement building.
  - (2) Utility service costs that are necessary to serve the replacement building:
    - (A) Water: Replacement or repair of main water service line(s) between the utility company connection and to five feet of the qualifying building(s) on the site, connection fees if applicable, meter (if not provided by the serving utility), and replacement or repair of a domestic water appurtenances (i.e., well, pump, tank) as needed for the proper operation of the system.
    - (B) Sewage: Replacement or repair of main sewer line between the utility company connection and to five feet of the qualifying building(s) on the site and connection fees, if applicable. Replacement or repair of sewage appurtenances (i.e., treatment/disposal system) as needed for the proper operation of the system and a main disposal line from the treatment system to five feet of the qualifying building(s) on the site.
    - (C) Gas: Replacement or repair of main gas service line between the utility company connection and to five feet of the qualifying building(s) on the site, connection fee (if applicable), meter (if not provided by serving utility) or replacement or repair of gas service appurtenances (i.e., liquefied petroleum system and tank) as needed for proper operation of the system and a new main supply line from the tank to five feet of the qualifying building(s) on the site.
    - (D) Electric: Replacement or repair of electrical service between the utility company connection and the qualifying building's main switchboard. Primary electric service runs between the utility company's point of connection and the transformer. Secondary electric service runs between the transformer and the main switchboard. Connection fee, transformer pads and protective devices (i.e., bollards) as required by the utility company.
    - (E) Communication systems: Replacement or repair of service between the utility company connection and the nearest distribution center.

- (3) The School District must submit a detailed cost estimate for eligible site development work in (A) and (B) and any justification documents that will support the work with the Form SAB 50-04 using the most current edition of the Current Construction Cost publication by Sierra West Publishing. The Board will approve reasonable and appropriate site development work which meets common engineering practices and industry standards that are consistent with the specific site conditions if the site development costs are consistent with the most current edition of the Current Construction Cost publication by the Sierra West Group. The design professional must certify to the School District that the site development work does not exceed the minimum requirements to develop the site to meet educational needs and/or standards.
- (f) Portable buildings replaced pursuant to this section shall be replaced with permanent Square Footage.
- (g) The qualifying 75 Years or Older Building(s) must be demolished before the Notice of Completion of the project.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.265, Education Code.

### Amend Regulation Section 1859.81

#### Regulation Section 1859.81. Financial Hardship.

Except for Joint-Use Projects and Career Technical Education Facilities Projects, a School ~~d~~District is eligible for Financial Hardship to fund all or a portion of its matching share requirement after demonstrating the requirements of (a), (c), and (d) below:

- (a) The School ~~d~~District is financially unable to provide all necessary matching funds for an eligible project. To determine this, an analysis shall be made of the School ~~d~~District's financial records by the OPSC including data and records maintained by the CDE and the County Office of Education. The analysis shall consist of a review of the School ~~d~~District's latest Independent Audit regarding funds available from all capital facility accounts, including, but not limited to, developer fees, funds generated from capital facility certificates of participation, federal grants, redevelopment funds, sale proceeds from surplus property, the appraised value of facilities approved for replacement pursuant to Section 1859.82, bond funds either encumbered, unencumbered or authorized but unsold, and savings from other SFP projects. All funds thus identified that have not been expended or encumbered by a contractual agreement for a specific capital outlay purpose prior to the initial request for Financial Hardship status shall be deemed available as a matching contribution.

After the initial request for Financial Hardship status is granted, no further encumbrances will be approved by the OPSC and all prospective revenue made available to the School ~~d~~District's capital facility accounts shall be deemed available as matching contribution on the subsequent Financial Hardship review, with the exception of:

- (1) Approved interim housing expenditures.
- (2) Funding to pay for previously recognized multi-year encumbrances approved at the initial Financial Hardship approval.
- (3) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the Federal Renovation Program when the amount expended out of that fund does not exceed the maximum Federal Renovation Grant amount.
- (4) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the School Facilities Needs Assessment Grant Program or Emergency Repair Program when the amount expended out of that fund does not exceed the maximum grant

amount apportioned.

- (5) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the Career Technical Education Facilities Program when the amount expended out of that fund does not exceed the applicant's share of the maximum grant amount apportioned.
- (6) Funding that is transferred into a Special Reserve Fund and used for the express purpose of the Overcrowding Relief Grant when the amount expended out of that fund does not exceed the amount of the site acquisition and design costs of the project and the School  District has submitted an approved Form SAB 50-11.
- (7) Funding that is used for the express purpose of reimbursing the State a proportionate share of Financial Hardship received when there has been a transfer of a special education program and title to the facility. In addition, the funding was used within five years of the title transfer.
- (8) Funding to pay for obtaining a structural report pursuant to Section 1859.82.2 for an approvable and funded seismic mitigation project.
- (9) All other capital facility funding for a period of three years when no subsequent Financial Hardship request is made during this period, with the exception of the funding identified in (6). The three-year period begins with the date of the most recent Financial Hardship  New  Construction or  Modernization  Adjusted  Grant funding  Apportionment.

When Overcrowding Relief Grant funding is set aside pursuant to (6) and the School District has not submitted, or the OPSC has not accepted, a Form SAB 50-04 for an Overcrowding Relief Grant within three years from the date of deposit into the Special Reserve Fund, or the School District has not met the requirements in Sections 1859.90 or 1859.105, remaining funds plus interest accrued at the Pooled Money Investment Board rate at that time period shall be deemed available as matching contribution on a subsequent Financial Hardship project or be captured through an audit adjustment pursuant to Section 1859.106.

The Financial Hardship analysis is subject to approval by the Board.

- (b) From the funds deemed available as a matching contribution, the School  District may retain \$19,776 per  Classroom in each enrollment reporting period for the cost to provide interim housing for the currently unhoused pupils of the School  District. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of  Classrooms needed for interim housing for the currently unhoused pupils shall be the sum of the positive numbers determined in (b)(7) as follows:
  - (1) Determine the current enrollment of the School  District by grade level as shown on the latest Form SAB 50-01.
  - (2) Determine the New Construction Grants apportioned by grade level for all SFP projects and LPP funded under the provisions of Sections 1859.12 or 1859.13 where the School  District has submitted Form SAB 50-06 indicating that the project is 100 percent complete.
  - (3) Subtract (b)(2) from (b)(1).
  - (4) Determine the number of  Classrooms by grade level reported in Part 1, Line 8 on Form SAB 50-02.
  - (5) Multiply the  Classrooms determined in (b)(4) by 25 for  TKK-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe.
  - (6) Subtract the product determined in (b)(5) from the difference determined in (b)(3) by grade level.
  - (7) Divide the difference by grade level determined in (b)(6) by 25 for  TKK-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

From the funds deemed available as a matching contribution, the School  District may also

retain \$19,776 per portable toilet unit in each reporting period for the cost to provide necessary interim toilet facilities for the currently unhoused pupils of the School and District. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of toilet facilities needed for interim housing shall be the sum of the positive numbers determined in (b)(7) divided by eight rounded up to the nearest whole number.

From the funds deemed available as a matching contribution, the School and District may also retain \$19,776 per eClassroom in each reporting period for the cost to provide necessary interim housing for the currently unhoused pupils displaced as a result of a Board approved seismic mitigation project pursuant to Section 1859.82.2. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of eClassrooms needed for interim housing shall be the quotient of the displaced pupils by 25 for TKK-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

If the School and District's available funds, as determined by the OPSC analysis less costs for interim housing, is less than its matching share, the School and District will be deemed to have met the requirements of this Subsection.

