Includes Office of Administrative Law approvals and Secretary of State filings of 10/08/1999, 10/13, 12/22, 01/07/2000, 03/13, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, 06/01, 08/12, 09/09, 09/16, 10/04, 11/04, 01/16/2003, 02/06, 02/13, 02/27, 05/01, 07/07, 05/21/2004, 06/01, 07/02, 07/22, 11/02, 11/04, 11/10, 12/06, 12/20, 01/31/2005, 02/03, 02/15, 02/23, 02/28, 03/02, 04/26, 05/24, 05/26, 10/27, 10/31, 03/14/2006, 05/15, 08/21, 09/05, 11/03, 01/08/2007, 02/16, 04/25, 04/30, 05/17, 06/20, 07/13, 07/18, 08/31, 10/01, 10/03, 02/06/2008 03/03, 04/29, 04/30, 07/10, 08/14, 10/21, 01/21/2009, 01/26, 04/09, 04/22, 04/30, 09/18, 11/24, 12/22, 02/24/2010, 04/08, 06/23, 06/24,10/04, 10/05, 10/29, 11/22, 01/25/2011, 04/05, 04/27, 04/28, 05/12, 07/27, 09/08, 10/18, 12/28, 03/26/2012,05/15, 08/16, 10/23, 11/01, 12/06, 12/31, 03/25/2013, 06/25, 07/01, 10/30, 11/04, 08/19/2014, 11/20, 12/18, 02/09/2015, 08/13, 11/03, 12/21, 12/23, 07/13/2016, 12/12, 06/19/2017, 9/20, 9/22, 11/27, 12/20, 04/16/2018, 09/11, 12/18, 01/22/2019, 01/24, 06/11/2020, 08/31, 06/16/2021, 07/01, 10/28, 11/22, 04/14/2022, 07/01, 11/07, 06/13/2023, 12/18, 02/01/2024, 11/01, 06/03/2025, 06/20, 09/08, 10/20, 11/25, 12/29, 02/17/2026, 05/04, 06/02, 06/15 and 10/15.

Title 2. Administration
Division 2. Financial Operations
Chapter 3. Department of General Services
Subchapter 4. Office of Public School Construction
Group 1. State Allocation Board
Subgroup 5.5. Regulations Relating to the Leroy F. Greene School Facilities Act of 1998: (School Facility Program)

Article 1. General Provisions and Definitions

Section 1859. Purpose.

These regulations implement the Leroy F. Greene School Facilities Act of 1998, which establishes a State program to provide State per pupil funding for new construction and modernization of existing school facilities.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.10 and 17070.35, Education Code.

Section 1859.1. General Services Director.

The General Services Director, or his or her legal designee shall perform all acts necessary to carry out the provisions of the Act except such functions as are reserved to the Board and to other agencies by law or by Sections 1859 through 1859.107 inclusive. The acts to be performed include, but are not limited to, entering into contracts to administer the Act.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.20, Education Code.

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:

"Academic Achievement" means to improve one's ability to engage in academic endeavors and to accomplish study in core curriculum areas such as reading, writing, mathematics, fine arts, science, vocational education, technology, history or social science.

"Act" means the Leroy F. Greene School Facilities Act of 1998.

"Adjacent" means the HSAAs that will make up the Super HSAA are adjoining, touching, or share a common geographical boundary.

"Alternative District Owned Site" means a district owned site that is deemed available for the project by the California Department of Education.

"Alternative Education" means community day, county community, county community day, and continuation high schools.

"Alternative Enrollment Projection" means a calculation of projected enrollment by eligible school districts as authorized by Education Code Section 17071.75(a)(1).

"Application" means a request pursuant to the Act to receive an eligibility determination and/or funding for a school project.

"Applications Received Beyond Bond Authority List" means an informational list of applications submitted to the Office of Public School Construction (OPSC) and presented to the Board. Funding applications placed on this list contain the preliminary grant amounts requested by a district. The OPSC has not determined that the Approved Application(s) are Ready for Apportionment.

"Apportionment" shall have the meaning set forth in Education Code Section 17070.15(a).
"Approved Application(s)" means a district has submitted the application and all documents to the Office of Public School Construction that are required to be submitted with the application as identified in the General Information Section of Forms SAB 50-01; SAB 50-02; SAB 50-03; and SAB 50-04, as specified in Section 1859.2.
"Approved Application for Career Technical Education Facilities Project Funding" means an applicant has submitted an *Application for Career Technical Education Facilities Funding,* Form SAB 50-10, including all required supporting documents as identified in the General Information Section of that Form, to the OPSC and the OPSC has accepted the application for processing.
"Approved Application for Joint-Use Funding" means a district has submitted an *Application for Joint-Use Funding,* Form SAB 50-07, including all required supporting documents as identified in the General Information Section of that Form, to the OPSC and the OPSC has accepted the application for processing.
"Attendance Area" shall have the meaning set forth in Education Code Section 17070.15(b).
"Authority" shall have the meaning set forth in Education Code Section 17078.52(d)(1).
"Board" means the State Allocation Board as established by Section 15490 of the Government Code.
"Bond Authority" means the authority of the Board to Apportion bond funds pursuant to Education Code Section 17070.40.
"CBEDS Report" means the enrollment information provided through the California Basic Educational Data System (CBEDS) by school districts to the CDE.
"California Department of Education" (CDE) means the offices within that department that have responsibility for school facilities matters.
"Career Technical Education Facilities Project" means a project approved by the Board pursuant to Education Code Section 17078.72.
"CDE Source School List" means a list developed and published by the CDE that identifies districts and Critically Overcrowded Schools pursuant to Education Code Section 17078.18(c).
"Certification" means the act of affirmatively representing, asserting or verifying circumstances, data or information as required by the Act or this subgroup.
"Charter School" shall mean a school established pursuant to Education Code, Title 2, Division 4, Part 26.8, Section 47600, et seq.
"Charter School Agreements" mean a memorandum of understanding, a funding agreement and a use agreement as established by the California School Finance Authority (CSFA).
"Charter School Facility Account" means the fund for new construction Charter School projects authorized by Education Code Sections 100620(a)(1)(A), 100820(a)(1)(A) and 101012(a)(2).
"Charter School Facilities Program Rehabilitation" shall mean work that includes, but will not be limited to, structural changes or other types of work on an existing district facility that extends the useful life of or enhances the physical environment of the school, as provided in Education Code Section 17078.58(a).
"Charter School Facilities Program Rehabilitation Grant" means the amount provided pursuant to Section 1859.167.1(a).
"Charter School General Location" shall mean a minimum of a one mile radius to a maximum of a three mile radius from the present or proposed location of the Charter School project as identified in the chartering agreement.
"Childcare" means any program that is operated less than 24-hours per day, in which non-medical, licensed care and supervision are provided to children in a group setting.
"Class B Construction Cost Index" is a construction factor index for structures made of reinforced concrete or steel frames, concrete floors, and roofs, and accepted and used by the Board.
"Classroom" means a teaching station that has the same meaning as the term used in Education Code Section 17071.25(a)(1).
"Classroom-Based Instruction" shall have the meaning set forth in Education Code Section 47612.5(e)(1).
"Classroom Provided" means a classroom acquired by lease, lease-purchase, or purchase for which a contract has been signed for the construction or acquisition of the classroom.
"Committee" shall have the meaning set forth in Education Code Section 17070.15(d).
"Conversion Increase Fund" shall be the fund in either the 2002 or 2004, as appropriate, Charter School Facilities Accounts to set aside Preliminary Charter School Apportionment amounts rescinded on or before April 25, 2007, for a Final Charter School Apportionment, pursuant to Section 1859.167.
"County Fund" shall have the meaning set forth in Education Code Section 17070.15(e).
"Critically Overcrowded School (COS)" means a school that has a pupil population density greater than 115 pupils per useable acre in grades Transitional 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.

"Current Replacement Cost" means, beginning September 8, 2025, $932.00 per square foot for permanent Toilet Facilities and $517.00 per square foot for all other permanent spaces, and $302.00 per square foot for portable Toilet Facilities and $118.00 per square foot for all other portable spaces. The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.
"Date of Occupancy" means the date the grant deed is recorded with the County Recorder's Office.
"Demographic Research Unit" (DRU) means this office within the California Department of Finance.
"Department" shall have the meaning set forth in Education Code Section 17070.15.
"District Representative" means a member of a school district staff or other agent authorized to serve as "District Representative" to execute and file an application with the Board on behalf of the district and/or act as liaison between the Board and the district.
"Division of the State Architect (DSA)" means the State office within the Department of General Services that reviews school building plans and specifications for structural, fire safety and access compliance.
"Elementary School Pupil" means a student housed in a school serving Transitional Kindergarten through sixth grade, or any combination of Transitional Kindergarten through sixth grade.
"Encumbered for Specific Purposes" means a commitment of funds by the school district to meet a legally binding obligation.
"Energy Audit" means an energy analysis and report which sets forth the utility savings that could be generated if the proposed project was designed, constructed, and equipped with energy efficiency and renewable technologies that would make the proposed project exceed the minimum building energy-efficiency standards mandated for new public buildings pursuant to the applicable California Building Standards Code.
"Energy Efficiency Account" means the funds set aside by the Board for purposes of Education Code Section 17077.35.
"EnergyPro 3.1" means a computer program approved by the State Energy Resources Conservation and Development Commission that calculates energy efficiency standards.
"Environmental Hardship" means the State funding for site acquisition as authorized by Section 1859.75.1.
"Excessive Cost Hardship Grant" means the funding provided by Section 1859.83.
"Executive Officer" means the individual appointed by the Governor to direct the Office of Public School Construction, and who concurrently serves as Executive Officer to the Board.
"Existing School Building Capacity" means the district's total capacity to house pupils as calculated pursuant to Sections 1859.30 through 1859.33.
"Existing School Site" for purposes of Joint-Use, means real property that has a public school with any grades TK-12 and that has at minimum administration and classroom facilities for any grades TK-12 and has been assigned a county district school (CDS) code, which meets the criteria of Regulation Section 1859.23.
"Extra Cost" means the added costs to complete a Type II Joint-Use Project as determined in Section 1859.125.1.
"Facility" means all or a portion of any real property, site improvements, utilities and/or buildings or other improvements contained in the project.
"Facility Hardship" means the repair, reconstruction, or replacement of School Buildings, components of School Buildings, or school site conditions authorized by Section 1859.82.1 or 1859.82.2.
"Facility Hardship Square Footage Grant" means the grant per square foot provided for Facility Hardship replacement funding pursuant to Sections 1859.82.1(b)(4)(B) or 1859.82.2(b)(4)(B), excluding additional grants provided under Section 1859.82.1 or 1859.82.2.
"Field Act Facility" means a school building meeting the requirements contained in Education Code Section 17280, et seq.
"Final Apportionment" means an apportionment made pursuant to Education Code Section 17070.15 by submittal of an application pursuant to Section 1859.21.
"Final Apportionment Unfunded List" means a list of projects where the entire Final Apportionment request was not converted to a Final Apportionment.
"Final Charter School Apportionment" shall mean a Preliminary Charter School Apportionment that has been converted to a Final Charter School Apportionment in accordance with Section 1859.165.
"Final Small School District Program Apportionment" shall mean a Preliminary Small School District Program Apportionment that has been converted to a Final Small School District Program Apportionment in accordance with Sections 1859.157.4 through 1859.157.7.
"Financial Hardship" means State funding for all or a portion of the district's matching share required by Section 1859.77.1 or 1859.79.
"Financially Sound" shall have the meaning set forth in Education Code Section 17078.52(c)(4) and California Code of Regulations, Title 4, commencing with Section 10151, et seq.

"Form SAB 50-01" means the *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 02/26), and, when utilizing HSAA residency reporting, the High School Attendance Area Residency Reporting Worksheet (New 06/08), which are incorporated by reference.
"Form SAB 50-02" means the *Existing School Building Capacity*, Form SAB 50-02 (Revised 02/26), which is incorporated by reference.
"Form SAB 50-03" means the *Eligibility Determination*, Form SAB 50-03 (Revised 02/26), which is incorporated by reference.
"Form SAB 50-04" means the *Application For Funding*, Form SAB 50-04 (Revised 10/26), which is incorporated by reference.
"Form SAB 50-05" means the *Fund Release Authorization*, Form SAB 50-05 (Revised 02/26), which is incorporated by reference.
"Form SAB 50-06" means the *Expenditure Report*, Form SAB 50-06 (Revised 10/22), which is incorporated by reference.
"Form SAB 50-07" means the *Application For Joint-Use Funding*, Form SAB 50-07 (Revised 10/14), which is incorporated by reference.
"Form SAB 50-08" means the *Application For Preliminary Apportionment*, Form SAB 50-08 (Revised 10/14), which is incorporated by reference.
"Form SAB 50-09" means the *Application for Charter School Preliminary Apportionment*, Form SAB 50-09 (Revised 02/26), which is incorporated by reference.
"Form SAB 50-10" means the *Application for Career Technical Education Facilities Funding*, Form SAB 50-10 (Revised 01/26), which is incorporated by reference.
"Form SAB 50-11" means the *Overcrowding Relief Grant District-Wide Eligibility Determination*, Form SAB 50-11, (New 02/07), which is incorporated by reference.
"Form SAB 50-12" means the *Application For Small School District Program Preliminary Apportionment,* Form SAB 50-12 (New 02/26), which is incorporated by reference.
"Form SAB 50-MP" means the *Five-Year School Facilities Master Plan Checklist,* Form SAB 50-MP (New 01/26), which is incorporated by reference.
"Form SAB 57-75" means the *75 Years or Older Building Cost/Benefit Analysis,* Form SAB 57-75, (New 06/25), which is incorporated by reference.
"Form SAB 58-01" means the *Facility Hardship Cost Estimate*, Form SAB 58-01 (New 05/20), which is incorporated by reference.
"Form SAB 195" means the *Application for Natural Disaster Assistance*, Form SAB 195 (Revised 02/26), which is incorporated by reference.
"Fund" shall have the meaning set forth in Education Code Section 17070.15(g).
"General Location" means the proposed location of a new school as set forth in Education Code Section 17078.22 and Regulation Sections 1859.142 and 1859.157.1.
"General Site Development" means on-site hard surfaced areas for foot traffic, driveways, walks, parking, curbs and gutters; outdoor instructional play facilities such as turfed or paved play areas, permanent playground equipment, outdoor places of assembly, tennis/handball courts, running tracks and baseball, football and soccer fields; applicable landscaping of building frontages and outdoor facilities noted above.
"Governmental Agency" shall include but is not limited to a public entity as defined in Government Code Section 7260(a) including California federally recognized or historically established tribal governments.
"Grant Agreement" means *Grant Agreement* (Rev. 10/22), which is incorporated by reference and applies to funding applications received by OPSC on or before October 30, 2024.
"Grant Agreement [Proposition 2]" means *Grant Agreement [Proposition 2]* (Revised 04/26), which is incorporated by reference and applies to funding applications received by OPSC on or after October 31, 2024.
"Grant Agreement [Interim Housing Assistance Following A Natural Disaster]" means *Grant Agreement [Interim Housing Assistance Following A Natural Disaster]* (New 08/25), which is incorporated by reference and applies to funding applications received by OPSC on or after October 31, 2024.
"Grant Agreement [Other Assistance Following A Natural Disaster] means *Grant Agreement [Other Assistance Following A Natural Disaster]* (New 08/25), which is incorporated by reference and applies to funding applications received by OPSC on or after October 31, 2024.
"Hazardous Material/Waste Removal Fund" shall mean the fund established pursuant to Section 1859.163.3, in order to set aside funding at the time Preliminary Charter School Apportionments are approved by the Board for hazardous material waste removal that will be provided at the Final Charter School Apportionment when actual costs are known.
"High Performance Base Incentive Grant" means the $150,000 State share portion of the high performance incentive grant provided as part of a New Construction Adjusted Grant for a new school, or the $250,000 State share portion of the high