- (c) The School and District has made all reasonable efforts to fund its matching share of the project by demonstrating it is levying the developer fee justified under law or an alternative revenue source equal to or greater than the developer fee otherwise justified under law at the time of request for hardship and the School and District meets at least one of the following:
  - (1) The current outstanding bonded indebtedness of the School and District issued for the purpose of constructing school facilities in accordance with Education Code Section 17072.35 or 17074.25 as appropriate, at the time of request for Financial Hardship status, is at least 60 percent of the School and District's total bonding capacity. Outstanding bonded indebtedness includes that part of general obligation bonds, Mello-Roos Bonds, School Facility Improvement District Bonds and certificates of participation which the School and District is paying a debt service that was issued for capital outlay school facility purposes.
  - (2) The School and District had a successful registered voter bond election for at least the maximum amount allowed under Proposition 39 within the previous two years from the date of request for Financial Hardship status. The proceeds from the bond election that represent the maximum amount allowed under the provisions of Proposition 39 must be used to fund the School and District's matching share requirement for SFP project(s).
  - (3) It is a County Superintendent of Schools.
  - (4)(A) For applications received on or before October 30, 2024, the School and District's total bonding capacity at the time of the request for Financial Hardship status is \$5 million or less.
  - (B) For applications received on or after October 31, 2024, the School and District's total bonding capacity at the time of the request for Financial Hardship status is \$15 million or less. Beginning July 1, 2026, the total bonding capacity amount shall be adjusted each fiscal year thereafter by the inflation adjustment computed pursuant to paragraph (2) of subdivision (d) of Education Code Section 42238.02.
  - (5) Other evidence of reasonable effort as approved by the Board.

If the School and District's request for Financial Hardship status is denied by the Board, the School and District may be deemed eligible for rental payments of \$2,000 per year per eClassroom under the Emergency School Classroom Law of 1979 for a two year period when relocatable classroom buildings are available and the School and District provides financial documentation that it is unable to afford the full rental amount and any other information satisfactory to the Board that the rental reduction is necessary. The number of

eClassrooms eligible for the \$2,000 rental payments shall be the sum of the numbers determined in (c)(5)(B) as follows:

- (A) Determine the number of pupils by grade level that the School and District requested a New Construction Grant on the Form SAB 50-04 that were denied Financial Hardship status.
- (B) Divide the number by grade level determined in (c)(5)(A) by 25 for ~~TKK~~-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.
- (d) The School and District has not signed a contract for acquisition or construction of eClassrooms that replace existing facility(ies), which were included in the determination of the School and District's aNew eConstruction eEligibility pursuant to Education Code Section 17071.75, in a locally funded project during the five-year period immediately preceding the School and District's aApplication for Financial Hardship assistance. This restriction may be lifted if the Board finds that unforeseen and extenuating circumstances existed that required the School and District to use local funds to replace the facility(ies).
- (e) If the School and District meets the Financial Hardship requirements in this Section, the amount of Financial Hardship is equal to the School and District's matching share less funds deemed available in (a).
- (1) Once a School and District has been notified by OPSC that it meets the requirements of Financial Hardship in this Section, the School and District may file Form SAB 50-04 under the provisions of Financial Hardship anytime within a period of 180 calendar days from the date of the OPSC notification.
- (2) If the School and District does not submit Form SAB 50-04 under the provisions of Financial Hardship within 180 calendar days of the OPSC notification of approval of Financial Hardship status, the School and District must re-qualify for Financial Hardship status under the provisions of this Section by submittal of a new request for Financial Hardship status.
- (3) If the project(s) has been included on an unfunded list for more than 180 calendar days, a review of the School and District's funds pursuant to (a) will be made to determine if additional district funds are available to fund the School and District's matching share of the project(s).

Financial Hardship approval status by the OPSC for a separate design and/or site aApportionment does not apply to any subsequent funding for the project(s).

- (f) If the School and District submits Form SAB 50-04 within 180 calendar days of the OPSC notification of approval of Financial Hardship and the project(s) has been included on the "Unfunded List (Lack of AB 55 Loans)" for more than 180 calendar days as a result of the State of California's inability to provide interim financing from the Pooled Money Investment Account (AB 55 loans), the Board may suspend the unfunded review requirement as defined in Regulation Section 1859.81(e). Projects added to any other unfunded list shall be subject to the review detailed in Regulation Section 1859.81(e). Regulation Section 1859.81(f) shall become inoperative July 1, 2011.
- (g) A project added to an unfunded list on or after July 1, 2011 will be subject to the review detailed in section (e)(3). For projects added to an unfunded list between February 25, 2009 and June 30, 2011, only the School and District's financial records on or after July 1, 2011 will be considered in calculating any adjustment to the School and District's matching share.
- (h) On or after September 22, 2017, a School and District may submit a request for funding in advance of obtaining a determination of Financial Hardship.
- (1) To be considered for Financial Hardship, the School and District must check the box on the Form SAB 50-04 requesting Financial Hardship pursuant to this subsection when submitting a request for funding.
- (2) Prior to processing an aApplication OPSC will notify the School and District in writing to submit the necessary documentation for a Financial Hardship analysis pursuant to (a), (b), (c) and

- (d). OPSC will not accept any documents for a Financial Hardship analysis in advance of the notification. Failure to submit the requested documentation within 60 calendar days of OPSC's notification will result in either a. or b.:
- a. School District may amend their Form SAB 50-04 to exclude the request for Financial Hardship determination.
  - b. OPSC will return the request for funding and related materials to the School edDistrict.
- (3) Upon notification of Financial Hardship approval, any Form SAB 50-04 processed within 180 calendar days of the approval date will be included in the approval.
- (4) For any Form SAB 50-04 processed more than 180 calendar days after the date of the Financial Hardship approval the School edDistrict shall re-qualify for Financial Hardship status.
- (i) Any project expenditures made prior to a School edDistrict requesting Financial Hardship status is considered contribution due to expenditure and will reduce the Financial Hardship aApportionment amount received on the project, with the exception of: A School edDistrict may begin making expenditures on a project while seeking Financial Hardship consideration only if the School edDistrict uses bridge financing and/or interfund borrowing that meets the following criteria:
- (1) The School edDistrict must contact the OPSC in writing with their request to seek bridge financing prior to making any project expenditures.
  - (2) The request must specifically list the SFP project(s), and SFP aApplication number(s) (if known) that will be funded with the bridge financing.
  - (3) The School edDistrict's bridge financing instrument must either be a certificate of participation, lease-purchase agreement, or other lease financing arrangement entered into with a party other than the applicant School edDistrict for the purpose of financing eligible SFP project costs authorized in the Education Code.
  - (4) Interfund borrowing that conforms to Education Code Section 42603 requirements may also be utilized to allow a School edDistrict to move forward with their SFP Financial Hardship project(s). The School edDistrict must provide detailed General Ledger (GL) transactions that clearly indicate the following:
    - a. The transfer out of the fund the School edDistrict is borrowing from and,
    - b. The transfer into the fund the monies were deposited in.
  - (5) The total amount of net bridge financing and interfund borrowing shall not exceed the sum of the Modernization Adjusted Grant or New Construction Adjusted Grant, including Financial Hardship funding.
  - (6) The School edDistrict must have a school board resolution which details the bridge financing instrument or interfund transfer that will be used to make any project expenditures that will occur prior to receiving state funding. The school board resolution must include the following:
    - a. Name the specific project(s) that will be moved forward.
    - b. List the specific debt instrument or interfund borrowing that will be used to move the project(s) forward.
    - c. List the maximum amount of funding that will be borrowed or transferred.
    - d. Statement that once any state funding is released for the SFP project(s), the School edDistrict must utilize the grant funding to retire the bridge financing debt and/or repay the interfund transfer within 60 calendar days of receiving the state funding.
    - e. If using debt financing, acknowledgement that the School edDistrict is entering into the debt financing at their own risk and that there is no guarantee of future state funding.
    - f. Acknowledgement that any expenditures made prior to the school board resolution will be considered as the School edDistrict's required matching contribution due to expenditures.

- (7) Once any state funding is released for the SFP project(s), the School dDistrict must utilize the grant funding to retire the bridge financing debt and/or repay the interfund transfer within 60 calendar days of receiving the state funding.
- (8) Within 30 days of retiring the debt service, the School dDistrict must submit to OPSC documentation demonstrating that the debt has been retired. This documentation shall include the following:
  - a. A detailed general ledger which documents the transaction; and
  - b. School board resolution or school board minutes authorizing the debt retirement.
- (9) After state funds are released, the state will treat the debt as retired, and the bridge financing related debt will not be included in the School dDistrict's bonded indebtedness calculation for the purpose of a future Financial Hardship review.
- (10) Any bridge financing debt not retired after state funding is received will be considered as available contribution for the project and result in a reduction of the Financial Hardship funding on the project.

Note: Authority cited: Sections 17070.35, 17075.15, 17078.72 and 17592.73, Education Code.

Reference: Sections 17071.75, 17075.10, 17075.15, and 17079.20, Education Code.

#### Amend Regulation Section 1859.82.1

#### Regulation Section 1859.82.1. Facility Hardship Program.

"School Building" for the purposes of this Section shall have the same definition as Education Code Section 17283 and shall also exclude any districtwide administrative facilities.

A School dDistrict is eligible for Facility Hardship funding to repair, replace, or construct School Buildings or related required components that are currently causing a health and safety threat to the students and/or staff. Projects solely to replace components that have reached the end of their useful life, perform routine maintenance or repair, issues resulting from the deferment of routine maintenance or repair, lack of current code compliance, or the addition of components that were not previously existing, do not meet the qualifying criteria of the program. However, this work may be incorporated into a qualifying Facility Hardship aApplication if it is required to be completed to gain DSA approval.

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

- (a) School Districts may qualify for funding to replace or construct new School Buildings. Factors to be considered by the Board to determine eligibility for Facility Hardship program replacement funding may include, but are not limited to:
  - (1) Damage or loss as a result of a natural disaster such as a fire, flood, or earthquake.

- (2) Proximity to a major freeway, airport, electrical facility, high power transmission lines, dam, pipeline, or industrial facility.
- (3) Adverse air quality.
- (4) Structural deficiency to the School Building, and
- (5) Site conditions such as faulting, toxic soil, or liquefaction.
- (b) To qualify for replacement funding for School Buildings, the School and District must submit an Approved Application for funding and either (1) or (2) below:
  - (1) For School Buildings that are lost, destroyed, or unable to be repaired, the School and District must submit:
    - (A) A report from an industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) that states that the only way to mitigate the health and safety threat is to replace the School Building(s).
    - (B) Documentation which demonstrates that the facilities in the project must be reconstructed in order to house the current enrollment of the School and District.
  - (2) For permanent School Buildings where the cost to rehabilitate the School Building(s) exceeds 50 percent of the Current Replacement Cost, or for Portable Classrooms where the cost to rehabilitate exceeds the Portable Classroom Replacement Grant or Portable Toilet Replacement Grant, the School and District must submit:
    - (A) A report by an industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) that outlines the minimum work to mitigate the health and safety threat and remain in the existing School Building. If the threat is due to the presence of mold, OPSC must conduct a site visit to discuss the scope of the project prior to remediation. If the remediation is done prior to a site visit, the aApplication will be ineligible for funding. Requests for asbestos mitigation must include lab test results indicating the asbestos is currently friable, and provides the location, material, and testing methods used.
    - (B) A letter of concurrence from a governmental agency that has jurisdiction or expertise over the field in which the health and safety threat originates. The letter must concur with the industry specialist report on both 1. and 2. below:
      - 1. An imminent health and safety threat to student and/or staff exists.
      - 2. The mitigation measures outlined in the industry specialist's report are the minimum measures required to mitigate the threat and allow the continued use of the School Building(s).
- (C) Applications must include a detailed Form SAB 58-01 that meets the following requirements:
  - 1. The Form SAB 58-01 must use the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed in the most current edition of the Current Construction Remodeling and Repair Cost publication, amounts entered on the Form SAB 58-01 must use the provided unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the School and District must provide supporting documentation for OPSC to review the requested unit cost.
  - 2. All requested line items shall include Construction Specifications Institute reference number (CSI #), description, F3 total unit cost amount, and quantity. Any line items that include amounts in lump-sum formats will not be reviewed or approved.
  - 3. The work in the Form SAB 58-01 shall match the work outlined in the report provided by the industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) for the minimum work required to mitigate the health and safety threat.
  - 4. The estimate submitted to OPSC shall be for the same scope of work reviewed and concurred to by DSA, and that is referenced in the governmental concurrence letter for the

- project.
5. The Form SAB 58-01 may also include any work required by DSA to obtain plan approval.
  - (D) A cost/benefit analysis that demonstrates the minimum work required to mitigate the health and safety threat and remain in the School Building exceeds 50 percent of the Current Replacement Cost of the existing Square Footage of the School Building. The minimum work required may include work required by DSA to gain approval for the mitigation project.
  - (E) All other documents required to complete an Approved Application for funding. This includes:
    1. A completed *Application for Funding* (Form SAB 50-04).
    2. The DSA Plan Approval letter for the project or documentation from DSA verifying that the project is exempt from their approval process.
    3. CDE Plan Approval letter for the project or documentation from CDE verifying that the project is exempt from their approval process.
    4. If the project is for a high school site, a letter or meeting minutes from the School €District's Career and Technical Education Advisory Committee (CTEAC) certifying that the School €District is in compliance with all career technical facility needs and assessments as outlined in Education Code, Section 17070.955.
  - (3) Applications for Facility Hardship replacement funding that do not submit all documents required as part of (1) or (2) above shall be returned without review.
  - (4) If the School €District qualifies for funding to replace its School Buildings, the School €District is eligible to receive funding for the project as follows:
    - (A) If the School €District is required to replace all School Buildings on site, the School €District is eligible to receive funding as follows:
      1. A New Construction Grant will be provided for the lesser of 2. or 3. below.
      2. The classroom capacity determined by multiplying the number of €Classrooms on the project site being replaced by:
        - a. 25 pupils for each TKK-6 €Classroom.
        - b. 27 pupils for each 7-12 €Classroom.
        - c. 13 pupils for each Non-Severely Disabled Individuals with Exceptional Needs €Classroom.
        - d. 9 pupils for each Severely Disabled Individuals with Exceptional Needs €Classroom.
      3. The higher of a., b., or c. below:
        - a. The CBEDS Report of the current enrollment reporting year at the existing project site.
        - b. The average CBEDS Report of the current enrollment reporting year and two immediately preceding enrollment reporting years at the existing project site.
        - c. If the site is closed, use the CBEDS Report of the last enrollment reporting year in which the site was open.
    4. Additional funding may be provided, as applicable, for:
      - a. Fire Code Requirements pursuant to Section 1859.71.2,
      - b. therapy room pursuant to Section 1859.72,
      - c. multilevel construction pursuant to Section 1859.73,
      - d. project assistance pursuant to Section 1859.73.1.
      - e. replacement with multistory construction pursuant to Section 1859.73.2,
      - f. site acquisition pursuant to Sections 1859.74, 1859.74.5, and 1859.75,
      - g. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3, and 1859.74.4,
      - h. Applicable site development costs pursuant to Section 1859.76, and
      - i. New Construction Excessive Cost Hardship Grant(s) for geographic location pursuant to Section 1859.83(a),
      - j. New Construction Excessive Cost Hardship Grant(s) for small size projects pursuant to Section 1859.83(b),
      - k. New Construction Excessive Cost Hardship Grant(s) for new school projects pursuant to

Section 1859.83(c), and

- i. New Construction Excessive Cost Hardship Grant(s) for urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (B) If the School eDistrict qualifies to replace some but not all School Buildings on the project site, funding will be based on the Square Footage of the School Buildings replaced and is capped by the lesser of the amount provided in accordance to the chart below and the Square Footage constructed for each category as justified by enrollment at the project site as follows:
  - 1. The enrollment at the project site, is determined by the higher of a. or b. below, or c.:
    - a. The CBEDS Report of the current enrollment reporting year at the existing project site.
    - b. The average CBEDS Report of the current enrollment reporting year and two immediately preceding enrollment reporting years at the existing project site.
  - c. If the site is closed, use the CBEDS Report of the last enrollment reporting year in which the site was open.
- 2. Using the enrollment determined in 1. any permanent replacement Square Footage provided will be calculated in accordance to a., b., c., below and the chart below.
  - a. If the actual square footage being constructed in the replacement project is less than the amount allowable in the chart for each facility type, the replacement Square Footage shall be limited to the actual square footage constructed.
  - b. Non-specialized eClassroom space provided is limited by the enrollment determined in 1. rounded up to the nearest whole eClassroom based on 1859.82.1(b)(4)(A)2., and then reduced for any eClassroom space available at the site to house the pupils at the site.
  - c. Classrooms with specialized design such as auto shop, metal shop, music rooms, consumer home economic laboratories, industrial technology laboratories, or science laboratories will qualify for funding if used for its specialized purpose in the current enrollment reporting year or immediately preceding enrollment reporting year. Additionally, these spaces will not count as available capacity for purposes of providing funding in this section when calculating space available to house displaced pupils.
  - d. Any space not in the chart below will be provided based on the Square Footage replaced. This may include, but is not limited to, janitor’s closets, hallways, and vestibules.