performance incentive grant provided as part of a New Construction Adjusted Grant for an addition to an existing site or a Modernization Adjusted Grant.
"High Performance Rating Criteria" (HPRC) means the standard used to evaluate the costs of designs and materials that promote high performance schools. The HPRC will be using the Collaborative for High Performance Schools (CHPS) rating criteria model as identified in the CHPS *Best Practices Manual Volume III 2002 Edition and 2006 Edition*, and *2009 CA-CHPS Criteria* as incorporated by reference. For the purposes of the SFP, the HPRC contained in these regulations have been modified to focus on facility related components.
"High Performance School Account" means the funds set aside by the Board for purposes of Education Code Section 101012(a)(8).
"High School Attendance Area (HSAA)" means an attendance area that serves a currently operated high school, other than a continuation school or a community school.
"High School District" means a school district that serves any combination of grades seven through twelve exclusively.
"High School Pupil" means a student in a school serving ninth through twelfth grade or any combination of ninth through twelfth grade.
"Higher Education" means an entity that is a public community college; a public college; a public university; or a non-profit/accredited organization of higher education.
"In Escrow, Governmental Entities" means the approval and signature of instrument(s) that will convey a specified school parcel or site from the public/government entity including the federal government for a determinable sum, and for a determinable date of acquisition which may be based on the district's receipt of funding from the State.
"In Escrow, Non-Governmental Entities" means the deposit of signed instrument(s) and/or funds with instructions with a title company or escrow agent to carry out the provisions of an agreement or contract to acquire a specified school parcel or site for a determinable sum, and for a determinable date of acquisition which may be based on the district's receipt of funding from the State.
"Inactive Apportionment" means an apportionment made to a project, based on a finding by the SAB, that meets all of the following criteria: 1) received a SAB apportionment prior to December 17, 2008; 2) State bond funds have not been released for that apportionment; and, 3) the time limit under Education Code Section 17076.10(d) will expire on or after December 17, 2008.
"Inactive Preliminary Apportionment" means an apportionment for a project, based on a finding by the SAB, that meets all of the following criteria: 1) received a Preliminary Apportionment prior to December 17, 2008; 2) A complete request to convert a Preliminary Apportionment to a Final Apportionment has not been made; 3) the time limit under Education Code Section 17078.25(a) or (b) will expire on or after December 17, 2008.
"Inactive Preliminary Charter School Apportionment" means an apportionment for a project, based on a finding by the SAB, that meets all of the following criteria: 1) received a Preliminary Charter School Apportionment prior to December 17, 2008; 2) A complete request to convert a Preliminary Charter School Apportionment to a Final Charter School Apportionment has not been made; 3) the time limit under Education Code Sections 17078.25(a) or (b) and 17078.52(c)(3) will expire on or after December 17, 2008.
"Inadequate" means, for purposes of Joint-Use Projects, the square footage of the existing facility is less than 60 percent of the square footage entitlement shown in the Chart in Section 1859.124.1.
"Independent Audit" means an examination and report of the district's accounts by a certified public accounting firm.
"Individual with Exceptional Needs" shall have the meaning set forth in Education Code Section 56026 as further defined and classified in 34 Code of Federal Regulations Part 300.5.
"Instrument" means a written, legally enforceable agreement, approved and signed by all parties to the escrow, for the conveyance to the district of real estate for a specified parcel or site, that includes a compensation clause and either a purchase option agreement, a purchase agreement, promissory note, lease agreement, installment sales contract, gift, or other real estate conveyance valid in the State of California for property conveyed from a public/government entity, including the federal government.
"Insufficient Bond Authority" means the total funding requested on the Approved Application received by the OPSC exceeds the Bond Authority.
"Interim Housing" means the rental or lease of Classrooms used to house pupils temporarily displaced as a result of the modernization or construction of classroom facilities; or the lease or purchase of Classrooms or ancillary facilities including but not limited to, restrooms, school administration, or Minimum Essential Facilities obtained due to a natural disaster for which the Governor has declared a state of emergency, pursuant to Education Code Section 17075.20.
"Joint-Use Project" means a project approved by the Board pursuant to Education Code Sections 17050, 17051, or 17077.40.

“Joint-Use Partner(s)” means an entity or entities that has entered into a joint-use agreement pursuant to the provisions of Education Code Section 17077.42.
“Labor Compliance Program (LCP)” shall be as described in subdivision (b) of Labor Code Section 1771.5 and approved by the Department of Industrial Relations (DIR).
“Large Charter School” shall be defined as a school in which the enrollment is greater than 351 pupils, based on the latest available CBEDS report or if a CBEDS report is unavailable, the registration list for the Charter School may be used.
“Lease-Purchase Program (LPP)” means the Leroy F. Greene State School Building Lease-Purchase Law of 1976, commencing with Education Code Section 17000.
“Linear Regression” means a mathematical procedure for finding the best fitting line to a given set of data-points by minimizing the difference between the actual data points and the regressed data points shown on the line.
“Local Funding Adjustment Grant” means the additional funding provided to reduce the School District’s required matching share, pursuant to Education Code Sections 17072.30, 17074.16, and 17070.59 for Approved Applications received on or after October 31, 2024.
“Low-income” shall be the percentage of pupils deemed eligible for free/reduced lunch as identified in the most recent Free and Reduced Price Meals data on file at the CDE. The data on file with CDE shall be determined to be the information collected for the month of October, and any errors and omissions amendments to that information for that time period that have been received and approved by the CDE.
“Major Maintenance” shall have the meaning set forth in Education Code Section 17070.77(b).
“Master Plan” means a document or compilation of documents approved by the governing board of a School District that reflects at least a five-year period and includes all of the required elements identified in Section 1859.18 pursuant to Education Code Section 17070.54. This documentation may be submitted electronically to OPSC, either as a digital file or via a Uniform Resource Locator (URL).
“Material Inaccuracy” means any falsely certified eligibility or funding application related information submitted by school districts, architects or other design professionals that allowed the school district an advantage in the funding process.
“Median Cost” means, for purposes of a Preliminary Apportionment pursuant to Education Code Section 17078.24 and a Preliminary Small School District Program Apportionment pursuant to Education Code Section 17078.37, the middle number in a given sequence of property value numbers, or the average of the middle two property value numbers when the given sequence of property value numbers has an even number of numbers.
“Medium Charter School” shall be defined as a school with an enrollment of 176 pupils to 350 pupils, based on the latest available CBEDS report or if a CBEDS report is unavailable, the registration list for the Charter School may be used.
“Mello-Roos Bonds” means the bonds that are authorized under the provisions of the Mello-Roos Community Facilities Act of 1982, commencing with Government Code Section 53311.
“Middle School Pupil” means a student in a school serving sixth through eighth grade, or seventh and eighth grades.
“Minimum Essential Facility” is defined as a gymnasium, multipurpose room, library and/or school kitchen pursuant to Education Code Section 17073.16, or a hybrid combination of any of the four, including, but not limited to, multipurpose/gymnasium hybrid, multipurpose/school kitchen hybrid, or multipurpose/gymnasium/school kitchen.
”Modernization” shall have the meaning set forth in Education Code Section 17070.15(f) for purposes of projects subject to Subgroup 5.5, Article 2, commencing with Section 1859 or Education Code Section 17021 under the Lease-Purchase Program.
“Modernization Adjusted Grant” means the Modernization Grant, plus any other funding provided by these Regulations.
“Modernization Grant” means the funding provided pursuant to Education Code Section 17074.10(a) and Sections 1859.78, 1859.78.3, 1859.78.6, and 1859.78.8.
“Modernization Eligibility” means the result of the calculation contained in either Option A or B of the Form SAB 50-03.
“Most Vulnerable Category 2 Buildings” means the building meets the criteria outlined in Section 1859.82.2(a) and is one of the following building types*:*
C1 – Concrete Moment Frame,
C1B – Reinforced Concrete Cantilever Columns with Flexible Diaphragms,
C2A – Concrete Shear Wall with Flexible Diaphragms,
C3A – Concrete Frame with Infill Masonry Shear Walls and Flexible Diaphragms,
PC1 – Precast/Tilt-up Concrete Shear Wall with Flexible Diaphragms,
PC1A – Precast/Tilt-up Concrete Shear Wall with Rigid Diaphragms,
PC2A – Precast Concrete Frame without Concrete Shear Walls and with Rigid Diaphragms,
PC2 – Precast Concrete Frame and Roofs with Concrete Shear Walls,
URM – Unreinforced Masonry Bearing Wall Buildings,

RM1 – Reinforced Masonry Bearing Wall with Flexible Diaphragms,
URMA - Unreinforced Masonry Bearing Wall with Rigid Diaphragms,
S1B – Steel Cantilever Columns with Flexible Diaphragm,
S3 – Steel Light Frame Metal Siding and/or Rod Bracing, or
M – Mixed construction containing at least one of the above structures types.

"Multi-Track Year-Round Education (MTYRE)" means a school education program in which the students are divided into three or more groups on alternating tracks, with at least one group out of session, and the other groups in session during the same period.

"Multipurpose/Gymnasium Hybrid" means a single facility that is comprised of both a multipurpose room and a gymnasium that share common space for purposes of Section 1859.77.3. The facility must be identified as a Multipurpose/Gymnasium Hybrid by the California Department of Education.

"Net School Building Capacity" means the capacity of a school building to house pupils after excluding the pupils housed in a Classroom which was demolished and replaced in the project and, for schools operating on a multi-track year-round education calendar as defined in Education Code Section 42260(d)(1), after including the maximum enrollment attending the school at one time.

"New Construction Adjusted Grant" means the New Construction Grant, plus any other funding provided by these Regulations.

"New Construction Eligibility" means the result of the calculation determined in Education Code Section 17071.75.

"New Construction Grant" means the funding provided pursuant to Education Code Section 17072.10(a) and Sections 1859.71 and 1859.71.1.

"Nonclassroom-Based Instruction" shall have the meaning set forth in Education Code Section 47612.5(d)(1) and (e)(2).

"Non-Profit Entity" means an entity that is organized and operated for purposes of not making a profit under the provisions of the federal Internal Revenue Code Section 501(c)(3), or is organized as/operated by a nonprofit public benefit corporation, pursuant to State Corporations Code, Title 1, Division 2, Part 2, Section 5110, et seq.

"Non-Profit Organization" as used in this section and for the purposes of the Joint-Use Program, means an entity that is organized and operated for purposes of not making a profit under the provisions of the Revenue and Taxation Code and further meets the requirements set forth below:

1. Other than a School District passing a local bond, under Section 1859.127 herein, the source of funds being contributed by the Non-Profit Organization Joint-Use Partner, must be independent of the partner School District, and
2. The Non-Profit Organization must be a recognized nationally chartered organization. If the partner is not a nationally chartered non-profit organization, then it must have an independence in governance, which for purposes of this section shall be defined as the Non-Profit Organization and School District having no more than one common board member, ex-officio board member, officer, management or staff irrespective of whether voting or non-voting and whether employee, contractor, or agent. These restrictions will only apply to the extent that the employee, contractor or agent has managerial authority in one or both entities. For purposes of this section, a recognized nationally chartered organization is a non-profit organization which is recognized by the Office of Public School Construction or the State Allocation Board as operating on a national basis and having charters issued by a national headquarter or governing body, and
3. The Non-Profit Organization must operate programs or services, aside from programs or services for the School District, for the community and pay for the additional ongoing operational costs or program services associated with the joint-use purposes and/or a minimum of 25 percent of an eligible Joint-Use Project facility's cost.

"Non-Severely Disabled Individual with Exceptional Needs" means an individual with exceptional needs not defined in Education Code Section 56030.5 but included in 34 Code of Federal Regulations Part 300.8.

"Occupancy" means the point at which pupils occupy a classroom as evident by district documents such as the school board's adopted calendar, classroom attendance rosters, fire marshal approval of the classroom, etc.

"Office of Public School Construction (OPSC)" means the State office within the Department of General Services that assists the Board as necessary and administers the Act on behalf of the Director.

"Overcrowded School District" for purposes of determining preference points is any district that demonstrates eligibility in excess of two percent of their unhoused pupils.

"Overcrowding Relief Grant" (ORG) means the funding provided pursuant to Education Code Section 17079, et seq.

"Overcrowding Relief Grant Eligibility Determination" means the form that is submitted to the California Department of Education for purposes of determining whether a school site is eligible for Overcrowding Relief Grant funding and the maximum number of pupils that are eligible to receive funding at a school site.

"Overcrowding Relief Grant Pupil Eligibility" means the result of the calculation determined in Section 1859.182(a).

"Permanent Area" means any area not included in a portable classroom.

“Permanent Classroom” means any classroom not meeting the definition of portable classroom.
“Phase C Approval” means the construction approval by the Board under the Lease-Purchase Program.
“Phase One Environmental Site Assessment (POESA)” shall have the meaning set forth in Education Code Section 17210(g).
“Phase P Approval” means the planning approval by the Board under the Lease-Purchase Program.
“Phase S Approval” means the site approval by the Board under the Lease-Purchase Program.
“Piggyback Contract” means a contract for acquisition of personal property, without advertising for bids, as authorized by Public Contract Code Section 20118.
“Portable Classroom” shall have the meaning set forth in Education Code Section 17070.15(j).
“Portable Classroom Replacement Grant” – means beginning August 31, 2020, is $46.55 per Square Foot and will be adjusted in the manner prescribed in Section 1859.71.
“Portable Toilet Replacement Grant” – means beginning August 31, 2020, is $118.62 per Square Foot and will be adjusted in the manner prescribed in Section 1859.71.
“Preliminary Application” means the district has submitted Form SAB 50-08, including all documents that are required to be submitted with the application as identified in the General Instructions Section of that Form to the OPSC and the OPSC has accepted the application for processing.
“Preliminary Apportionment” means an apportionment made pursuant to Education Code Section 17078.10(c).
“Preliminary Charter School Application” means a district filing on behalf of a Charter School or the Charter School submitting directly on Form SAB 50-09, including all supporting documents as identified in the General Instructions Section of that Form submitted to the OPSC and the OPSC has accepted the application for processing.
“Preliminary Charter School Apportionment” means an apportionment made pursuant to Education Code Section 17078.52(c)(3).
“Preliminary Endangerment Assessment (PEA)” shall have the meaning set forth in Education Code Section 17210(h).
“Preliminary Plans” means a set of architectural drawings not approved by the DSA that provide a preliminary design.
“Preliminary Small School District Program Apportionment” means a reservation of bond authority for eligible applicants under Article 11.5 of Chapter 12.5 of the Education Code. The reservation of bond authority is in advance of full compliance with all of the application requirements otherwise required for a Final Small School District Program Apportionment pursuant to Chapter 12.5 of the Education Code.
“Priority One” shall have the meaning set forth in Education Code Section 17017.7(a)(1).
“Priority Two” shall have the meaning set forth in Education Code Section 17017.7(a)(2).
“Project and Construction Management Grant” means a grant for purposes of obtaining the services from a county office of education, other local educational agency with applicable school facilities construction expertise, applicable state department, or a certified private construction consulting entity from the list maintained pursuant to paragraph (2) of subdivision (d) of Education Code Section 17078.47, to assist with the planning, site acquisition, preconstruction, construction, and closeout of a project.
“Project Information Worksheet” means the *Project Information Worksheet* (Revised 05/10), which is incorporated by reference.
“Property” shall have the meaning set forth in Education Code Section 17070.15(g).
“Proposition 1A” means the Initiative Measure (Prop. 1A) enacted by passage at the November 4, 1998 general election.
“Proposition 1D” means the Kindergarten-University Public Education Facilities Bond Act of 2006.
“Proposition 39” means the Initiative Measure (Prop. 39) enacted by passage at the November 7, 2000 general election which amended Sections 15102, 15106, 35233, and 72533 and added Chapter 1.5 (commencing with Section 15264) to Part 10, of the Education Code, and added applicable sections of the California Constitution relating to passage of local school bonds with a 55 percent vote of the electorate at a primary or general election, a regularly scheduled local election, or a statewide special election.
“Proposition 47” means the Kindergarten-University Public Education Facilities Bond Act of 2002.
“Proposition 55” means the Kindergarten-University Public Education Facilities Bond Act of 2004.
“Pupil” means a student enrolled in any gradeTransitional Kindergarten through grade twelve.
“Qualified Historical School Buildings” shall mean any school building that meets the “Qualified Historical Building or Property” definition in California Historical Building Code, California Code of Regulations, Title 24, Part 8.
“Qualifying Pupils” means enrollment in excess of 86 pupils per useable acre for Transitional Kindergarten through sixth grade or 68 pupils per useable acre for grades seven through twelve.
“Quarterly Basis” means a three-month period commencing on January 1, April 1, July 1 and October 1 of each calendar year.

"Ready for Apportionment" means a final review of an Approved Application has been completed by the OPSC and it has been determined that it meets all requirements of law for an apportionment or eligibility determination, and the OPSC will recommend approval to the Board.
"Reconfigure" for the purposes of the Career Technical Education Facilities Program means remodeling an existing school building within its current confines and/or the expansion of the square footage of the existing building.
"Reconfigure" for the purposes of the Joint-Use program means remodeling an existing school building within its current confines and/or the expansion of the square footage of the existing building and any necessary replacement of displaced classrooms or other minimum essential facilities.
"Region One" shall consist of the following counties: Alpine, Amador, Butte, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba.
"Region Two" shall consist of the following counties: Alameda, Calaveras, Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono, Monterey, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Stanislaus, Tulare, and Tuolumne.
"Region Three" shall consist of the following counties: Los Angeles, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura.
"Region Four" shall consist of the following counties: Imperial, Orange, Riverside, and San Diego.
"Rehabilitation Cost" means health and safety mitigation cost that is less than 50 percent of the Current Replacement Cost of the School Building. Rehabilitation Costs provided shall be 60 percent of the eligible costs in Form SAB 58-01 required in Section 1859.82.1(c)(3)(C) that has been reviewed and approved by OPSC and approved by the Board.
"Relocation/DTSC Fee Fund" shall mean the fund established pursuant to Section 1859.163.3, in order to set aside funding at the time Preliminary Charter School Apportionments are approved by the Board for relocation expenses and/or DTSC fees that will be provided at the Final Charter School Apportionment when actual costs are known.
"Remedial Action Plan (RAP)" means a plan approved by the Department of Toxic Substances Control (DTSC) pursuant to Health and Safety Code Section 25356.1.
"Resolution of Necessity" means a school board resolution to acquire property by eminent domain as required by California Code of Civil Procedure section 1245.220.
"Resource Specialist Program" means pupils that meet the definition of Non-Severely Disabled Individual with Exceptional Needs as defined in Section 1859.2 that are not enrolled in a special day class.
"Response Action (RA)" means the removal of hazardous materials and solid waste, the removal of hazardous substances, and other remedial actions in connection with hazardous substances at the site.
"Restricted Charter School Fund" means the funds in the 2002 (or 2004, as appropriate) Charter School Facility Account approved for a Preliminary Charter School Apportionment.
"Restricted Fund" means the funds in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account approved for a Preliminary Apportionment(s).
"Retrofit" means a construction project to retrofit an existing school facility to adequately house Transitional Kindergarten or kindergarten pupils, which shall only include the costs of design, engineering, testing, inspection, plan checking, construction management, demolition, construction, necessary utility costs, utility connection and other related fees, the purchase and installation of air-conditioning equipment and insulation materials and related costs, furniture and equipment, including telecommunication equipment to increase school security, fire safety improvements, playground safety improvements, the identification, assessment, or abatement of hazardous asbestos, seismic safety improvements, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.
"Rural Area" shall be a school with a locale code of 31, 32, 33, 41, 42 or 43 as classified by the National Center for Education Statistics (NCES). After August 28, 2019, the definition shall include locale codes 31, 32, and 33 as classified by the NCES.
"School Building Capacity" shall have the meaning set forth in Education Code Section 17070.15(l).
"School District" shall have the meaning set forth in Education Code Sections 17070.15(m) and 17073.25.
"School Facilities Improvement District" means a legal entity authorized by Education Code Section 15300, to generate school facilities funding.
"School Facility Program (SFP)" means either the new construction or modernization programs implemented under the Act, by these Subgroup 5.5 regulations.
"Secondary School Pupil" means a student in the seventh through the twelfth grade.
"Section" means a section in these Subgroup 5.5 regulations.

"Seismic Rehabilitation Grant" means a grant allowable under Education Code Section 17075.10(a) and (b)(2) and Section 1859.82.2(c)(4) excluding additional grants.
"Service Region" means one of the eleven service regions of the California County Superintendents Educational Services Association.
"Severely Disabled Individual with Exceptional Needs" means an individual with exceptional needs as defined in Education Code Section 56030.5.
"SFP New Construction Account" means the fund for new construction projects authorized by Education Code Sections 100420(a)(1), 100620(a)(1), 100820(a)(1), 101012(a)(1), and 101122(a)(1).
"Small Charter School" shall be defined as a school with an enrollment of not more than 175 pupils, based on the latest available CBEDS report or if a CBEDS report is unavailable, the registration list for the Charter School may be used.
"Small School District" means a school district with current districtwide enrollment reported in Part A, the continuation high pupils reported in Part C, and the Special Day Class pupils reported in Part D on the latest Form SAB 50-01, used to determine or adjust the district's baseline eligibility pursuant to Sections 1859.50 and 1859.51 or submitted separately to the OPSC, that is 2,500 or less.
"Source School" means a Critically Overcrowded School included on the CDE Source School List that has Qualifying Pupils.
"Special Day Class" means a class that has pupils enrolled that are individuals with exceptional needs.
"Square Footage" means the enclosed area measured from the outside face of exterior structural walls of the building. For interior areas or portions of building areas, the enclosed area shall be measured from the centerline of the interior demising wall.
"Student Yield Factor" means the number of students each dwelling unit will generate for purposes of an enrollment augmentation.
"Substantial Enrollment Requirement (SER)" means a district that is operating on a Multi-Track Year-Round Education basis pursuant to Education Code Sections 17017.6 and 17017.7(c).
"Suburban Area" shall be a school with a locale code of either 21, 22, 23 as classified by the NCES. After August 28, 2019, the definition shall only include locale codes 21, 22, and 23 as classified by the NCES.
"Super High School Attendance Area (Super HSAA)" means two or more HSAAs that are adjacent to each other.
"Teacher Education" means courses for credential programs or enhancement courses that are professional growth courses for elementary, secondary, higher education and special education instructors.
"Toilet Facilities" means restroom area, shower/locker area or physical therapy area for Individuals with Exceptional Needs.
"Total Projected Bond Apportionment" means the total State bond funds to be apportioned for the project, including any Financial Hardship apportionment pursuant to Section 1859.81, any funds authorized by the Authority pursuant to Section 1859.168, and any funds provided pursuant to Section 1859.194, but excluding the prevailing wage monitoring and enforcement costs grant amount provided pursuant to Section 1859.71.4(c), 1859.78.1(b) or 1859.167.2(b).
"Transitional Kindergarten" means the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate, pursuant to EC Section 48000.
"Type I Joint-Use Project" means a project that meets the criteria of Education Code Section 17077.40(b)(1).
"Type II Joint-Use Project" means a project that meets the criteria of Education Code Section 17077.40(b)(2).
"Unfunded List" means an information list of unfunded projects, with the exception of the unfunded list defined below as "Unfunded List (Lack of AB 55 Loans)".
"Unfunded List (Lack of AB 55 Loans)" means an information list of unfunded projects that was created due to the State's inability to provide interim financing from the Pooled Money Investment Account (AB 55 loans) to fund school construction projects as declared in the Department of Finance Budget Letter #33 issued on December 18, 2008.
"Unrestricted Charter School Fund" means the funds in the appropriate Charter School Facility Account not approved for a Preliminary Charter School Apportionment(s).
"Unrestricted Fund" means the funds in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account not approved for a Preliminary Apportionment(s).
"Urban Area" shall be a school with a locale code of 11, 12 or 13 as classified by the NCES.
"Useable Acres" means the gross acreage of a school site less any portion of the site publicly dedicated for off-site street improvements and any portion of the site not available for school purposes as determined by the CDE because of topological impediments or because of other unique circumstances.
"Zone Improvement Project (ZIP) Code" means the area as determined by the United States Postal Service.

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.

Article 2. Program Transition

Section 1859.10. Lease-Purchase Program and School Facility Program.

Projects approved under the LPP are subject to the regulations contained in Title 2, California Code of Regulations, commencing with Section 1865.1, and the SFP transition rules contained in this Article 2.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Section 1859.11. Previously Approved Joint Use Projects.

Joint Use projects that were approved by the Board prior to November 4, 1998, shall be eligible for funding pursuant to the LPP for all remaining approved but unfunded project costs.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Section 1859.12. Priority One New Construction.

Priority One new construction projects will be funded under the provisions of the LPP if the project received either: 1) Phase C approval by the Board prior to November 4, 1998; or 2) either Phase P or Phase P and Phase S, approvals, and DSA plan approval prior to November 4, 1998.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Section 1859.13. Priority Two New Construction.

Districts with Priority Two new construction projects which received either: 1) Phase C approval by the Board prior to November 4, 1998; or 2) either a Phase P or a Phase P and Phase S approval with DSA plan approval prior to November 4, 1998, must declare to the Board that it intends to convert the entire project to Priority One status by January 31, 1999 to receive funding for all remaining costs in accordance with the LPP provisions.

If the district has not declared its intention to convert the entire project to Priority One status by January 31, 1999, the project shall be deemed withdrawn under the provisions of the LPP and the district must submit a new application under the provisions of the SFP, pursuant to Section 1859.20. If the project is eligible for further funding under the SFP, the New Construction Adjusted Grant provided under the SFP will be reduced by any previous apportionments, with the exception of apportionments made for site acquisition, made under the LPP.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Section 1859.14. Priority One Modernization.

Priority One modernization projects that have either Phase C approval by the Board prior to November 4, 1998,

or have Phase P approval by the Board and DSA plan approval prior to November 4, 1998, may proceed under either (a) or (b). Districts may either:

(a) Receive funding under the provisions of the LPP; or,
(b) By January 31, 1999, withdraw the Priority One modernization LPP project and submit a new application for funding under the provisions of the SFP, pursuant to Section 1859.20. The project approval date under the LPP will be retained for the project approval date under the SFP. If the project is eligible for further funding under the SFP, the Modernization Adjusted Grant provided under the SFP will be reduced by any previous apportionments made under the LPP.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Section 1859.15. Priority Two Modernization.

Districts with Priority Two modernization projects that have either Phase C approval by the Board prior to

November 4, 1998, or have Phase P approval by the Board and DSA plan approval prior to November 4, 1998, must declare to the Board that it intends to convert the entire project to Priority One status by January 31, 1999 to receive funding for all remaining costs in accordance with the LPP provisions.

If the district has not declared its intention to convert the entire project to Priority One status by January 31, 1999, the project shall be deemed withdrawn under the provisions of the LPP and the district must submit a new application under the provisions of the SFP pursuant to Section 1859.20. The project approval date under the LPP will be retained for the project approval date under the SFP. If the project is eligible for further funding under the

SFP, the Modernization Adjusted Grant provided under the SFP will be reduced by any previous apportionments made under the LPP.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Section 1859.15.1. Application Deadline.

Districts with LPP or SFP conversions from LPP new construction and modernization projects that meet the provisions of Sections 1859.12, 1859.13, 1859.14 or 1859.15 shall receive first funding priority upon submittal of a

complete eligibility and funding application through July 5, 1999. After this date, LPP or SFP conversions from LPP new construction and modernization projects shall be funded in the order of the date of receipt of a complete application which complies with all pertinent LPP and SFP statutes and regulations.

Note: Authority cited: Section 17070.35, Education Code and Section 15503, Government Code.

Reference: Sections 17009.3 and 17009.5, Education Code.

Section 1859.16. Projects Not Eligible for Further LPP Funding.

A district with projects not meeting the requirements of Sections 1859.11, 1859.12, 1859.13, 1859.14 and 1859.15 must submit a new application under the provisions of the SFP pursuant to Section 1859.20 in order to receive funding. If the project is eligible for further funding under the SFP, the

(a) New Construction Adjusted Grant provided under the SFP will be reduced by any previous apportionments, with the exception of apportionments made for site acquisition, made under the LPP.
(b) Modernization Adjusted Grant provided under the SFP will be reduced by any previous apportionments made under the LPP.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Article 3. SFP Application Procedure

Section 1859.18. Five-Year School Facilities Master Plan.

For Approved Applications submitted on or after October 31, 2024, as a condition of participating in the SFP, a School District must submit a complete and valid Master Plan to OPSC pursuant to Education Code Section 17070.54. A copy of the local governing board approval or board minutes and Form SAB 50-MP must be submitted with the Master Plan.

(a) The date of local governing board approval of the Master Plan must be no more than five years earlier than the applicable deadline for submittal of the Master Plan to OPSC in Section 1859.18.1 for the type of the associated application for funding. For a period of five years following the date of local governing board approval of a Master Plan determined by OPSC to be a complete and valid Master Plan, pursuant to subsection (d), the School District may submit additional applications for funding to OPSC without resubmitting the previous, complete and valid Master Plan, except as specified in subsection (b).

(b) For a period of five years following the date of local governing board approval of a Master Plan determined by OPSC to be a complete and valid Master Plan, pursuant to subsection (d), the School District must submit one of the following to OPSC as a required component of an additional application for funding, only if any changes in enrollment, capacity, or other areas have materially affected components of the Master Plan required in subsection (d):
(1) An updated, complete and valid Master Plan with all required information.
(2) A governing board resolution updating the components required in subsection (d) that were materially affected and a description of what changed.

(c) Once a period of five years has elapsed following the date of a previous local governing board approval of a Master Plan determined by OPSC to be a complete and valid Master Plan, pursuant to subsection (d), the School District shall submit an updated, complete and valid Master Plan as a required component of additional applications for funding. The updated Master Plan must reflect a new five-year period as supported by a copy of the local governing board approval or board minutes. Following submittal of an updated Master Plan, subdivision (b) shall apply.