Facility	Elementary School Pupils	Middle School Pupils	High School Pupils
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum 4,000 sq. ft.	5.3 sq. ft. per pupil minimum 5,000 sq. ft.	6.3 sq. ft. per pupil minimum 8,200 sq. ft.
Multi-Purpose Only (excludes food service)	3.3 sq. ft. per pupil minimum 3,600 sq. ft.	3.3 sq. ft. per pupil minimum 4,600 sq. ft.	3.3 sq. ft. per pupil minimum 7,600 sq. ft.
School Kitchen	2 sq. ft. per pupil minimum 400 sq. ft. maximum 1,480 sq. ft.	2 sq. ft. per pupil minimum 400 sq. ft. maximum 1,880 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft. maximum 3,975 sq. ft.
Toilet	3 sq. ft. per pupil minimum 300 sq. ft.	4 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
Gymnasium (includes shower/locker area)	N/A	12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.	15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.

			ft.
School Administration	3 sq. ft. per pupil minimum 600 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft.	4 sq. ft. per pupil minimum 800 sq. ft.
Library/Media Center	2.3 sq. ft. per pupil plus 600 sq. ft., minimum 960 sq. ft.	3.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.
Kindergarten Classrooms (including Transitional Kindergarten)	1,350 sq. ft. for each replacement eClassroom.	NA	NA
Classrooms (1 <sup>st</sup> -12 <sup>th</sup> grade)	960 sq. ft. for each replacement eClassroom	960 sq. ft. for each replacement eClassroom	960 sq. ft. for each replacement eClassroom
Computer instructional support area, Industrial and Technology/Education Laboratory	960 sq. ft. for each replacement eClassroom.	960 sq. ft. for each replacement eClassroom.	960 sq. ft. for each replacement eClassroom.
Laboratory Classrooms (including science and consumer home economics. (Does not include Industrial and Technology/Education Laboratory)	1,300 sq. ft. for each replacement eClassroom.	1,300 sq. ft. for each replacement eClassroom.	1,300 sq. ft. for each replacement eClassroom.

- e. Beginning August 31, 2020, the resulting Square Footage amount(s) shall be multiplied by \$204 per square foot for all non-Toilet Facilities and by \$366 per square foot for Toilet Facilities (includes shower/locker area and physical therapy area for Individuals with Exceptional Needs). The amounts shown will be adjusted in the manner prescribed in Section 1859.71.
3. Additional funding may be provided, as applicable, for:
- a. therapy room pursuant to Section 1859.72,
  - b. multilevel construction pursuant to Section 1859.73,
  - c. project assistance pursuant to Section 1859.73.1.
  - d. replacement with multistory construction pursuant to Section 1859.73.2,
  - e. site acquisition pursuant to Section 1859.74,
  - f. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and 1859.74.4,
  - g. Applicable site development costs pursuant to Section 1859.76, and
  - h. New Construction Excessive Cost Hardship Grant(s) for geographic location pursuant to Section 1859.83(a),
  - i. New Construction Excessive Cost Hardship Grant(s) for small size Projects pursuant to Section 1859.83(b), and
  - j. New Construction Excessive Cost Hardship Grant(s) urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (C) Using the enrollment determined in (b)(4)(B)1., any Portable Classroom replacement funding provided will be calculated using the Portable Replacement Grant. Any portable toilet facilities provided will be calculated using the Portable Toilet Replacement Grant.
1. Additional funding may be provided, as applicable, for:
    - a. Fire Code Requirements pursuant to Section 1859.71.2,
    - b. therapy room pursuant to Section 1859.72,

- c. project assistance pursuant to Section 1859.73.1.
  - d. site acquisition pursuant to Section 1859.74,
  - e. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and 1859.74.4,
  - f. Applicable site development costs pursuant to Section 1859.76, and
  - g. Excessive Cost Hardship Grant(s) for geographic location pursuant to Section 1859.83(a),
  - h. New Construction Excessive Cost Hardship Grant(s) for small size projects pursuant to Section 1859.83(b), and
  - i. Excessive Cost Hardship Grant(s) urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (D) If the School and District qualifies for replacement funding, the funding may be used to rehabilitate the facility as long as the qualifying health and safety threat is fully mitigated. If replacement funding is used for rehabilitation work, the School and District may request the following supplemental grants, as applicable, for:
- 1. Fire code requirements pursuant to Section 1859.71.2 if the funding is based on a per-pupil basis pursuant to Section 1859.82.1(b)(4)(A),
  - 2. Therapy room pursuant to Section 1859.72,
  - 3. Project assistance pursuant to Section 1859.73.1,
  - 4. Excessive Cost Hardship Grant(s) for geographic location pursuant to Section 1859.83(a),
  - 5. New Construction Excessive Cost Hardship Grant(s) for small size projects pursuant to Section 1859.83(b), and
  - 6. Excessive Cost Hardship Grant for urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (c) School Districts may qualify for funding to rehabilitate their School Buildings, components of School Buildings, or school site conditions. Factors to be considered by the Board may include (1) or (2) below:
- (1) School Buildings where the minimum cost to mitigate the health and safety threat and remain in the School Building is 50 percent or less of the Current Replacement Cost.
  - (2) Components of the School Buildings or school sites conditions are causing a health and safety threat to students and/or staff. Health and safety threats that may qualify include, but are not limited to:
    - (A) School Building structural deficiency.
    - (B) Hazardous conditions such as methane, lead, or asbestos mitigation.
    - (C) Unsafe water supply.
    - (D) Site conditions such as faulting, toxic soil, landslide risk, or liquefaction.
  - (3) To qualify for Facility Hardship rehabilitation funding for School Buildings or components of School Buildings, the School and District must submit an Approved Application for funding and all documents outlined below. Applications that do not meet the requirements below shall be returned without review.
    - (A) A report by an industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) that outlines the minimum work to mitigate the health and safety threat and remain in the existing School Building. If the threat is due to the presence of mold, OPSC must conduct a site visit to view the damage prior to remediation. If the remediation is done prior to a site visit, the aApplication will be ineligible for funding. Requests for asbestos mitigation must include lab test results indicating the asbestos is currently friable, and provides the location, material, and testing methods used.
    - (B) A letter of concurrence from a governmental agency that has jurisdiction or expertise over the field in which the health and safety threat originates. The letter must concur with the industry specialist's report on both 1. and 2. below:
      - 1. An imminent health and safety threat to student and/or staff exists.