(d) In the form of narratives, charts, graphs, and/or tables as appropriate, a complete and valid Master Plan shall include, but is not limited to, all of the following information:
(1) An estimate of the School District's eligibility for state bond funding pursuant to Education Code Section 17070.54(b), as follows:
(A) For the New Construction program, the School District must provide a narrative which includes the School District's existing New Construction Eligibility approved by the Board or potential for New Construction Eligibility based on enrollment trends in the School District. The narrative may include the estimated dollar value of potential funding based on the current per-unhoused-pupil grant amount as provided by Education Code Section 17072.10(a) and Sections 1859.71 and 1859.71.1.
(B) For the Modernization program, the School District must provide a narrative or list of the School District's existing Modernization Eligibility approved by the Board or potential for Modernization Eligibility for each school site. The narrative may include the estimated dollar value of potential funding based on the current pupil grant amount as provided by Education Code Section 17074.10(a) and Sections 1859.78 and 1859.78.3.
(C) For the Facility Hardship Program and Seismic Mitigation Program, the School District must provide a narrative describing the School District's existing conceptual, unfunded, or funded projects approved by the Board or potential future projects. The narrative may include the estimated total project cost to mitigate the health and safety threat as defined by Sections 1859.82.1 and 1859.82.2.

(D) For the Charter School Facilities Program, the School District must provide a narrative describing the School District's existing Charter School Facilities Program Preliminary Apportionments approved by the Board or potential future applications to the Charter School Facilities Program. The narrative may include the estimated total project cost based on Sections 1859.163.1 and 1859.163.5, respectively. If bond authority for this program is exhausted at the time the School District is preparing the Master Plan, this narrative is not required.
(E) For the Career Technical Education Facilities Program, the School District must provide a narrative describing the School District's existing Career Technical Education Facilities Program Apportionments approved by the Board or potential future applications to the Career Technical Education Facilities Program. The narrative may include the estimated total project cost pursuant to Section 1859.193. If the School District does not operate a comprehensive high school or bond authority for this program is exhausted at the time the School District is preparing the Master Plan, this narrative is not required.
(F) For any other program under Chapter 12.5 of the Education Code, the School District must provide a narrative describing the School District's eligibility and potential funding for state bond funding, as applicable.
(2) An inventory of existing, active school facilities, sites, and property for each school in the School District, including, but not limited to, all of the following:

(A) The year each building that is currently used for instructional purposes was constructed. The year constructed shall be determined in accordance with Section 1859.60.
(B) The square footage of each building that is currently used for instructional purposes.
(C) The year, if any, each building that is currently used for instructional purposes was last modernized with either local or state funds.
(D) The pupil capacity of each school, listed by grade level including Special Day Class, Non-Severely Disabled Individual with Exceptional Needs and Severely Disabled Individual with Exceptional Needs pupils.
(E) The age, determined in accordance with Section 1859.60, and number of portable buildings.
(F) Whether each school has any of the following ancillary facilities:
1. A cafeteria
2. A kitchen
3. A multipurpose room or hybrid multipurpose room
4. A library
5. A gymnasium or hybrid gymnasium
6. An auditorium and/or performing arts facility
7. Athletic facilities, including but not limited to, pools, stadiums, etc.
8. Career technical education facilities, including but not limited to, barns, shops, and outdoor student work areas.
(3) Existing classroom capacity at each school site, as determined pursuant to Education Code Sections 17071.10 and 17071.25.
(4) Projected enrollment changes for the School District over the next five years, accounting for changes pursuant to Education Code Sections 17071.75 and 17071.76.
(5) A capital planning budget outlining the School District's significant capital outlay projects included in the Master Plan. The budget shall outline the estimated costs for each project for each fiscal year.
(6) The financing and other funding sources that would be used to support the acquisition of any applicable school site, new construction project, modernization project, and lead testing and remediation projects included in the Master Plan.
(7) Verification of the School District's current assessed value from the county audit controller or other appropriate local government entity that collects and maintains this information.
(8) The School District's deferred maintenance plan certified by the local governing board pursuant to Education Code Section 17070.75.
(9) A narrative describing how the Master Plan is consistent with the goals, actions, and services identified in the School District's local control and accountability plan for the first state priority, as described in paragraph (1) of subdivision (d) of Education Code Section 52060, as it relates to school facilities.

Note: Authority cited: Sections 17070.35, Education Code.

Reference: Sections 17070,54, 17070.75, 17071.10, 17071.25, 17071.75 and 17071.76, Education Code.

Section 1859.18.1. Master Plan Submittal Time Frames.

When submittal of a Master Plan or updated Master Plan is required pursuant to subsections (a) through (c) of Section 1859.18, inclusive, School Districts shall submit a complete and valid Master Plan and a local governing board resolution, as applicable, to OPSC within the time frames stated below. If a complete and valid Master Plan or a local governing board resolution is not submitted within the specified time frame, the application for funding shall be returned or the Apportionment may be rescinded, pursuant to Education Code Sections 17070.35(a)(3) and 17070.54.
(a) For Approved Applications for funding submitted on or after October 31, 2024, applicants to the Facility Hardship and Seismic Mitigation Programs in Sections 1859.82.1 and 1859.82.2 must submit a Master Plan as follows:
(1) A complete and valid Master Plan must be submitted within 18 months of fund release, or concurrently with submittal of the 100 percent complete Form SAB 50-06 if it is submitted less than 18 months following fund release.
(2) A local governing board resolution acknowledging the Apportionment may be rescinded for failure to submit a complete and valid Master Plan within the timeline specified in (a)(1) must be submitted with the Approved Application.

(b) Applicants to the New Construction and Modernization Programs beginning with Section 1859.70 must submit a Master Plan as follows:
(1) For Approved Applications submitted on or after October 31, 2024, and through 12 months from May 4, 2026:
(A) A complete and valid Master Plan must be submitted within 90 days of notification of application processing.
(B) A local governing board resolution acknowledging the Apportionment may be rescinded for failure to submit a complete and valid Master Plan within the timeline specified in (b)(1)(A) must be submitted with the Approved Application.
(2) For Approved Applications submitted after 12 months from May 4, 2026, a complete and valid Master Plan must be submitted concurrently with submittal of the Approved Applications.
(3) Forms SAB 50-04 for design and/or site funding, submitted pursuant to Section 1859.81.1, must include a local governing board resolution acknowledging the Apportionment may be rescinded for failure to submit a complete and valid Master Plan with an application for full grant funding in accordance with subdivision (1) or (2) above as applicable based on the OPSC receipt date of an Approved Application for funding.
(c) School District applicants to the Career Technical Education Facilities Program, beginning with Section 1859.190, must submit a Master Plan as follows:
(1) A complete and valid Master Plan must be submitted within 18 months of fund release, or concurrently with submittal of the 100 percent complete Form SAB 50-06 if it is submitted less than 18 months following fund release.
(2) A local governing board resolution acknowledging the Apportionment may be rescinded for failure to submit a complete and valid Master Plan within the timeline specified in (c)(1) must be submitted with the Approved Application for Career Technical Education Facilities Project Funding.
(d) School District applicants to the Charter School Facilities Program beginning with Section 1859.160 must submit a Master Plan as follows:
(1) If the School District received a Preliminary Charter School Apportionment prior to October 31, 2024, and a Form SAB 50-04 requesting a Final Charter School Apportionment is received on or after October 31, 2024, a complete and valid Master Plan must be submitted within 18 months of fund release, or concurrently with submittal of the 100 percent complete Form SAB 50-06 if it is submitted less than 18 months following fund release.
(2) A local governing board resolution acknowledging the Apportionment may be rescinded for failure to submit a complete and valid Master Plan within the timeline specified in (d)(1) must be submitted with the Form SAB 50-04 application for Final Charter School Apportionment.
(3) If the School District receives a Preliminary Charter School Apportionment on or after October 31, 2024, the Master Plan must be submitted with the Form SAB 50-04 request for Final Charter School Apportionment.
(4) A local governing board resolution acknowledging the Apportionment may be rescinded for failure to submit a complete and valid Master Plan within the timeline specified in (d)(3) must be submitted with the Form SAB 50-09, Application for Preliminary Charter School Apportionment.
(e) Applicants to the Natural Disaster Assistance Program in Sections 1859.84, 1859.84.1, and 1859.81.2 must submit a complete and valid Master Plan as follows:

(1) A complete and valid Master Plan must be submitted by the time of submittal of the 100 percent complete Form SAB 50-06.
(2) A local governing board resolution acknowledging the Apportionment may be rescinded for failure to submit a complete and valid Master Plan within the timeline specified in (e)(1) must be submitted with the Form SAB 195.
(f) Applicants to the Small School District Program beginning with Section 1859.156 must submit a Master Plan as follows:
(1) If the School District receives a Preliminary Small School District Apportionment on or after October 31, 2024, the Master Plan must be submitted with the Form SAB 50-04 request for Final Small School District Apportionment.
(2) A local governing board resolution acknowledging the requirement in (f)(1) must be submitted with the Form SAB 50-12 requesting a Preliminary Small School District Apportionment.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070,54, 17070.75, 17071.10, 17071.25, 17071.75 and 17071.76, Education Code.

Section 1859.20. SFP Application for Determination of Eligibility.

A School District seeking a determination of eligibility for a SFP project shall complete and file the following documents with the OPSC:
(a) For new construction, either districtwide, HSAA, or Super HSAA, or for modernization projects, the Form SAB 50-03.
(b) For new construction projects, either districtwide, HSAA or Super HSAA, the Form SAB 50-01.
(c) For new construction projects, the Form SAB 50-02.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17070.80, 17071.10, 17071.25, 17073.10 and 17073.25, Education Code.

Section 1859.21. SFP Application for Funding.

A School District seeking funding for a modernization or new construction project shall complete and file with the OPSC, the Form SAB 50-04.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.63, 17072.30, 17073.25 and 17074.15, Education Code.

Section 1859.22. SFP Application for Funding on Leased Land.

In addition to meeting the requirements of Sections 1859.20 and 1859.21 or 1859.120, a district may receive SFP funds for facilities that are or will be located on real property leased by the district provided all the following are met:
(a) The real property is leased from a governmental agency.
(b) The term of the lease for the land for which the district is requesting SFP funding at the time the Approved Application is accepted is one of the following:
(1) At least 25 years if the lease is for real property owned by the federal government.
(2) At least 40 years if the lease is for real property owned by a governmental agency other than the federal government.
(3) At least 30 years if the lease is for real property owned by a governmental agency other than the federal government and the district has certified to all the following:
(A) There are no other educationally adequate sites for new construction available under a 40-year lease.
(B) The cost per year to lease the real property for no less than 30 years is no greater than the cost per year to lease the real property for 40 years.
(4) At least 30 years if the lease is for real property owned by a governmental agency other than the federal government and the district has provided other evidence satisfactory to the Board that a shorter lease term is necessary.

A district seeking modernization funding on land or facilities leased by the district pursuant to this Section is subject to the adjustment in the district's baseline eligibility pursuant to Section 1859.51(c).

A district seeking new construction funding on land or facilities leased by the district pursuant to this Section is subject to the adjustment in the district's baseline eligibility pursuant to Section 1859.51(a) and (i).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.71, Education Code.

Section 1859.23. SFP Application for Funding on District-Owned Land.

Prior to the district requesting SFP funds for facilities, the district must hold title to the real property where the facilities will be located, unless the project meets the requirements of Regulation Section 1859.22.

Note: Authority cited: Sections 17070.35 and 17070.70, Education Code.

Reference: Section 17070.70, Education Code.

Article 4. Determining Existing School Building Capacity

Section 1859.30. Calculations to Determine Existing School Building Capacity.

For new construction projects the district shall complete, on a one-time basis, the classroom inventory pursuant to Sections 1859.31 and 1859.32 and report that inventory on the Form SAB 50-02. Completion of the calculations made on this Form shall represent the district's new construction Existing School Building Capacity.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17071.10, Education Code.

Section 1859.31. Gross Classroom Inventory.

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

(a) for which a contract was signed for the construction or acquisition of facilities or for which construction work has commenced at the time the SFP application for determination of eligibility is submitted to the OPSC;
(b) constructed with funds from the LPP;
(c) used for Special Day Class or Resource Specialist Programs;
(d) that are standard classrooms, shops, science laboratories, computer laboratories, or computer Classrooms;
(e) acquired or created for Class Size Reduction purposes;
(f) used for preschool programs;
(g) converted to any non-classroom purpose including use by others;
(h) with Housing and Community Development or Department of Housing insignia;
(i) acquired for Interim Housing;
(j) leased or purchased under the State Relocatable Program pursuant to Chapter 14 of Part 10 of the Education Code;
(k) that have a waiver for continued use by the Board for Field Act exemptions;
(l) used for Community School purposes;
(m) included in a closed school.

Note: Authority cited: Section 17070.35, Education Code.

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

Section 1859.32. Adjustments to Gross Classroom Inventory.

After the gross classroom inventory has been prepared pursuant to Section 1859.31, it will be reduced by the following. Any classrooms:

(a) abandoned and approved for replacement as a hardship under the provisions of the LPP;
(b) at a school operated on a year-round schedule that has been used continuously for at least 50 percent of the time for preschool programs in the five years preceding the receipt of the application for determination of eligibility;
(c) included in any new construction LPP project that has not received a Phase C apportionment;
(d) that is portable and owned or leased by the district for 20 years or more that was approved for abandonment in a LPP project and the plans for the project had DSA approval prior to November 4, 1998;
(e) that is a trailer and is transported/towed on its own wheels and axles;
(f) used exclusively for regional occupational centers, regional occupational programs, child care, preschool and/or Adult Education Programs, and was built or acquired with funds specifically available for those purposes;
(g) of less than 700 interior square feet;
(h) originally built for instructional use, but converted to one of the following:
(1) used continuously for school administration for at least five years prior to the submittal of the application to the OPSC for determination of eligibility.
(2) used continuously for central or main district administration for at least five years prior to the submittal of the application to the OPSC for determination of eligibility.
(3) used for school library purposes during the previous school year.
(i) owned but leased to another district.
(j) any portable classroom excluded by Education Code Section 17071.30.
(k) that is permanent space and leased for less than five years.
(l) any permanent classroom contained in a project for which the construction contract was signed between August 27, 1998 and November 18, 1998 and for which the district did not have full project eligibility under the LPP.
(m) that was acquired with joint-use funds specifically available for that purpose.
(n) built with funds provided by Education Code Section 17375.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17071.25, 17071.30,17077.40, and 17375, Education Code.

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

The School District shall identify by grade level, based on its most typical use for grades TK-6, 7-8 or 9-12, or non-severe or severe Special Day Class education, each Classroom included in the classroom inventory determined pursuant to Section 1859.31 and not excluded pursuant to Section 1859.32. These Classrooms 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.

Section 1859.35. Calculation of Existing School Building Capacity.

The School District's Existing School Building Capacity shall be determined by totaling the amounts calculated in (a) and (b).

(a) With the exception of Classrooms for Special Day Class pupils for which the multiplier is indicated on the Form SAB 50-02, multiply the number of available Classrooms in the School District, the HSAA or the Super HSAA by the following: 25 for each TK-6 Classroom and 27 for each 7-12 Classroom. Available Classrooms shall be determined by the reduction of Classrooms identified in Section 1859.32 from the gross classroom inventory prepared pursuant to Section 1859.31 and the inclusion of Portable Classrooms as provided pursuant to Education Code Section 17071.30 (a) or (b).
(b) Multiply the TK-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, and 17071.40, Education Code.

Article 5. Enrollment Projections

Section 1859.40. Enrollment Projections Used to Determine a District's Eligibility for New Construction Grants.

The district shall provide an enrollment Certification and report enrollment data, on the Form SAB 50-01. The information provided on this Form shall serve as the basis for determining a district's eligibility for New Construction funding. The enrollment projections generated by completing the Form SAB 50-01 shall be known as Cohort Projections for purposes of this section.

(a) In addition, a School District that meets the eligibility criteria as specified in Education Code Section 17071.75(a)(1) and has applied for determination of eligibility pursuant to Section 1859.20, may submit a request for review of an Alternative Enrollment Projection to the OPSC and the DRU.
(b) The request must contain all of the following to substantiate the Alternative Enrollment Projection methodology:
(1) provide a description to the OPSC on how the district cannot adequately meet its housing needs at the impacted school sites, after considering all existing eligibility mechanisms available from the Cohort Projections;
(2) a written explanation of the methodology for calculating the enrollment projections;
(3) an electronic copy of the calculations used in determining the enrollment projections;
(4) a disclosure of any assumptions that support the calculations of enrollment projections;
(5) a minimum of three years or more, as determined necessary by the DRU, of historical data used in calculating the enrollment projections. The data must be verifiable, annually based, and geographically organized if the school district's boundaries have changed since the 2000 Census conducted by the United States Census Bureau.
(6) a list of source(s) used to collect all applicable data with contact information for each data source;
(7) a separate enrollment projection for each grade level;
(8) a district-wide enrollment projection for any district that reports district-wide enrollment on the Form SAB 50-01; or HSAA enrollment projection(s) for any district that reports enrollment for one or more HSAA(s) on the Form SAB 50-01; or Super HSAA enrollment projection(s) for any district that reports enrollment for one or more Super HSAA(s) on the Form SAB 50-01.

The eligibility generated by an Alternative Enrollment Projection shall be made available to eligible school districts pursuant to Education Code Section 17071.75(a)(1), that received the OPSC's and the DRU's approval of the Alternative Enrollment Projection, until the combined Apportionments for all funding requests utilizing eligibility available from the Alternative Enrollment Projection reaches $500 million or the Board has no funds to apportion from the Kindergarten-University Public Education Facilities Bond Act of 2004.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

Section 1859.41. High School Attendance Area Reporting.

(a) A district may request that its eligibility determination for a New Construction Grant be based on a HSAA or Super HSAA basis if it meets all the following criteria:
(1) The district demonstrates that the eligibility determination for a New Construction Grant in at least one of the district's HSAA or Super HSAA results in negative eligibility for maximum funding at any grade level within the HSAA or Super HSAA.

(2) The New Construction Grant eligibility determination for the HSAA or Super HSAA is based on the existing boundaries of the HSAA or Super HSAA and the capacity and projected enrollment of the HSAA or Super HSAA as shown on the Form SAB 50-03.
(3) The eligibility determination for the HSAA or Super HSAA includes a currently operated high school that serves any combination of grades nine through twelve and that high school is not a continuation high school or a community school.

(b) An elementary school district may request that its eligibility determination for a new construction grant be based on this section if the district meets the criteria in subsection (a) and meets all of the conditions set forth in Education Code Section 17071.76(c).

(c) If a district meets the criteria in subsection (a) or (b) and requests its eligibility determination to be based on an HSAA or Super HSAA, eligibility for a future New Construction Grant, with the exception of community school pupil grants for a county superintendent, in that HSAA or Super HSAA must be filed on the same basis for a period of five years from the date the district received an apportionment that was justified by eligibility under that HSAA or Super HSAA. A county superintendent reporting on the basis of one or more HSAA basis may file applications by utilizing HSAA or Super HSAA boundaries of any district within the county. A county superintendent may report enrollment and file eligibility for a future New Construction Grant separately for special education pupils or for community school pupils.

    If a district requests to re-file its eligibility determination from HSAA or Super HSAA to district-wide after the five year time period has elapsed, the existing school building capacity in the district will be determined based on classrooms available in the HSAA or Super HSAA at the time of initial request for eligibility determination and the current classrooms in the remaining portion of the district. Once the baseline eligibility has been determined for the district, it will be adjusted for classrooms constructed, funded or acquired in that HSAA or Super HSAA as provided by Section 1859.51.

Existing boundaries of a HSAA or Super HSAA may only be changed as a result of Section 1859.51(f).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17071.75 and 17071. 76, Education Code.

Section 1859.41.1. Pupil Reporting Options for Projecting High School Attendance Area Enrollment.

A district that qualifies to have its eligibility determination for a New Construction Grant made on a HSAA or Super HSAA basis pursuant to Section 1859.41 must report pupil enrollment for all HSAAs and/or Super HSAAs for which the district wishes to establish or update eligibility in the same manner as outlined in either (a) or (b) below:

(a) Report pupils attending schools in the HSAA or Super HSAA. When only a portion of the enrollment at a feeder school actually contributes to the HSAA or Super HSAA, the district shall report, as a percentage, only that portion of the enrollment.

(b) Report pupils residing in all HSAA or Super HSAA by completing the High School Attendance Area Residency Reporting Worksheet (New/06/08). A district that reports pupils by residence shall only report pupils residing within the boundaries of the HSAA or Super HSAA that were included in the CBEDS Report of the district for the same enrollment year.

Eligibility for a New Construction Grant, once established using (b) above, must be filed on the same basis until the district has submitted a final Form SAB 50-06 for all projects for which the district has received an apportionment justified by eligibility determined using the residency reporting option. This restriction would not prevent a HSAA or Super HSAA district from re-filing its eligibility on districtwide basis after the expiration of the five-year period per Section 1859.41.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17071.75 and 17071.76, Education Code.

Section 1859.42. Projecting Non-Special Day Class Enrollment.

The School District enrollment, as reported on the Form SAB 50-01, shall be used to calculate the School District's projected enrollment other than Special Day Class enrollment. The OPSC shall use either (a) or (b) to determine the School 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 District utilizing a fifth-year enrollment projection may calculate the Transitional Kindergarten and kindergarten enrollment projection in accordance with Section 1859.42.1(b) and (c).

(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 District.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

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

A School 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 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 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 California Department of Public Health 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 California Department of Public Health 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) The number of children born as reported on the Form SAB 50-01 that will attend kindergarten within the School District 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 California Department of Public Health 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 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 California Department of Public Health 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) Modified weighting that best represents the enrollment trends of the School District 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 District 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), (b), and (c) 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 14th 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 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 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 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 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 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 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 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 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 District. For the purposes of (c), this shall be the weighting method used when determining the School District's projection in Section 1859.42(a)(2).

(11) Additionally, a School District may propose a fourth weighting method for consideration. The alternative weights shall be only positive whole numbers. The School 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.

Section 1859.43. Projecting Special Day Class Enrollment.

The district enrollment, as reported on the Form SAB 50-01, shall be used to calculate the district's projected Special Day Class enrollment. The OPSC shall use the following methodology to determine the district's projected enrollment:

(a) For the purposes of this section the final year shall refer to the fifth or tenth-year as determined in projection method used for projecting non-Special Day Class enrollment in Section 1859.42. The projected enrollment of Special Day Class students served by a school district shall be computed by multiplying the total reported enrollment of Special Day Class students by the final-year projection of the same grade level of students as determined by Section 1859.42. The resulting value shall be divided by the current enrollment of the same students as provided on Form SAB 50-01.

(b) The projected enrollment of Special Day Class students served by a county office of education shall be computed using either (1) or (2). A county office of education that utilized a fifth-year projection when projecting non-Special Day Class enrollment per Section 1859.42 must utilize a fifth-year projection for projecting its Special Day Class enrollment. A county office of education that utilized a tenth-year projection when projecting its non-Special Day Class enrollment per Section 1859.42 must utilize a tenth-year projection for its Special Day Class enrollment.

(1) Fifth-year projection enrollment shall be calculated as follows:

(A) Determine the percentage change in total Special Day Class enrollment from the previous year to the current year; determine the percentage change in total Special Day Class enrollment in the second previous year to the previous year; determine the percentage change in total Special Day Class enrollment in the third previous year to the second previous year. To determine the average annual change, add the three percentage changes and divide by three.

(B) The current Special Day Class enrollment provided by the county office of education as reported on Form SAB 50-01, shall be adjusted by the average annual percentage change in (A) for each year until the five-year projected enrollment has been determined.

(2) Tenth-year enrollment projection shall be calculated as follows:

(A) Calculate the average annual change as follows:

1. Determine the percentage change in total Special Day Class enrollment from the previous year to the current year;
2. Determine the percentage change in total Special Day Class enrollment in the second previous year to the previous year;
3. Determine the percentage change in total Special Day Class enrollment in the third previous year to the second previous year;
4. Determine the percentage change in total Special Day Class enrollment in the fourth previous year to the third previous year;
5. Determine the percentage change in total Special Day Class enrollment in the fifth previous year to the fourth previous year;
6. Determine the percentage change in total Special Day Class enrollment in the sixth previous year to the fifth previous year;
7. Determine the percentage change in total Special Day Class enrollment in the seventh previous year to the sixth previous year.
8. To determine the average annual change, add the seven percentage changes and divide by seven.

(B) The current Special Day Class enrollment provided by the county office of education as reported on Form SAB 50-01, shall be adjusted by the average annual percentage change in 8. above, for each year until the tenth-year projected enrollment has been determined.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

Article 6. New Construction Eligibility Determination

Section 1859.50. Calculations to Determine New Construction Baseline Eligibility.

The district shall calculate its eligibility determination by completion of the Form SAB 50-03. Eligibility determination for New Construction Grant(s) may be requested on either a district-wide basis, a HSAA or Super HSAA basis.

If a district requests to have its eligibility determination made on a district-wide basis, eligibility for future grants in the district must be filed on the same basis for a period of five years from the date the district received an apportionment that was justified by eligibility determined on a district-wide basis.

If a district requests to re-file its eligibility determination from district-wide to HSAA or Super HSAA after the five year time period has elapsed, the existing school building capacity in the HSAA or Super HSAA will be determined based on the classrooms available in the HSAA or Super HSAA at the time of the initial district-wide request for eligibility determination. Once the baseline eligibility has been determined for the HSAA or Super HSAA, it will be adjusted for classrooms constructed, funded or acquired in that HSAA or Super HSAA as provided by Section 1859.51.

If the district requests to have its eligibility determination made on a HSAA or Super HSAA, it must meet the criteria of Section 1859.41.

The calculated eligibility on the Form SAB 50-03, is the initial eligibility of the district, the HSAA or Super HSAA and shall be referenced as the baseline eligibility for future SFP funding. The baseline eligibility is the basis for filing Form SAB 50-04, for a new construction SFP grant.

If a special education program and the title to the related facilities is transferred between a school district and county office of education after the baseline eligibility was established by the Board, the following shall be required if the title transfer took place after January 1, 2007, or if requested by the school district and county office of education due to a title transfer that took place prior to January 1, 2007:

(a) The sending School District's existing school building capacity shall be adjusted pursuant to Section 1859.51(r).
(b) The receiving School District's existing school building capacity shall be adjusted pursuant to Section 1859.51(i).
(c) The sending School District's enrollment projection shall be adjusted pursuant to Education Code Section 17071.75(f).
(d) The receiving School District shall remit to the State a proportionate share of any financial hardship assistance provided for the project as described in Section 1859.106.

For purposes of this paragraph, the transfer of title to facilities shall also include:

(1) A pre-existing lease, for the duration of more than five years whether in a single lease or cumulative total of several leases, of the receiving School District's facilities by the sending School District that is terminated after transfer of the special education program takes place.
(2) A lease, for the duration of more than five years whether in a single lease or cumulative total of several leases, of the sending School District's facilities by the receiving School District.

There shall not be any further adjustments made as a result of any subsequent transfers of that program for a period of five years from the date of the initial transfer or before all applicable funds have been remitted to the State as a result of the initial transfer. Both School Districts shall submit a Form SAB 50-01 for enrollment changes immediately upon transfer of title.

A district affected by a reorganization election on or after November 4, 1998 may file an application for a determination of new construction baseline eligibility after a successful reorganization election.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.25, 17071.30, 17071.33, 17071.40, 17071.75 and 17071.76, Education Code.

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

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

(a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.
(b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.
(c) Reduced by the number of pupils housed in additional Classrooms constructed or purchased based on the loading standards, pursuant to Education Code Section 17071.25(a)(2)(A), in a Modernization SFP project.
(d) Adjusted as a result of the audit findings made pursuant to Sections 1859.90, 1859.90.3 and 1859.105.
(e) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years for all School 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 a complete and valid Form SAB 50-01 based on School district enrollment data, as shown in the table below:

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

OPSC may return the Form SAB 50-04 to the School District for failure to submit the Form SAB 50-01 within 90 calendar days of OPSC's notification.
(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 Classroom:
(1) That is a trailer and transportable/towed on its own wheels and axles.
(2) Of less than 700 interior square feet.
(3) That is a 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 New Construction Grant (rounded up) for the SFP project.
(8) That was acquired with joint-use funds specifically available for that purpose.
(9) That was acquired with career technical education funds specifically available pursuant to Education Code Section 17078.72.
(10) That was built or acquired exclusively for regional occupational centers, regional occupational programs, child care, preschool and/or Adult Education Programs, and with funds specifically available for those purposes.
(11) That replaces a Classroom, previously included in the determination of the School District's New Construction Eligibility 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 Classroom use immediately after the replacement Classroom is occupied.

(12) That was constructed with Overcrowding Relief Grant funds specifically available for that purpose.
(13) That was constructed with a grant provided pursuant to Education Code Section 17075.20, unless the Classroom is a Portable Classroom purchased pursuant to subdivision (a) of Education Code Section 17075.20.
(j) For Small School Districts:
(1) Decreased by any reduction in projected enrollment that follows a five-year period after the Small School District's eligibility was approved by the Board, and either (A) or (B), as applicable:
(A) Increased/decreased by changes in projected enrollment in the 2016/2017 enrollment year using a fifth-year projection or a tenth-year projection if the Form SAB 50-01 was received at OPSC by October 31, 2017.
(B) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years following 2016/2017 using a fifth-year projection or a tenth-year projection.
(2) If the Small School District does not submit an adjustment under (A) or (B) prior to OPSC notification of its schedule to begin processing the School District's request for new construction funding that was received by OPSC on or after November 1, 2012, then the requirements of (e) shall apply.
(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 HSAAs in which the pupils used to justify the conversion of the Preliminary Apportionment were enrolled but did not reside.
(2) In the subsequent enrollment reporting year after verification of Occupancy of a project, increased by the number of pupils equal to the reduction due to Section 1859.51(p)(1), for the project which was occupied.
(3) Increased by the number of pupils equal to the reduction due to Section 1859.51(p)(1), for a Preliminary Apportionment rescinded pursuant to the provisions of Section 1859.148.
(q) Adjusted by the difference between the Alternative Enrollment Projection for the current enrollment reporting year and the projected enrollment determined pursuant to Section 1859.42 for the current enrollment reporting year, or by the eligibility remaining from this calculation that can no longer be utilized if the funds made available pursuant to Education Code Section 17071.75(a)(1)(A) have been exhausted.
(r) Adjusted pursuant to Education Code Section 17071.75(b)(2) by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any Classroom(s) where title was relinquished to the School District receiving the transferred Classroom(s).
(s) Increased by the capacity of Classrooms that meet all of the following:
(1) The Classrooms are included in an Approved Application that have a qualifying health and safety threat pursuant to Sections 1859.82.1 or 1859.82.2 that were originally included in the School 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 TK-12 Classroom use that remain on the school site will be identified on a list published on OPSC's website.
(3) The Board shall approve the adjustment upon receiving the local school board resolution acknowledging that the buildings have been removed from TK-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 Modernization project.
(u) Adjusted by the capacity of Classrooms, as applicable:
(1) Decreased by the number of pupils housed in Portable Classrooms purchased for purposes of Interim Housing pursuant to Education Code Section 17075.20.
(2) Increased by the number of pupils housed in Portable Classrooms purchased pursuant to Section 1859.51(u)(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. For those School Districts that elected not to replace Classrooms that were destroyed or rendered unsafe to occupy due to a natural disaster that occurred prior to July 3, 2024, the Board will consider factors, including, but not limited to, insufficient insurance proceeds and/or government disaster assistance received, declining enrollment in the School District, site soil conditions (soil cannot be cleaned and is unusable), and all information submitted on the Form SAB 195.