2. The mitigation measures outlined in the industry specialist's report are the minimum measures required to mitigate the threat and allow the continued use of the School Building(s) or component.
- (C) Applications must include a detailed Form SAB 58-01 that meets the following requirements:
1. The Form SAB 58-01 must use the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed in the most current edition of the Current Construction Remodeling and Repair Cost publication, amounts entered on the Form SAB 58-01 must use the provided unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the School and District must provide supporting documentation for OPSC to review the requested unit cost.
  2. All requested line items shall include Construction Specifications Institute reference number (CSI #), description, F3 total unit cost amount, and quantity. Any line items that include amounts in lump-sum formats will not be reviewed and will be disallowed.
  3. The work in the Form SAB 58-01 shall match the work outlined in the report provided by the industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) for the minimum work required to mitigate the health and safety threat.
  4. If the project requires DSA plan approval, the Form SAB 58-01 submitted to OPSC shall be for the same scope of work reviewed and concurred to by DSA, and that is referenced in the governmental concurrence letter for the project.
  5. The Form SAB 58-01 may also include any associated work required by DSA as a result of the mitigation of the health and safety threat.
- (D) Facility Hardship ~~a~~Applications for School Buildings must also include a cost/benefit analysis. The cost/benefit analysis shall be completed based on the type of the project as outlined below:
1. For permanent buildings, the School and District must demonstrate the minimum work required to mitigate the health and safety threat and remain in the School Building is less than 50 percent of the Current Replacement Cost of the School Building. The minimum work required may include work required by Division of the State Architect to gain approval for the mitigation project.
  2. For Portable School Buildings, the School and District must demonstrate the minimum work required to mitigate the health and safety threat and remain in the portable building is less than the Portable Classroom Replacement Grant. The minimum work required may also include any associated work required by DSA as a result of the mitigation of the health and safety threat.
  3. Applications that are for necessary components of a site or School Building, such as hazardous water supply, methane mitigation, faulting, liquefaction, landslide potential, friable asbestos, do not require a Cost Benefit Analysis to be submitted.
- (E) All other documents required to complete an Approved Application for funding. This includes:
1. A completed *Application for Funding* (Form SAB 50-04).
  2. The DSA Plan Approval letter for the project or documentation from DSA verifying that the project is exempt from their approval process.
  3. CDE Plan Approval letter for the project or documentation from CDE verifying that the project is exempt from their approval process.
  4. If the project is for a high school site, a letter or meeting minutes from the School and District's Career and Technical Education Advisory Committee (CTEAC) certifying that the School and District is in compliance with all career technical facility needs and assessments as outlined in Education Code Section 17070.955.
- (4) If the School and District qualifies for funding to rehabilitate or repair its School Buildings, the

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

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

- funds available for the project pursuant to Section 1859.81(a).
- (3) Advanced funding for site shall be provided pursuant to 1859.82.1(b)(4)(A)4. The School  District is eligible for advanced funding for site acquisition as calculated pursuant to 1859.81.1.
  - (4) The amount apportioned for advanced design is an estimate of the funds needed for design, engineering, and other pre-construction project costs. Qualifying School  Districts may request a separate Apportionment for the design and for site acquisition for the same facility hardship project.
  - (5) The School  District is required to submit an Approved Application for funding and an updated Form SAB 58-01 for projects funded in accordance to 1859.82.1(c) or site development worksheet for projects funded in accordance to 1859.82.1(b), that reflects the final approved drawings for the project within:
    - (A) 18 months from the date of Apportionment if the project scope will be for repair or replacement on the same site.
    - (B) 24 months from the date of Apportionment if the project scope is for the replacement of School Building(s) which will be located on a replacement site.
  - (6) If the School  District does not submit the Approved Application for funding within the timelines required by Section (2) above, the aApplication will be reduced to eligible costs incurred.
  - (7) Upon receipt of the Approved Application, the aApplication will be reviewed for conformance with all program laws and regulations.
  - (8) Any funding provided in Section 1859.82.1 shall be offset by any funding previously provided for the project.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10, 17075.15, 100420, 100620, 100820, 101012 and 101122, Education Code.

## Amend Regulation Section 1859.82.2

### Regulation Section 1859.82.2. Seismic Mitigation Program.

“School Building” for the purposes of this Section shall have the same definition as Education Code Section 17283 and shall also exclude any districtwide administrative facilities.

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

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

- (a) Seismic mitigation projects must meet all of the following requirements:
  - (1) The construction contract was executed on or after May 20, 2006;
  - (2) The project funding provided shall be for the minimum work necessary to obtain DSA approval;
  - (3) The School Building is designed for occupancy by students and staff; and

(4) The DSA concurs with a report by a structural engineer, which identifies structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event. The structural engineers report shall conform to the guidelines prepared by the DSA, in accordance with Education Code Section 17310.

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

(b) To qualify for replacement funding for School Buildings, the School and District must submit an Approved Application for funding based on their specific circumstances in accordance to either (1) or (2) below:

(1) For School Buildings that are lost, destroyed, or unable to be repaired the School and District must submit:

(A) A report from a licensed design professional (a design professional licensed by the appropriate State of California oversight authority) identifying the School Buildings that are the Most Vulnerable Category 2 building(s) and;

(B) DSA letter(s) of concurrence to the findings in the report required in (b)(1)(A);

(C) If the collapse potential is due to faulting, liquefaction, or landslide, or if it is otherwise required by DSA for project approval, the School and District must submit 1. and 2. below:

1. A geological hazards report prepared by an engineering geologist indicating the potential for building displacement and recommended site improvements to mitigate the hazard

2. Concurrence to the report from the California Geological Survey.

(D) Documentation which demonstrates that the facilities in the project must be reconstructed in order to house the current enrollment of the School District.

(2) For School Buildings with interior square footage to be mitigated, the School and District must submit:

(A) A report from a licensed design professional (a design professional licensed by the appropriate State of California oversight authority) identifying the structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event and the minimum mitigation work necessary to obtain DSA approval.

(B) DSA letter(s) of concurrence to the report

(C) If the collapse potential is due to faulting, liquefaction, or landslide, or if it is otherwise required by DSA for project approval the School and District must submit 1. and 2. below:

1. A geological hazards report prepared by an engineering geologist indicating the potential for building displacement and recommended site improvements to mitigate the hazard

2. Concurrence to the report from the California Geological Survey.

(D) Documentation that demonstrates that the facilities in the project must be reconstructed in order to house the current enrollment of the School and District.

(E) A detailed Form SAB 58-01 that meets the following requirements:

1. The Form SAB 58-01 must use the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed in the most current edition of the Current Construction Remodeling and Repair Cost publication, amounts entered on the Form SAB 58-01 must use the provided unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the School and District must provide supporting documentation for OPSC to review the requested unit cost.

2. All requested line items shall include Construction Specifications Institute reference number (CSI #), description, quantity, unit, cost per unit, and School District's request. Any line items

- that include amounts in lump-sum formats will not be reviewed or approved.
3. The work in the Form SAB 58-01 shall match the work outlined in the report provided by the industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) for the minimum work that would be required to mitigate the seismic threat if the School Building were to be rehabilitated instead of replaced.
  4. The Form SAB 58-01 may also include any ancillary work required by DSA to obtain plan approval for the minimum work required to mitigate the seismic threat.
- (F) A cost/benefit analysis that demonstrates that the minimum work to mitigate the seismic threat and remain in the School Building(s) exceeds 50 percent of the Current Replacement Cost.
- (G) All other documents required to complete an Approved Application for funding. This includes:
1. A completed *Application For Funding* (Form SAB 50-04).
  2. The DSA Plan Approval letter for the project or documentation from DSA verifying that the project is exempt from their approval process.
  3. CDE Plan Approval letter for the project or documentation from CDE verifying that the project is exempt from their approval process.
  4. If the project is for a high school site, a letter or meeting minutes from the School eDistrict's Career and Technical Education Advisory Committee (CTEAC) certifying that the School eDistrict is in compliance with all career technical facility needs and assessments as outlined in Education Code, Section 17070.955.
- (3) Applications for seismic mitigation replacement funding that do not meet the requirements of (1) or (2) above shall be returned without review.
- (4) If the School eDistrict qualifies for Replacement funding in accordance to (a)(1) or (a)(2) above, the School eDistrict is eligible to receive funding for the project as follows:
- (A) If the School eDistrict is required to replace the entire site and relocate to a new site, the School eDistrict is eligible to receive funding as follows:
1. A New Construction Grant will be provided for the lesser of 2. or 3. below.
  2. The classroom capacity determined by multiplying the number of eClassrooms on the project site being replaced by:
    - a. 25 pupils for each ~~TKK~~-6 eClassroom.
    - b. 27 pupils for each 7-12 eClassroom.
    - c. 13 pupils for each Non-Severely Disabled Individuals with Exceptional Needs eClassroom.
    - d. 9 pupils for each Severely Disabled Individuals with Exceptional Needs eClassroom.
  3. The higher of a., b., or c. below:
    - a. The CBEDS Report of the current enrollment reporting year at the existing project site.
    - b. The average CBEDS Report of the current enrollment reporting year and two immediately preceding enrollment reporting years at the existing project site.
    - c. If the site is closed, use the CBEDS Report of the last enrollment reporting year in which the site was open.
  4. Additional funding may be provided, as applicable, for:
    - a. Fire code requirements pursuant to Section 1859.71.2,
    - b. therapy room pursuant to Section 1859.72,
    - c. multilevel construction pursuant to Section 1859.73,
    - d. project assistance pursuant to Section 1859.73.1.
    - e. replacement with multistory construction pursuant to Section 1859.73.2,
    - f. site acquisition pursuant to Sections 1859.74, 1859.74.5 and 1859.75,
    - g. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and 1859.74.4,
    - h. Applicable site development costs pursuant to Section 1859.76, and
    - i. New construction Excessive Cost Hardship Grant for geographic location pursuant to