Note: Authority cited: Section 17070.35, Education Code.

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

Section 1859.51.1. Baseline Adjustments for Locally Funded Facilities.

For any pupils that were reduced from the district's New Construction Eligibility in accordance with Section 1859.51(i) due to the construction contract being signed prior to the submission of the Approved Application, the district may request an increase to the new construction baseline eligibility pursuant to one of the following:

(a) By the number of pupils in which the district received a second reduction of pupils due to receiving State funding for classrooms included in a construction contract signed more than 180 days from the date the Approved Application was received by the OPSC. This request may be submitted in writing to the OPSC by the authorized District Representative no later than 120 days after this proposed regulation is in effect.
(b) By the number of pupils previously reduced from the baseline due to the construction contract exceeding 180 days from filing an Approved Application for those classrooms in the project and that are included in a request for State funding pursuant to Section 1859.70.2.
(c) By the number of pupils previously reduced from the baseline due to the District reporting the signing of contracts for construction or acquisition of classrooms prior to filing an Approved Application for those classrooms and where those classrooms are included in a current request for State funding pursuant to Section 1859.70.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51, 17071.25, 17071.75, and 17071.76, Education Code.

Article 7. Modernization Eligibility Determination

Section 1859.60. Calculation to Determine Modernization Baseline Eligibility.

The School 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 TK-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 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.

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 effect 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 TK-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 TK-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 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.

Article 8. New Construction and Modernization Grant Determinations

Section 1859.70. General.

(a) A district seeking New Construction or Modernization funding shall complete and file Form SAB 50-04, concurrently or after completing the applicable requirements in Sections 1859.20 and 1859.40. The Board shall only provide New Construction funding if the Approved Application was received by the OPSC prior to the date of Occupancy for any classrooms included in the construction contract. After the date of Occupancy of any classroom in the construction contract, a School District will be ineligible to seek New Construction funding and the classrooms will be reduced from the baseline eligibility pursuant to Section 1859.51(i) if not previously reduced.
(b) A district affected by a reorganization election on or after November 4, 1998 may file an application for New Construction funding after the notification of the reorganization election. The School District must submit a new calculation of the district's baseline eligibility as determined on the Form SAB 50-03 upon written notification, or certify that the reorganization election will not result in a loss of eligibility for the project for which the School District is requesting new construction grants. For all requests for funding received by the OPSC on or after June 6, 2017, the OPSC will notify the School District in writing that OPSC is scheduled to begin processing the School District's Form SAB 50-04. The School District must submit a completed Form SAB 50-03 within 90 calendar days of OPSC's notification. OPSC may return the Form SAB 50-04 to the School District for failure to submit the Form SAB 50-03 within 90 calendar days of OPSC's notification.

    A School District that is newly created as a result of a reorganization election may file an application for funding after approval of the election has been made by the State Board of Education.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.75, 17072.10 and 17074.10, Education Code.

Section 1859.70.1. Available Funding for Energy Efficiency.

(a) The Board shall set aside $20 million pursuant to Education Code Section 100620(e) and $20 million pursuant to Education Code Section 100820(e) for energy conservation adjustments authorized by Education Code Section 17077.35. The $20 million from each set aside shall be transferred to the Energy Efficiency Account from the following sources:
(1) The funds made available by Education Code Section 100620(a)(1) and 100820(a)(1), as appropriate.
(2) The funds made available by Education Code Section 100620(a)(2) and 100820(a)(2), as appropriate.
(b) The funds from each set aside in (a) shall be apportioned for either of the following:
(1) New Construction Additional Grants for Energy Efficiency authorized by Section 1859.71.3.
(2) Modernization Additional Grants for Energy Efficiency authorized by Section 1859.78.5.

If the Board makes a finding that the funds are not needed for the purposes of Sections 1859.71.3 or 1859.78.5, the Board shall transfer the funds back to the original funding source(s) identified in (a)(1) and (a)(2) above.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17077.35, 100620 and 100820, Education Code.

Section 1859.70.2. Funding of Previously Ineligible Projects.

For any classrooms that were previously ineligible for State funding due to the construction contract being signed more than 180 days prior to the submission of the Approved Application, the district may request funding for the project if all the following conditions are met:

(a) The Approved Application for funding must be filed with the OPSC no later than 120 days after this proposed regulation is in effect;
(b) The Approved Application meets all requirements of Chapter 12.5, the Leroy F. Greene School Facilities Act of 1998;
(c) The contract for the lease, lease-purchase, purchase or construction has been signed on or after January 1, 2000;
(d) The grants for the projects funded pursuant to this Section shall be limited to actual eligible expenditures and the funding provided will be calculated based on the grant amounts at the time the construction contract was signed;
(e) The district has new construction eligibility for the project. If the capacity of the project is included in the district's baseline, the district may exclude the capacity from its existing school building capacity for purposes of determining eligibility for this project; and
(f) All project approvals required for a new construction funding application were obtained prior to the construction contract date.

If the Approved Application meets all criteria except (f) above, the district may request a case-by-case approval from the Board.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.75, 17072.10 and, 17072.20, Education Code.

Section 1859.70.3. Available Funding for the Small High School Program. (Repealed)

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.10, 17074.32 and 101012(a)(5), Education Code.

Section 1859.70.4. Available Funding for High Performance.

The Board shall set aside $100 million pursuant to Education Code Section 101012(a)(8) for the costs of designs and materials that promote in new construction and modernization projects, 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.

On or after January 1, 2015, the Board shall not approve High Performance Incentive grants pursuant to Education Code Section 17070.965.

Funds in the High Performance School Account on or after January 1, 2015 shall be made available to Approved Applications pursuant to Section 1859.93(a) or Section 1859.93.1(a) in order of receipt pursuant to Education Code Sections 17075.15(a) and (b). Funds remaining in excess of the aforementioned Approved Applications shall be allocated as follows:

(a) 50 percent to Approved Applications pursuant to Section 1859.93(b); and,
(b) 50 percent to Approved Applications pursuant to Section 1859.93.1(b).

Note: Authority cited: Sections 17070.35 and 101012, Education Code.

Reference: Section 101012(a)(8 and 17070.965, Education Code.

Section 1859.70.5. Points for Determining the Local Funding Adjustment Grant.

This Section shall apply to Approved Applications received on or after October 31, 2024 for funding of a New Construction Adjusted Grant, Modernization Adjusted Grant, and funding pursuant to Sections 1859.82.1 and 1859.82.2. For Approved Applications on the OPSC workload list or the Applications Received Beyond Bond Authority list, OPSC will notify the School District in writing that OPSC is scheduled to begin processing the School District's Form SAB 50-04. The School District must submit documentation to substantiate the information in (a) within 90 days of the OPSC notification. For Approved Applications submitted pursuant to Sections 1859.82.1 and 1859.82.2, the School District must report the information in (a) on the Form SAB 50-04 and shall be based on the OPSC received date of the Approved Application.

(a) To determine the Local Funding Adjustment Grant, the School District must submit the following information:
(1) The School District's total assessed valuation in the form of a letter or report from the appropriate county auditor-controller(s) that certifies to the School District's total assessed valuation. The total assessed valuation means the amount provided in the last equalized county assessment roll reported pursuant to Revenue and Taxation Code Section 2052. The reporting year of the total assessed valuation shall be based upon the OPSC received date as determined in the chart below.

OPSC Received Date of Total Assessed Valuation Documentation	Reporting Year
July 1 through August 19	Submit Prior Fiscal Year
August 20 through June 30	Submit Current Fiscal Year

(2) The School District's gross bonding capacity which shall be the product of (A) or (B) as applicable:
(A) Multiply the total assessed valuation in (a) by 1.25 percent for non-unified School Districts, or
(B) Multiply the total assessed valuation in (a) by 2.5 percent for unified School Districts.
(3) The School District's total enrollment meaning the districtwide enrollment reported on a Form SAB 50-01 in Part A, the continuation high pupils reported in Part C, and the Special Day Class pupils reported in Part D. The enrollment year data is determined as follows:

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

(4) Unduplicated pupil percentage as determined for purposes of the local control funding formula pursuant to EC Section 42238.02. The enrollment year data is determined as in (3) above.
(b) The points used to compute the Local Funding Adjustment Grant are the sum of (1), (2), (3) and (4) below:
(1) Points for the School District's gross bonding capacity divided by the School District's total enrollment shall be one of the following:
(A) Four points for a School District determined to have a gross bonding capacity per enrollment of zero dollars ($0) to nine thousand nine hundred ninety-nine dollars ($9,999), inclusive.
(B) Three points for a School District determined to have a gross bonding capacity per enrollment of ten thousand dollars ($10,000) to nineteen thousand nine hundred ninety-nine dollars ($19,999), inclusive.
(C) Two points for a School District determined to have a gross bonding capacity per enrollment of twenty thousand dollars ($20,000) to fifty-four thousand nine hundred ninety-nine dollars ($54,999), inclusive.
(D) One point for a School District determined to have a gross bonding capacity per enrollment of fifty-five thousand dollars ($55,000) or more.
(2) Points for the School District's unduplicated pupil percentage shall be one of the following:
(A) Eight points for a School District determined to have an unduplicated pupil percentage of between 75 percent and 100 percent, inclusive.
(B) Six points for a School District determined to have an unduplicated pupil percentage of between 50 percent and 74.99 percent, inclusive.
(C) Four points for a School District determined to have an unduplicated pupil percentage of between 25 percent

and 49.99 percent, inclusive.
(D) Two points for a School District determined to have an unduplicated pupil percentage that is 24.99 percent or less.
(3) Two points for a School District with a pupil enrollment of 200 pupils or fewer.
(4) Two points for a project that includes the use of a project labor agreement in the application being processed. Projects that indicate use of a project labor agreement will be verified as part of the audit process required in EC Section 41024. If it is determined that a project labor agreement was not used, the funding associated with the points assigned in (d) to determine the matching share percentage will be required to be returned, with interest (based on the interest rate earned in the Pooled Money Investment Account at the time of fund release) from the time of fund release until funds are returned.
(c) If the School District does not submit any of the necessary information in subsection (a), the funding application receives the lowest points possible in the corresponding subsections (b)(1), (2), (3) and/or (4).

Note: Authority cited: Sections 17070.35 and 17070.59, Education Code.

Reference: Sections 17072.30 and 17074.16, Education Code; Section 2052, Revenue and Taxation Code.

Section 1859.71. Adjustment to the New Construction Grant.

The new construction per-unhoused-pupil grant amount, as provided by Education Code Section 17072.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.30 and the first adjustment shall be January, 1999.

The new construction per-unhoused-pupil grant amount, as provided by Education Code Section 17072.10(a), may be increased by an additional amount not to exceed six percent in a fiscal year, or decreased, based on the analysis of the current cost to build schools as reported on the Project Information Worksheet (Revised 05/10) which shall be submitted with the Forms SAB 50-05 and 50-06 and as approved by the Board.

For any changes or additions to the regulations adopted by the Board in 1999, those changes shall be adjusted in accordance with this Section at the time the regulations are adopted.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.10 and 17072.11, Education Code.

Section 1859.71.1. New Construction Grant for Individuals With Exceptional Needs.

In lieu of the funding provided in Subdivision (a) of Education Code Section 17072.10, the Board shall provide the following grant amounts for each pupil included in an approved project for new construction funding:
(a) $16,573 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(b) $11,084 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.

The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.71. The grant is eligible for any new construction grant augmentation for which the project is otherwise eligible under the law and regulations.

Note: Authority cited: Sections 17070.35, 17072.10 and 17074.10, Education Code.

Reference: Sections 17072.10 and 17074.10, Education Code.

Section 1859.71.2. New Construction Additional Grant for Fire Code Requirements.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the following grant amounts for each pupil included in an application for new construction if the project includes an automatic fire detection and alarm system as described in Education Code Section 17074.52:
(1) $7.12 for each elementary school pupil.
(2) $9.79 for each middle school pupil.
(3) $16.03 for each high school pupil.

(4) $20.42 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $30.41 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) In addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Section 1859.71.1, the Board shall provide the following grant amounts for each pupil included in an application for new construction if the project includes an automatic sprinkler system as required in Education Code Section 17074.52:
(1) $98.83 for each elementary school pupil.
(2) $117.53 for each middle school pupil.
(3) $121.98 for each high school pupil.
(4) $209.77 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $312.40 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(c) Pursuant to Subdivision (c) of Education Code Section 17074.56, the Board shall provide the grant amounts shown in (a) and (b) above, if applicable, in addition to any other funding authorized by these Regulations, for each pupil included in an application for new construction if all the following criteria are met:
(1) The final plans for the new construction project were submitted to the Division of the State Architect for review and approval between September 1, 2001 and June 30, 2002.
(2) The final plans for the new construction project included an automatic fire detection and alarm system and/or an automatic sprinkler system as described in Education Code Section 17074.52 or the project will include the system(s) prior to the completion of the project.
(3) The new construction project did not receive the entire New Construction Adjusted Grant apportionment by June 30, 2002.

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

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.50, 17074.52, 17074.54 and 17074.56, Education Code.

Section 1859.71.3. New Construction Additional Grant for Energy Efficiency.

(a) For Approved Applications received on or before October 30, 2024, in addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in (b) if all the following are met:
(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.
(2) The average energy efficiency score of all the buildings in the project, as determined by EnergyPro 3.1 or a similar computer program approved by the State Energy Resources Conservation and Development Commission, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 15 percent.
(3) DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.
(4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the State Energy Resources Conservation and Development Commission.
(5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).
(b) An amount equal to the lesser of the following:
(1) The New Construction Grant multiplied by one percent if the percentage of energy efficiency as concurred by DSA in (a)(3) is 15 percent, or by one percent plus 0.04 percent for each 0.1 percent increment of increased energy efficiency up to 25 percent. The multiplier may not exceed five percent.
(2) The funds available in the Energy Efficiency Account set aside for this Section.

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

(c) For Approved Applications received on or after October 31, 2024, in addition to any other funding authorized by these SFP Regulations, the Board shall provide the amount in (d) if all of the following are met:
(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.
(2) DSA confirmed the project exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations through the performance approach to Energy Code compliance or through a combination of prescriptive and/or performance approaches to Energy Code compliance, and the OPSC CA-CHPS requirements in (d).
(d) The New Construction Grant amount multiplied by one of the following:
(1) If the project uses the performance only approach to Energy Code compliance, with exception only of mandatory prescriptive measures, 1 percent if no OPSC CA-CHPS score card, (New 12/25) and incorporated by reference, is submitted; 3 percent if the CA-CHPS score card is 10 to 50; or 5 percent if the OPSC CA-CHPS point score is 51 to 130.
(2) If the project uses either an all prescriptive approach to Energy Code compliance or a combination of prescriptive/performance approaches to Energy Code compliance, 0 percent if no OPSC CA-CHPS score card is submitted; 2 percent if the total OPSC CA-CHPS score is 10 to 50; or 4 percent if the OPSC CA-CHPS point score is 51 to 130.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17077.35, Education Code.

Section 1859.71.4. New Construction Additional Grant Increase for Labor Compliance Program or Prevailing Wage Monitoring and Enforcement Costs.

(a) 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 district is required under Labor Code Section 1771.7(a) and (b) to initiate and enforce a LCP, the Board shall increase the per-unhoused pupil grant by 50 percent of the following calculation:
(1) Using the chart in (b) of this Section, determine the total amount of funding to be provided for the increased costs of a new construction project due to the initiation and enforcement of a LCP.
(2) Divide the amount determined in subsection (a)(1) by the total number of pupils, or by one if no pupils are assigned, in the approved application.
(b) The funding provided for a new construction project to initiate and enforce a LCP shall be calculated on the total project cost, exclusive of site acquisition costs, as follows:

$16,000	For the first $1 million or any part thereof, plus
1.6 percent	Of the next $1 million or any part thereof, plus
0.25 percent	Of the next $1 million or any part thereof, plus
0.15 percent	Of the next $1 million or any part thereof, plus
0.32 percent	Of the next $2 million or any part thereof, plus
0.31 percent	Of the next $2 million or any part thereof, plus
0.46 percent	Of the next $5 million or any part thereof, plus
0.44 percent	Of the next $5 million or any part thereof, plus
0.42 percent	Of the next $30 million or any part thereof, plus

0.4 percent	Of any remaining portion

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

Note: Authority cited: Section 17070.35, Education Code and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

Reference: Sections 17072.10 and 17072.30, Education Code.

Section 1859.71.5. New Construction Grant Increase for the Small High School Program. (Repealed)

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.71.6. New Construction Additional Grant for High Performance Incentive.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in Subsections (b) or (c), as applicable, if all the following are met:
(1) The project meets the mandatory measures of the California Green Building Standards, California Code of Regulations Title 24, Part 11, as applicable.
(2) The project includes all the prerequisites in each of the five HPRC to include Sustainable Sites, Water, Energy, Materials and Indoor Environmental Quality and related subcategory credits.
(3) Once the prerequisites in (a)(1) and (a)(2) have been met, the district may select the criteria and credits it wishes to pursue to determine point award. Category, criteria and associated points are as follows:
(A) Sustainable Sites.
1. Site Selection:
a. Code compliance is a prerequisite.
b. Avoiding environmentally sensitive land equals one point;
c. Central location equals one point;
d. Joint-use of facilities equals one point;
e. Joint-use of parks equals one point;
f. Reduced footprint equals one point.
2. Transportation:
a. Public transportation equals one point;

b. Bicycles / Human-powered transportation equals one point;
c. Minimize parking equals one point.
3. Stormwater Management:
a. Construction site runoff control is a prerequisite;
b. Limit stormwater runoff equals one point;
c. Treat stormwater runoff equals one point.
4. Outdoor Surfaces and Spaces:
a. Reduce heat islands – landscaping equals one point;
b. Reduce heat islands – cool roofs equals one point.
5. Outdoor lighting: light pollution reduction equals one point.
(B) Water.
1. Outdoor Systems:
a. Create water use budget is a prerequisite.
b. Reduce potable water use for non-recreational landscaping areas, is a maximum of two points.
c. Reduce potable water use for recreational area landscaping equals one point.
2. Indoor Systems:
a. Reduce sewage conveyance from toilets and urinals equals one point;
b. Reduce indoor potable water use is a maximum of three points.
(C) Energy.
1. Energy Efficiency:
a. Minimum energy performance based on the California Code of Regulations, Title 24, Part 6, also known as the California Energy Code, is a prerequisite.
b. Superior energy performance based on the California Code of Regulations, Title 24, Part 6, also known as the California Energy Code, is a maximum of 13 points;
c. Natural ventilation equals one point;
d. Energy management system equals one point.
e. Plug loads monitored by an energy management system equals one point.
2. Alternate Energy Sources: Renewable energy is a maximum of 15 points; one point for each five percent of the site's annual power consumption that is produced on site up to 40 percent and one point for each ten percent above 40 percent of the site's annual power consumption that is produced on site up to 90 percent and two points if 95 percent or more of the site's annual power consumption is produced on site.
3. Commissioning and Training:
a. Fundamental building systems testing and training is a prerequisite.
b. Enhanced commissioning is a maximum of four points.
(D) Materials
1. Recycling: Storage and collection of recyclables is a prerequisite.
2. Construction Waste Management:
a. Construction site waste management is a prerequisite.
b. Construction site waste management at 75 percent or above diverted is a maximum of two points.
3. Building Reuse:
a. Reuse of structure or shell is a maximum of two points;
b. Reuse of interior non-structural elements equals one point.
4. Sustainable Materials:
a. Recycled content is a maximum of two points;
b. Rapidly renewable materials and organically grown materials equals one point;
c. Organically grown materials equals one point;
d. Certified wood equals one point;
e. Salvaged materials is a maximum of two points.
f. Alternative: environmentally preferable products in lieu of a. through e. above is a maximum of seven points.
(E) Indoor Environmental Quality.
1. Lighting and Daylighting:

a. Daylighting is a maximum of four points;
b. View windows equals one point;
c. Electric lighting equals one point.
2. Indoor Air Quality and Thermal Comfort:
a. Minimum requirements for minimum HVAC and construction indoor environmental quality is a prerequisite.
b. Minimum requirements for thermal comfort and moisture control is a prerequisite.
c. Minimum requirements for minimum filtration is a prerequisite.
d. Thermal displacement ventilation equals two points.
e. Enhanced filtration equals one point.
f. Low-emitting materials is a maximum of two points.
g. Ducted returns equals one point.
h. Controllability of systems is a maximum of two points.
i. Chemical and pollutant source control equals one point.
j. Mercury reduction equals one point.
3. Acoustics:
a. Minimum acoustical performance is a prerequisite and equals two points.
b. Improved acoustical performance is a maximum of three points.
(4) A minimum of four points must come from either (a)(3)(C)1.b. and/or 2.
(5) The project, which includes a complete set of plans, must be submitted to and accepted by the DSA on or after May 20, 2006.
(6) The DSA has reviewed the proposed project and concurs with the points specified in the HPRC.
(7) The project will not receive funding from the Energy Efficiency Account.
(8) For those projects accepted by the DSA prior to October 1, 2007, districts may utilize the *2002 CA-CHPS Criteria*, and the point standard will be in the range of 23 to 72 points. All prerequisites, credits and points obtained must be based on the *2002 Edition* requirements. Criteria and associated prerequisite or points as indicated in (a)(3)(D)2.a. and 4.c. and f. and (E)1.c. and 2.b. and district resolutions are ineligible, and (a)(4) is optional.
(b) Excluding Career Technical Education Facilities Projects, to determine the High Performance Incentive grant, multiply the New Construction Grant by the percentage allowance in accordance with the eligible high performance points as follows:
(1) For those projects accepted by the DSA prior to October 1, 2007, pursuant to (a)(8), in which the level of high performance attained, as concurred by the DSA, is a minimum of 23 points, the New Construction Grant will be multiplied by:
(A) Two percent at 23 points plus 0.03 percent for each point attained from 24 through 33 points; or
(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or
(C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or
(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 72 points.
(2) For those projects accepted by the DSA utilizing the *2006 CA-CHPS Criteria*, in which the level of high performance attained as concurred by the DSA is a minimum of 27 points, the New Construction Grant will be multiplied by:
(A) Two percent at 27 points plus 0.050 percent for each point attained from 28 through 33 points; or
(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or
(C) four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or
(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 75 points.
(3) For those projects accepted by the DSA utilizing the *2009 CA-CHPS Criteria*, in which the level of high performance attained as concurred by the DSA is a minimum of 27 points, the Board shall provide $150,000 one time per school site as a High Performance Base Incentive Grant. In addition, the New Construction Grant will be multiplied by:
(A) 2.35 percent at 27 points; or
(B) 2.59 percent at 28 points plus 0.24 percent for each point attained from 29 through 33 points; or
(C) Four percent at 34 points plus 0.36 percent for each point attained from 35 through 47 points; or
(D) 9.05 percent at 48 points plus 0.060 percent for each point attained from 49 through 88 points.
(c) For Career Technical Education Facilities Projects accepted by the DSA utilizing the 2009 CA-CHPS Criteria, in which the level of high performance attained as concurred by the DSA is a minimum of 27 points, the Board shall provide $150,000 one time per school site as a High Performance Base Incentive Grant.

If there are no funds remaining in the High Performance School Account or the funds remaining are insufficient to fully fund the additional grant authorized in Subsections (b) or (c), the district may either withdraw its application and resubmit it should additional funds be made available in the High Performance School Account or continue with the new construction project and accept a full and final apportionment without the additional grant authorized by Subsections (b) or (c).

Any funds apportioned pursuant to this Section shall be expended only on high performance related costs (and components as approved by the OPSC).

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

Reference: Section 101012(a)(8), Education Code.

Section 1859.72. New Construction Additional Grant for an Individual with Exceptional Needs.

In addition to any other funding authorized by these Regulations, the Board shall provide an additional grant for the area of therapy rooms used by pupils that are Severely Disabled Individuals with Exceptional Needs. The district may request funding for therapy area, not to exceed 3,000 square feet, plus 750 square feet per additional Special Day Class classroom needed for Severely Disabled Individuals with Exceptional Needs. The amount shall be determined by multiplying the eligible square feet by $173.30 per square foot for Toilet Facilities and $96.30 per square foot for all other facilities. The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.71.

Note: Authority cited: Sections 17070.35 and 17072.10, Education Code.

Reference: Sections 17072.10, 17072.15, 17072.25, 17074.56 and 56026, Education Code.

Section 1859.73. New Construction Additional Grant for Multilevel Construction.

In addition to any other funding authorized by these Regulations, the Board shall provide an additional grant for the additional costs resulting from the need to build multilevel facilities. The additional funding is determined by multiplying the New Construction Grant by 12 percent for each pupil housed in a multilevel building that will house pupils in all levels of the building if the useable site acreage for the project is less than 75 percent of the site size recommended by the CDE for the master planned project capacity.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code

Section 1859.73.1. New Construction Additional Grant for Project Assistance.

Excluding Joint-Use Projects, the Board shall provide, in addition to any other funding authorized by these Regulations, $3,750 for Small School Districts for the cost necessary for project assistance.

For Type II Joint-Use Projects, not part of a qualifying SFP Modernization project, the Board shall provide, in addition to any other funding authorized by these Regulations, $3,750 for Small School Districts for the cost necessary for project assistance.

The amount(s) shown will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.37 and the first adjustment shall be January 2001.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

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 Classrooms contained within single-story permanent buildings intended for grades Transitional Kindergarten through six by 25, Classrooms intended for grades seven through 12 by 27, Classrooms intended for Non-Severely Disabled Individuals with Exceptional Needs by 13 and Classrooms intended for Severely Disabled Individuals with Exceptional Needs by nine. Classrooms shall not include any Classrooms reduced from the gross classroom 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 Square Footage 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 TK-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 TK-6, 7-8 or 9-12 based on the type of project selected by the School 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 District's boundaries. If unable to reference prior OPSC-reviewed and approved projects at the time of Application submittal, the School District should submit documentation for review that complies with Section 1859.74.
2. Applications submitted with a separate certification letter, signed by the authorized District Representative, 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 Classrooms 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.

Section 1859.74. New Construction Additional Grant for Site Acquisition Cost.

With the exception of projects that received site acquisition funds under the LPP or projects that qualify for site acquisition funds under Section 1859.74.5, the Board shall provide funding, in addition to any other funding authorized by these Regulations, for the lesser of one half of the actual cost of the site or one-half of the appraised value of the site acquired as described in (a) and (b) of this Section.
(a) Actual Site Cost
The actual cost of the site shall be the purchase price as shown on the escrow documents or other appropriate documents such as court orders in condemnation or as specifically identified in agreements when the site is transferred in lieu of other legally required payments or fees due to the district. The actual cost shall be adjusted for the following:
(1) Increased by the approved relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
(2) Increased by four percent of the actual amount determined in (a) above, but not less than $50,000. This amount shall provide an allowance for any appraisal, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
(3) Increased by the DTSC costs for review, approval, and oversight of the POESA and the PEA.
(b) Appraised Value of the Site
The value determined by an appraisal made or updated no more than six months prior to application submittal to the OPSC for funding. A SFP project which had the site funded as a LPP project shall use the appraised value determined under the LPP. The appraisal may be reviewed by the OPSC for conformance with Section 1859.74.1. The approved appraised value shall be adjusted for the following:
(1) Increased by the approved relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
(2) Increased by four percent of the appraised value determined in (b) above, but not less than $50,000. This amount shall provide an allowance for appraisals, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
(3) Increased by the DTSC costs for review, approval, and oversight of the POESA and the PEA.

The actual site cost or the appraised value of the site shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the master plan site acreage approved by the CDE.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.10, 17072.12 and 17251, Education Code.

Section 1859.74.1. Site Acquisition Guidelines.

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

(a) The land improvements and appurtenances, excluding fixtures, equipment and personal property, were appraised in an as is condition with the following exceptions:
(1) The site shall be appraised as if it were a clean site, safe of all toxic contaminants in accordance with CDE guidelines and pursuant to Title 5, California Code of Regulations commencing with Section 14001.
(2) The site valuation included only proposed site improvements associated with grading the site to a mass graded or super pad condition, defined as a site graded to construction readiness without foundation or paving and proposed utilities stubbed to the site. Any proposed site improvements or utilities not covered by a performance bond equal to 100 percent of the estimated cost of the site improvements and utilities must be completed prior to the close of escrow and detailed separately in the report.
(b) Consideration in the appraisal was made for net useable acreage and severance damages.
(c) The School District or its legal counsel has contracted for appraisal services.
(d) The appraiser has certified to the School District that the appraisal complies with the Uniform Standards of Professional Appraisal Practices as promulgated by the Appraisal Standards Board of the Appraisal Foundation.
(e) The amount of a court award for a site acquired in condemnation may be used in lieu of the appraised value determined in (a) through (d) above, when specifically approved by the Board.

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

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35 and 17072.12, Education Code.

Section 1859.74.2. New Construction Additional Grant for Hazardous Waste Removal.