- Section 1859.83(a),
- j. New construction Excessive Cost Hardship Grant for small size projects pursuant to Section 1859.83(b),
  - k. New construction Excessive Cost Hardship Grant for new school projects pursuant to Section 1859.83(c),
  - l. New construction Excessive Cost Hardship Grant urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (B) If the School District qualifies to replace some but not all School Buildings on the project site, funding will be based on the Square Footage of the School Buildings replaced and is capped by the lesser of the amount provided in accordance to the chart below and the Square Footage constructed for each category as justified by enrollment at the project site as follows:
1. The enrollment at the project site, is determined by the higher of a. or b. below, or c.:
    - a. The CBEDS Report of the current enrollment reporting year at the existing project site.
    - b. The average CBEDS Report of the current enrollment reporting year and two immediately preceding enrollment reporting years at the existing project site.
    - c. If the site is closed, use the CBEDS Report of the last enrollment reporting year in which the site was open.
  2. Using the enrollment determined in 1. any permanent replacement Square Footage provided in accordance to
    - a. and b. below will be calculated in accordance to the chart below.
- a. Non-specialized eClassroom space provided is limited by the enrollment determined in Section 1859.82.2(b)(4)(B)1. rounded up to the nearest whole eClassroom based on Section 1859.82.2(b)(4)(A)2., and reduced for any space available to house the displaced pupils.
  - b. Classrooms with specialized design such as auto shop, metal shop, music rooms, consumer home economic laboratories, industrial technology laboratories, or science laboratories will qualify for funding if used for its specialized purpose in the current enrollment reporting year or immediately preceding enrollment reporting year. Additionally, these spaces will not count as available capacity for purposes of providing funding in this section when calculating space available to house displaced pupils.
  - c. Any space not in the chart below will be provided based on the Square Footage replaced. This may include but is not limited to janitor's closets, hallways, workrooms, and vestibules.

Facility	Elementary School Pupils	Middle School Pupils	High School Pupils
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum 4,000 sq. ft.	5.3 sq. ft. per pupil minimum 5,000 sq. ft.	6.3 sq. ft. per pupil minimum 8,200 sq. ft.
Toilet	3 sq. ft. per pupil minimum 300 sq. ft.	4 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
Gymnasium (includes shower/locker area)	N/A	12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.	15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.
School Administration	3 sq. ft. per pupil minimum 600 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft.	4 sq. ft. per pupil minimum 800 sq. ft.
Library/Media Center	2.3 sq. ft. per pupil plus 600 sq. ft., minimum 960 sq. ft.	3.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.

Kindergarten Classrooms (including Transitional Kindergarten)	1,350 sq. ft. for each replacement eClassroom.	NA	NA
Classrooms (1 <sup>st</sup> -12 <sup>th</sup> grade)	960 sq. ft. for each replacement eClassroom	960 sq. ft. for each replacement eClassroom	960 sq. ft. for each replacement eClassroom
Computer instructional support area and Industrial and Technology/Education Laboratory	960 sq. ft. for each replacement eClassroom.	960 sq. ft. for each replacement eClassroom.	960 sq. ft. for each replacement eClassroom.
Laboratory Classrooms (including science and consumer home economics)	1,300 sq. ft. for each replacement cClassroom.	1,300 sq. ft. for each replacement cClassroom.	1,300 sq. ft. for each replacement cClassroom.

- d. Beginning August 31, 2020, the resulting Square Footage amount(s) shall be multiplied by \$204 per square foot for all non-Toilet Facilities and by \$366 per square foot for Toilet Facilities (includes shower/locker area and physical therapy area for Individuals with Exceptional Needs).
- 3. Additional funding may be provided, as applicable, for:
  - a. therapy room pursuant to Section 1859.72,
  - b. multilevel construction pursuant to Section 1859.73,
  - c. project assistance pursuant to Section 1859.73.1.
  - d. replacement with multistory construction pursuant to Section 1859.73.2,
  - e. site acquisition pursuant to Section 1859.74,
  - f. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and 1859.74.4,
  - g. Applicable site development costs pursuant to Section 1859.76, and
  - h. Excessive Cost Hardship Grant for geographic location pursuant to Section 1859.83(a), and
  - i. Excessive Cost Hardship Grant for small size projects pursuant to Section 1859.83(b).
- (C) If the School eDistrict qualifies for replacement funding, the funding may be used to rehabilitate the facility as long as the seismic hazard is fully mitigated. If replacement funding is used for rehabilitation work, the School eDistrict may request the following supplemental grants, as applicable, for:
  - 1. Fire code requirements pursuant to Section 1859.71.2 if the funding is based on a per-pupil basis pursuant to Section 1859.82.2(b)(4)(A),
  - 2. Therapy room pursuant to Section 1859.72,
  - 3. Project assistance pursuant to Section 1859.73.1,
  - 4. Excessive Cost Hardship Grant for geographic location pursuant to Section 1859.83(a),
  - 5. Excessive Cost Hardship Grant for small size projects pursuant to Section 1859.83(b), and
  - 6. Excessive Cost Hardship Grant for urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (c) School Districts may qualify for seismic mitigation funding to rehabilitate their School Buildings including lunch shelters and covered walkways, exterior eSquare footage of School Buildings, or site conditions. Factors to be considered by the Board may include (1) or (2) below:
  - (1) School Buildings where the minimum cost to rehabilitate and remain in the School Building is 50 percent or less of the Current Replacement Cost.
  - (2) Square footage of the Most Vulnerable Category 2 School Buildings, covered walkways, and lunch shelters that need repair or replacement to mitigate a collapse potential in the event of seismic activity as confirmed by the DSA.

(3) To qualify for seismic mitigation rehabilitation funding, the School and District must submit an Approved Application for funding as well as all documents outlined below. Applications that do not meet these requirements will be returned without review.

(A) A report from a licensed design professional (a design professional licensed by the appropriate State of California oversight authority) identifying the structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event and the minimum mitigation work necessary to obtain DSA approval.

(B) DSA letter(s) that concur to the findings and minimum mitigation work outlined in the report required by (b)(1)(A).

(C) If the collapse potential is due to faulting, liquefaction, or landslide, or if it is otherwise required by DSA for project approval, the School and District must submit 1. and 2. below:

1. A geological hazards report prepared by an engineering geologist in accordance with California Building Code, Part 2, Chapter 18, Section 1803A and with the concurrence of the California Geological Survey.

2. Concurrence to the report in 1. from the California Geological Survey.

(D) A detailed Form SAB 58-01 that meets the following requirements:

1. The Form SAB 58-01 must use the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed in the most current edition of the Current Construction Remodeling and Repair Cost publication, amounts entered on the Form SAB 58-01 must use the provided unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the School and District must provide supporting documentation for OPSC to review the requested unit cost.

2. All requested line items shall include Construction Specifications Institute reference number (CSI #), description, quantity, unit, cost per unit, and School District's request. Any line items that include amounts in lump-sum formats will not be reviewed or approved.

3. The work in the Form SAB 58-01 shall match the work outlined in the report provided by the industry specialist (a person or entity that specializes in the area of expertise for that health and safety issue) for the minimum work required to mitigate the seismic threat. The Form SAB 58-01 submitted to OPSC shall be for the same scope of work reviewed and concurred to by DSA, and that is referenced in the governmental concurrence letter for the project.

4. The Form SAB 58-01 may also include any ancillary work required by DSA to obtain plan approval for the minimum work required to mitigate the seismic threat.

(E) A cost/benefit analysis that demonstrates that the minimum work to mitigate the seismic threat and remain in the School Building(s) is less than 50 percent of the Current Replacement Cost.

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

1. A completed *Application For Funding* (Form SAB 50-04).

2. The DSA Plan Approval letter for the project or documentation from DSA verifying that the project is exempt from their approval process.

3. CDE Plan Approval letter for the project or documentation from CDE verifying that the project is exempt from their approval process.

4. If the project is for a high school site, a letter or meeting minutes from the School and District's Career and Technical Education Advisory Committee (CTEAC) certifying that the School and District is in compliance with all career technical facility needs and assessments as outlined in Education Code Section 17070.955.

(4) If the School and District qualifies for seismic mitigation funding to repair their permanent School Buildings, the School and District is eligible to receive funding for the project as follows:

(A) The Seismic Rehabilitation Grant based on 50 percent of the eligible costs in the Form SAB

58-01 required in Section 1859.82.2(c)(3)(D) that have been reviewed by OPSC and approved by the Board.

(B) If the district qualifies for rehabilitation funding, the funding may be used towards the replacement of the facility as long as the qualifying seismic threat is fully mitigated.

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

1. project assistance pursuant to Section 1859.73.1.,
2. Excessive Cost Hardship Grant for geographic location pursuant to Section 1859.83(a), and
3. Excessive Cost Hardship Grant for accessibility and fire code requirements in accordance with Section 1859.83(e)(3).

(d) Any grants provided in accordance to (b) or (c) above shall be adjusted as follows:

(1) For projects funded in accordance to (b) above:

(A) Reduced for any space deemed available by the Board in the School dDistrict, HSAA, or Super HSAA that could be used to house some or all of the displaced pupils in the project,

(B) Reduced by 50 percent of any insurance proceeds collected by the School dDistrict for the project. Any insurance proceeds collected after Apportionment shall be reported to OPSC and the Apportionment will be amended accordingly.

(C) Reduced by 50 percent of the net proceeds available from the disposition of the property and/or facilities in the project.

(2) For projects funded in accordance to (c) above:

(A) 50 percent of any insurance proceeds collectable by the School dDistrict for the project.

(B) 50 percent of the net proceeds available from the disposition of any displaced facilities in the project.

(e) Adjustments to School Facility Program per-pupil grants.

(1) The School dDistrict's New Construction Eligibility will be adjusted for any net increase in classroom capacity in the project pursuant to Section 1859.51(i).

(2) The baseline eligibility for ~~m~~Modernization as provided in Section 1859.60 will be adjusted for any funding received in accordance to (b) above. The age of the eClassroom and Square Footage in the project shall be reset to the date of the Apportionment for the project.

(f) School Districts that qualify for Financial Hardship assistance may file an ~~a~~Application for design funding, site funding, and determination of program eligibility in advance of construction funding.

(1) To request advanced funding for design for eligible projects, the School dDistrict must submit an *Application for Funding* (Form SAB 50-04) indicating the request for design funding and all documents listed in Section 1859.82.2(c)(3)(A) through Section 1859.82.2(c)(3)(E).

(2) Advanced funding for design shall be provided based on the eligible project type as follows:

(A) For projects receiving funding for advanced design for the replacement of all School Buildings on the project site, pursuant to Section 1859.82.2(b)(4)(A), the Board will apportion an amount not to exceed 40 percent of the New Construction Grant less any district funds available for the project pursuant to Section 1859.81(a).

(B) For projects receiving funding for advanced design for at least one but not all School Buildings on the project site pursuant to Section 1859.82.2(b)(4)(B), the Board will apportion an amount not to exceed 40 percent of the Facility Hardship Square Footage Grant less any district funds available for the project pursuant to Section 1859.81(a).

(C) For projects receiving funding for advanced design for a Seismic Rehabilitation Grant pursuant to Section 1859.82.2(c), the Board will apportion an amount not to exceed 25 percent of the costs determined pursuant to Section 1859.82.2(c)(4)(A) less any district funds available for the project pursuant to Section 1859.81(a).

(3) Advanced funding for site shall be provided pursuant to Section 1859.82.2(b)(4)(A)4. The School dDistrict is eligible for advanced funding for site acquisition as calculated pursuant to Section 1859.81.1.

(4) The amount apportioned for advanced design is an estimate of the funds needed for design, engineering, and other pre-construction project costs. Qualifying School and Districts may request a separate Apportionment for the design and for site acquisition for the same seismic mitigation project.

(5) The School and District is required to submit an Approved Application for funding and an updated Form SAB 58-01 for projects funded in accordance with Section 1859.82.2(c) or site development worksheet for projects funded in accordance with Section 1859.82.2(b), that reflects the final approved drawings for the project within:

(A) 18 months from the date of Apportionment if the project scope will be for repair or replacement on the same site.

(B) 24 months from the date of Apportionment if the project scope is for the replacement of School Building(s) which will be located on a replacement site.

(6) If the School and District does not submit the Approved Application for funding within the timelines required by Section (2) above, the an Application will be reduced to eligible costs incurred.

(7) Upon receipt of the Approved Application, the an Application will be reviewed for conformance with all program laws and regulations.

(8) Any funding provided in Section 1859.82.2 shall be offset by any advanced design funding previously provided for the project pursuant to Section 1859.82.2(f)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10, 17075.15, 101012(a)(1) and 101122, Education Code.

#### Amend Regulation Section 1859.124.1

#### Regulation Section 1859.124.1. Square Footage Facility Chart.

Use the Chart below to determine the Square Footage for purposes of Section 1859.124. The three columns to the left of the Chart indicate the facility types that may be funded under a Type I or Type II Joint-Use Project.

CHART OF SQUARE FOOTAGES (In Square Feet)						
Type I	Type II		Facility Type	Elementary School <del>TKK-6, TKK-8</del>	Middle School 7-8 or 6-8 (on Separate Campus)	High School 7-12 or 9-12 (on Separate Campus)
X	x		Multi-purpose Room (includes food service)	5.3 per pupil Minimum 4,000	5.3 per pupil Minimum 5,000	6.3 per pupil Minimum 8,200
X	x		Gymnasium (includes shower/locker)	12.9 per pupil* Minimum 6,828* Maximum 16,000*	12.9 per pupil Minimum 6,828 Maximum 16,000	15.3 per pupil Minimum 8,380 Maximum 18,000
X	x		Library	2.3 per pupil plus 600	3.3 per pupil plus 600	4.3 per pupil plus 600
X	x		Teacher Education**	39 per pupil or as approved by CDE		

	x		Pupil Academic Achievement***	39 per pupil or as approved by CDE
X	x		Childcare	60 per child - Minimum 1,440

\*Available only to TKK-6 schools if there is no multipurpose room or the existing multipurpose room is inadequate on the campus and the Joint-Use Agreement includes gymnasium space rather than a multipurpose room.

\*\*Subject to the CDE approval.

\*\*\*Subject to the CDE approval. Plans and specifications must be accepted by the DSA for review and approval prior to January 1, 2004.

- (a) If the Joint Use Project requests funding for a multi-purpose room, gymnasium or library, multiply the amounts shown for the type of facility proposed in the Joint-Use Project by either (1) or (2) below:
  - (1) If the funding request is for a Type I Joint-Use Project, the sum of the latest CBEDS enrollment at the site and the number of pupil grants requested in the qualifying SFP ~~N~~n~~e~~w ~~C~~o~~n~~s~~t~~r~~u~~c~~t~~i~~o~~n~~ project pursuant to Section 1859.123.~~
  - (2) If the funding is for a Type II Joint-Use Project, the latest CBEDS enrollment at the site.
- (b) If the Joint Use Project requests funding for Teacher Education or Pupil Academic Achievement, multiply the amounts shown, or the amounts approved by the CDE, by the number of pupils that will receive specialized training for teacher education and/or academic achievement.
- (c) If the Joint Use Project requests funding for a childcare facility, multiply the amounts shown by the number of children that will receive services.

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

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

#### Amend Regulation Section 1859.163.5

#### Regulation Section 1859.163.5. Preliminary Charter School Rehabilitation Apportionment Determination.

The Preliminary Charter School Rehabilitation Apportionment will be determined based on the eligible ~~s~~S~~q~~u~~a~~r~~e~~ ~~f~~f~~o~~o~~t~~a~~g~~e included in the project. For purposes of the Preliminary Charter School Rehabilitation Apportionment, eligible ~~s~~S~~q~~u~~a~~r~~e~~ ~~f~~f~~o~~o~~t~~a~~g~~e is defined as the total enclosed exterior ~~s~~S~~q~~u~~a~~r~~e~~ ~~f~~f~~o~~o~~t~~a~~g~~e of the school buildings. For multilevel buildings, include the ~~s~~S~~q~~u~~a~~r~~e~~ ~~f~~f~~o~~o~~t~~a~~g~~e 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)(6) 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 ~~s~~S~~q~~u~~a~~r~~e~~ ~~f~~f~~o~~o~~t~~a~~g~~e for the site as follows:
    1. Determine the total ~~s~~S~~q~~u~~a~~r~~e~~ ~~f~~f~~o~~o~~t~~a~~g~~e for each ~~e~~C~~a~~s~~s~~r~~o~~m~~ included in the project (limited by the Charter School's projected enrollment).~~~~~~
    2. Determine the total ~~s~~S~~q~~u~~a~~r~~e~~ ~~f~~f~~o~~o~~t~~a~~g~~e for any multi-purpose room included in the project.
    3. Determine the total ~~s~~S~~q~~u~~a~~r~~e~~ ~~f~~f~~o~~o~~t~~a~~g~~e for any gymnasium included in the project.
    4. Determine the total ~~s~~S~~q~~u~~a~~r~~e~~ ~~f~~f~~o~~o~~t~~a~~g~~e 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 econstruction grant amount and the project capacity based on the State loading standards as follows:
1. Determine the proposed grade level usage of each eclassroom in the project (limited by the Charter School's projected enrollment).
  2. Multiply the number of eclassrooms at the TKK-6 grade level by 25, the number of eclassrooms at the 7-12 grade level by 27, the number of non-severe eclassrooms by 13, and the number of severe eclassrooms 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) For all Preliminary Apportionments received after February 23, 2005, an amount equal to the sum of the amounts determined in (a)(1) through (a)(5) 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) 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)(6) 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, 17078.52, 17078.54, 17078.56, 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 1859.164

Regulation Section 1859.164. Application Funding Criteria.

If the estimated total apportionments of all Financially Sound Preliminary Charter School Applications received in either filing period specified in Section 1859.161 exceed the funds available, the Applications shall be identified in each of the following four categories:

- (a) Geographical Region One, Two, Three, or Four.
- (b) Urban, Rural, or Suburban areas.
- (c) Large, Medium, or Small Charter Schools.
- (d) ~~TKK~~6, 7-8, or 9-12 grade levels.

The Board shall first apportion one project of each possible type, a maximum of four in category (a) and a maximum of three in categories (b) through (d), starting with (a) and continuing through (d). If more than one Application is received of the same type within a category, the Board will apportion based on which project has the highest preference points, calculated in Section 1859.164.1. If a project has the highest preference points but was previously apportioned, the project with the next highest preference points will be apportioned. The same process will continue for the remaining categories until the Board has apportioned a project within each type in categories (a) through (d), or until no funding remains. If after funding one project in each category (a) through (d), funding remains available, the process shall be repeated until no funding remains.

All funds approved as a Preliminary Charter School Apportionment shall be transferred to the Restricted Charter School Fund within the appropriate Charter School Facility Account. Any funds not approved as a Preliminary Charter School Apportionment shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account.

All Preliminary Charter School Applications received from a applicant will be processed in the date order received by the OPSC. If more than one Preliminary Charter School Application is received on the same day from the same entity for a Charter School project located within the geographical jurisdiction of same district, those Applications will be processed by the OPSC based on the priority order assigned to those Applications by the applicant on Form SAB 50-09.

If two or more Preliminary Charter School Applications have the same preference points, the Board shall first apportion that Preliminary Charter School Application that was received first by the OPSC. In the event that the Applications were received on the same day, Applications will be funded in the following order:

- (a) Projects submitted by entities that have not previously received funding under the SFP, the CSFP or the State Charter School Facilities Grants Incentives Program will be funded before those that have received said funding;
- (b) Projects proposing to utilize existing facilities will be funded before projects that propose to build new facilities;
- (c) As applicable, projects that provide more seats to relieve overcrowding will be funded over those that provide fewer seats (as determined by dividing the number of unhoused pupils pursuant to Section 1859.50 that the project will house by the remaining ~~n~~New ~~e~~Construction ~~e~~Eligibility in the School ~~d~~District)

In the event that a tie remains after the previous criteria have been applied, a lottery system will be used to select the project that is funded.

Any Applications the SAB is unable to provide a Preliminary Charter School Apportionment to will be returned to the applicant.

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

Reference: Section 17078.56, Education Code.

## Amend Regulation Section 1859.167.1

### Regulation 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, 1859.167.2, and 1859.167.3, and is subject to the adjustments pursuant to Section 1859.163.6 and Section 1859.167.

- (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 TK-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, 17078.52, 17078.54, and 17078.58, Education Code.

Amend Regulation Section 1859.182

Regulation Section 1859.182. Determining Overcrowding Relief Pupil Eligibility.

(a) For purposes of the Overcrowding Relief Grant, an eligible pupil is a pupil that is housed in a portable classroom at the eligible school site, less the prorated number of portables that were funded by the Class Size Reduction Program pursuant to Chapter 6.10 of the Education Code. The Class Size Reduction prorate shall be calculated as follows:

- (1) Determine the total number of portables funded pursuant to Chapter 6.10 of the Education Code.
- (2) Divide the amount determined in (a)(1) by the total number of schools currently in the School District that serve grades TK-3. The resulting number of classrooms must be reduced from each eligible school site that serves grades TK-3. The total number of portable classrooms that are reduced from all eligible school sites shall not exceed the amount determined in (a)(1).
- (b) The determination of the district-wide pupil eligibility shall be determined by the submittal of the Form SAB 50-11.
- (c) The determination of the site specific pupil eligibility shall be determined by the CDE on the Overcrowding Relief Grant Eligibility Determination form and will be conducted on a one-time basis for each eligible school.
- (d) The site specific and district-wide pupil eligibility may be adjusted as follows:
  - (1) Reduced by the number of eligible pupils that receive an Overcrowding Relief Grant.
  - (2) Adjusted as a result of errors or omissions by the School District or by the OPSC.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17079.10, Education Code.

Amend Regulation Section 1859.183

Regulation Section 1859.183. Funding.

The Board shall provide a New Construction Adjusted Grant to each eligible pupil requested in the project. The pupil grants may be requested by the School District at any grade level, regardless of the grade level of the eligible school.

The maximum number of Overcrowding Relief Grants for each eligible school site shall be subject to the following limitations:

- (a) The number of Overcrowding Relief Grants may not exceed the number of pupils whose removal from the pupil density calculation would reduce the density of the eligible school site to 150 percent of the school site pupil population density recommended by the Superintendent, based on the CBEDS reported for the 2005/2006 enrollment year.
- (b) The number of Overcrowding Relief Grants may not exceed the capacity of those portables on the eligible school site that are being replaced in the project.

In no event shall a School District receive in total more Overcrowding Relief Grants than the number of pupils housed in portable classrooms that were included in the School District's initial New Construction Eligibility determination pursuant to Education Code 17071.75 as identified in part on Line 1 of Part III of the Form SAB 50-02 and as calculated on the Form SAB 50-11.

The Overcrowding Relief Grant must be used to replace an equivalent number of pPortable eClassrooms with pPermanent eClassrooms. Those portables that are replaced with Overcrowding Relief Grants must be removed from the eligible school site and from TKK - 12 grade eClassroom use, pursuant to Education Code Section 17079.30, within six months of the date of Occupancy of the replaced pPermanent eClassrooms. Overcrowding Relief Grants may be used for those purposes pursuant to Education Code 17072.35 with the exception of the construction, acquisition or transportation of pPortable eClassrooms. Those School Districts receiving an Overcrowding Relief Grant must comply with all new construction provisions of the SFP, including but not limited to Sections 1859.100, 1859.102, 1859.104, 1859.105, and 1859.106.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17079.10, 17079.20 and 17079.30, Education Code.