With the exception of projects that received site acquisition funds under the LPP, the Board shall provide funding, in addition to any other funding authorized by these Regulations for the allowable costs of hazardous materials/waste removal and/or remediation costs. The allowable site costs shall not exceed 50 percent of one and one half times the value of an appraisal that conforms to Section 1859.74.1 for the costs in subsections (a), (a)(1) and (a)(2) plus the additional costs included in (b) and (c). The costs in (b) and (c) are in addition to 50 percent of one and one half times the appraisal value cap:
(a) The costs associated with the site acquisition and to implement the RA as determined necessary in the PEA that has been approved by the DTSC subject to the following:
(1) The costs for preparation of the RA.
(2) The DTSC costs for review and oversight of the preparation and implementation of the RA. The costs may not include continuous operational and maintenance costs associated with the RA.
(b) Fifty percent of the approved relocation expenses that conform to Title 25, Division 1, Chapter 6, Subchapter 1, California Code of Regulations, (Section 6000, et seq.). The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
(c) Not less than 50 percent of $50,000 or 50 percent of four percent of the appraised value. This amount shall provide an allowance for any appraisal, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
(d) The limitation of 50 percent of one and one half times the value of an appraisal for costs in subsections (a), (a)(1), and (a)(2) may be exceeded when the Board finds that unforeseen circumstances exist, and when both of the following exist:
(1) CDE determines that the site is the best available site for meeting the educational and safety needs of the School District.
(2) Substantiation that the costs are limited to the minimum required to complete the evaluation and RA approved by the DTSC.

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

Reference: Sections 17072.12 and 17251, Education Code.

Section 1859.74.3. New Construction Additional Grant for Incidental Site and Hazardous Waste Removal for Leased Sites.

When a district has requested funding on a vacant leased site pursuant to Section 1859.22 that was never used for school purposes and a site evaluation requires a RA, the Board shall provide funding, in addition to any other funding authorized by these Regulations for one and one half times the appraised valuation that conforms to Section 1859.74.1. The allowable site costs shall not exceed 50 percent of one and one half times the value of an appraisal that conforms to Section 1859.74.1 for the costs in subsections (a), (a)(1) and (a)(2) plus the additional costs included in (b) and (c). The costs in (b) and (c) are in addition to 50 percent of one and one half times the appraisal value cap:

(a) The costs associated with the site acquisition and to implement the RA as determined necessary in the PEA that has been approved by the DTSC subject to the following:

(1) The costs for preparation of the RA.

(2) The DTSC costs for review and oversight of the preparation and implementation of the RA. The costs may not include continuous operational and maintenance costs associated with the RA.

(b) Fifty percent of the approved relocation expenses that conform to Title 25, Division 1, Chapter 6, Subchapter 1, California Code of Regulations, (Section 6000, et seq.). The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.

(c) Not less than 50 percent of $50,000 or 50 percent of four percent of the appraised value. This amount shall provide an allowance for any appraisal, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.

(d) The limitation of 50 percent of one and one half times the value of an appraisal for costs in subsections (a), (a)(1) and (a)(2) may be exceeded when the Board finds that unforeseen circumstances exist, and both of the following exist:

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

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

(e) If the toxics evaluation of the leased site does not require a RA, then the allowable site costs shall not exceed the lesser of one half the appraised or actual purchase price plus the additional amounts provided in Section 1859.74.

The appraised value of the site shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the master plan site acreage approved by the CDE.

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

Reference: Sections 17072.12, 17251 and 17070.71, Education Code.

Section 1859.74.4. New Construction Additional Grant for Hazardous Waste Removal Required on an Existing School Site.

(a) With the exception of projects that received initial site acquisition funds under the SFP, the Board shall provide funding, in addition to any other funding authorized by these Regulations for the necessary hazardous waste materials/waste removal and/or remediation costs on an existing school site where the New Construction Grants will be used if all the following are met:

(1) The New Construction Grant request is for additional school facilities on an existing school site.

(2) The New Construction Grant request does not include a funding request for initial site acquisition costs allowed pursuant to Sections 1859.74 or 1859.74.2.

(3) The existing school site where the New Construction Grant will be expended has a functioning school on the site or the site had a closed school that will again be used as a functioning school.

(4) The hazardous material cleanup costs are required by the DTSC.

(b) If all the criteria in subsection (a) are met, the allowable hazardous waste removal cleanup costs shall be one half of all the following:

(1) The costs for preparation of the POESA, the PEA and the RA.

(2) The costs to implement the RA as determined necessary in the PEA that has been approved by the DTSC subject to the following:

(A) The costs may include the DTSC costs for review and oversight of the preparation and implementation of the RA.
(B) The costs may not include continuous operational and maintenance costs associated with the RA.
(c) In advance of the New Construction Adjusted Grant, districts performing a RA on additions to existing school sites shall be eligible for the costs associated with evaluation and RA required by the DTSC.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.18, Education Code.

Section 1859.74.5. New Construction Additional Grant for District-Owned Site Acquisition Cost.

(a) As an alternative to site acquisition funding provided by Sections 1859.74, 1859.74.2, 1859.74.3 and 1859.74.4, the Board shall provide an additional grant, in addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71 and 1859.71.1 for one half of the value of the district-owned site as determined in (b) provided all the following criteria are met:
(1) The site has been owned by the applicant district for a period of at least five years from the date the Approved Application is received by the OPSC. The district may demonstrate ownership of the site by any of the following:
(A) A grant deed.
(B) Escrow closing statement.
(C) Order of immediate possession.
(D) Other evidence satisfactory to the Board.
(2) The district-owned site was not purchased with funds made available from the LPP, the SFP or Proposition 1A.
(3) The district-owned site has been productively used by the applicant district for the entire five-year period immediately preceding the date the Approved Application is submitted to the OPSC for any of the following:
(A) The applicant's district administrative facility.
(B) A childcare or preschool program operated by the applicant district.
(C) An adult education program operated by the applicant district.
(D) Any other non-school productive use as determined by the Board.
(4) At least 75 percent of the useable acres of the district-owned site contained buildings and/or General Site Development that was used for the entire five year period for the qualifying purpose identified in (a)(3).
(5) The CDE has determined that the district-owned site is not otherwise available as a school site.
(6) The district has completed a cost benefit analysis as described in Section 1859.74.6 which indicates the current estimated value of the district-owned site is less than the current estimated value of an alternative site in the district.
(7) The district-owned site is approvable by the CDE for school purposes.

If all the criteria in items (a)(1) through (a)(7) are met, the OPSC will recommend to the Board that it make a finding that the non-school function on the site must be discontinued or relocated in order to utilize the site as a school site.

A district may request the Board make a finding that the non-school function on the district-owned site must be discontinued or relocated in advance of submittal of a funding application provided it meets all the criteria in (a).

(b) The value of the district-owned site shall be the sum of all the following:
(1) The value of the district-owned site determined by an appraisal made or updated no more than six months prior to submittal of the Approved Application to the OPSC. The appraisal shall include any buildings on the site and shall be made using the guidelines in Section 1859.74.1.
(2) The approved relocation expense of the district-owned site that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance. Do not include relocation expense applicable to the relocation of district personnel, district buildings/furnishings or district equipment.

(3) Four percent of the appraised value determined in (b)(1), but not less than $50,000. This amount shall provide an allowance for appraisals, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
(4) The estimated DTSC costs for review, approval, and oversight of the POESA and the PEA applicable to the district-owned site.

The amounts above shall be reduced, on a prorated basis, by the percentage of any excess acreage of the district-owned site that exceeds the master plan site acreage approved by the CDE.

If the acreage of the district-owned site is less than the site size recommended by the CDE for the master planned project capacity and the district plans on acquiring additional acreage as part of the project, the additional acreage, up to the CDE recommended site size, may be funded under the provisions of Section 1859.74.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12 and 17251, Education Code.

Section 1859.74.6. District-Owned Site Cost Benefit Analysis.

Pursuant to Subdivision (d) of Education Code Section 17072.12, a cost benefit analysis must be made to determine if it is more economical to utilize the existing district-owned site currently used for a non-school function as a school site rather than acquire an alternative site in the district. A determination that it is more economical to use the

existing district-owned site as a school site will be made if the current estimated value of the district-owned site as determined in (a)(3) is less than the current estimated value of an alternative site as determined in (b)(5).
(a) Current Estimated Value of District-Owned Site.
(1) Determine the value of the district-owned site by a preliminary appraisal or an appraisal made or updated no more than six months prior to submittal of the Approved Application to the OPSC. The appraisal shall include any buildings on the site and shall be made using the guidelines in Section 1859.74.1. The appraised value shall be increased for the following:
(A) The relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance. Do not include relocation expenses applicable to the relocation of district personnel, district buildings/furnishings or district equipment.
(B) Four percent of the appraised value determined in (a)(1), but not less than $50,000. This amount shall provide an allowance for appraisals, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
(C) The estimated DTSC costs for review, approval, and oversight of the POESA and the PEA.
(2) Determine the estimated current site development cost that would be necessary on the district-owned site if it were to be used as a school site pursuant to Section 1859.76. Estimated cost for demolition of existing buildings on the site may be included as a site development cost.
(3) Add the amount determined in (a)(1) to the amount determined in (a)(2).
(b) Current Estimated Value of Alternative Site.
(1) The district must identify an alternative site within the boundaries of the district that meet all the following:
(A) The alternative site is an approvable site by the CDE.
(B) The alternative site is located no more than three miles from the district owned site if the project is for a high school, no more than two miles from the district owned site if the project is for a middle school and no more than one mile from the district owned site if the project is for an elementary school.
(2) Determine the value of the alternative site selected in (b)(1) by a preliminary appraisal or an appraisal made or updated no more than six months prior to submittal of the Approved Application to the OPSC. The appraisal shall include any buildings on the alternative site and shall be made using the guidelines in Section 1859.74.1. The appraised value shall be increased for the following:

(A) The relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
(B) Four percent of the appraised value determined in (b)(2), but not less than $50,000. This amount shall provide an allowance for appraisals, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
(C) The estimated DTSC costs for review, approval, and oversight of the POESA and the PEA.
(D) The estimated current site development cost that would be necessary on the alternative site if it were to be used as a school site pursuant to Section 1859.76. Estimated cost for demolition of existing buildings on the alternative site may be included as a site development cost.
(3) Determine the average appraised value per acre by dividing the appraised value of the alternative site determined in (b)(2) by the number of acres of the alternative site.
(4) Multiply the average appraised value per acre of the alternative site determined in (b)(3) by the number of acres of the district-owned site identified in (a).
(5) Multiply the quotient determined in (b)(4) by 110 percent.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12 and 17251, Education Code.

Section 1859.75. Alternative District-Owned Site.

In order to receive funding authorized by Sections 1859.74 or 1859.74.2, the district must:
(a) certify there is no available Alternative District-Owned Site for that project deemed useable for school purposes by the CDE; or,
(b) certify that it intends to sell an available Alternative District-Owned Site and use the proceeds for the purchase of the new site. In this event, the Board will recognize either (1) or (2):
(1) one-half of the actual cost or the appraised value of the available Alternative District-Owned Site as determined in Section 1859.74, whichever is the lesser, or
(2) fifty percent of one and one-half times the value of the site purchased for the project as determined in Section 1859.74.2.

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

Reference: Section 17072.12, Education Code.

Section 1859.75.1. Separate Site Apportionment for Environmental Hardship.

(a) A district is eligible for a separate apportionment for site acquisition even if it does not meet the financial hardship criteria contained in Section 1859.81 with the exception of qualifying projects pursuant to the Overcrowding Relief Grant, Section 1859.180, when all the following requirements are met:
(1) The district has eligibility for grants that equal at least 50 percent of the CDE master plan capacity of the site.
(2) The district has received a contingent site approval letter from the CDE indicating that the proposed site is the best available.
(3) The district has obtained a preliminary appraisal or an appraisal of the property by a qualified appraiser utilizing criteria outlined in Section 1859.74.1. The preliminary appraisal report may be made without access to the site.
(4) The district has provided a letter from the DTSC pursuant to Education Code Section 17072.13 that indicates the time necessary to complete the remediation removal of any hazardous materials/waste on the proposed site as determined necessary by the PEA and required in the RA, will take at least 180 calendar days to complete.
(b) If the conditions in (a) are met, the district is eligible for a separate site apportionment not to exceed 50 percent of one and one half times the value of an appraisal that conforms to Section 1859.74.1 for the costs included in (b)(1) and (b)(4) plus the additional costs included in (b)(2) and (b)(3). The costs included in (b)(2) and (b)(3) are in addition to 50 percent of one and one half times the appraisal value cap:
(1) The cost of the site as determined in Section 1859.74.1 and the amount the district reasonably expects to pay for any hazardous materials/waste removal and/or remediation costs for the site.
(2) Fifty percent of the estimated relocation expenses that will conform to Title 25, California Code of Regulations,

Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment, and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.

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

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

The amount provided in (b) as a separate site apportionment shall be offset from the New Construction Grant amount the district would otherwise be eligible for pursuant to Section 1859.70. A district seeking a separate apportionment for site acquisition shall submit Form SAB 50-04.

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

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

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

Note: Authority cited: Section 17072.13, Education Code.

Reference: Sections 17072.13, 17076.10, and 17079.20, Education Code.

Section 1859.76. New Construction Additional Grant for Site Development Costs.

In addition to any other funding authorized by these Regulations, the Board shall provide funding equal to 50 percent of the following approved site development and applicable design costs:

(a) Service site development cost, within school property lines for:

(1) Site clearance including the removal of trees, brush, and debris.

(2) Demolition and removal of existing buildings and site improvements which lie in the footprint of a proposed building or proposed site development.

(3) Removal and rerouting of existing utility service which lie in the footprint of a proposed building or proposed site development.

(4) Rough grading including cut and fill, and leveling and terracing operations required in the design of the project.

(5) Soil compaction adhering to common engineering practices and engineered fill that is required by a soils report that is available for review by the OPSC.

(6) On-site drainage facilities including inlets below grade drainage facilities and retention basins.

(7) 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.

(8) 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.

(9) Relocation of existing portable buildings which lie in the footprint of a proposed building or proposed site development including the cost for set-up and utilities if the portable will be relocated on the same site. If the portable will be moved to another site, only the costs to move the portable to the new location.

(10) Fire code requirements on site that are not a part of the building.

(11) Funding for parking structures on a new construction project when all the following have been met:

(A) The new construction project will be located on site acreage that is less than 50 percent of the site size recommended by the CDE for the master planned project capacity.

(B) The number of parking stalls to be funded does not exceed 2.25 for each classroom constructed in an elementary or middle school project.

(C) The number of parking stalls to be funded does not exceed six for each high school classroom constructed in a high school project that will serve 9-12 pupils.

(D) The state grant does not exceed $7,500 per parking stall. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71.

(E) The parking structure is any of the following:

1. It is multilevel and has at least two floors of parking space.
2. It is single level with site development above the single level parking space.
3. It is single level that is subterranean or below ground level with site development above the single level parking space.
4. It is single level with buildings above the single level parking space.

(12) Removal and relocation of portable classrooms on a site eligible for replacement funding pursuant to Section 1859.82.1 or 1859.82.2 that are available for housing pupils pursuant to Section 1859.35(a).

(b) Off-site development cost on up to two immediately adjacent sides of the site, for the following:

(1) Curbs, gutters and paving of streets not to exceed one-half the mandated local street code requirements. When the existing streets are to be widened inward toward the property line from the existing face of the curb, all new street improvements lying within the one-half of mandated street width adjacent to the project.

(2) Sidewalks mandated by local ordinances.

(3) Street lighting, planting areas, street signs, traffic signals, trees or other costs mandated by local ordinances.

(4) City and/or county or special district fees pursuant to active ordinances.

(5) Reasonable cost for storm drains to point of connection.

(6) Funding for safety paths for pedestrian use beyond two immediately adjacent sides of the site necessary for a safe route to the new school site when the following conditions are met:

(A) The school district governing board has made a finding at a public hearing that pedestrian safety concerns require improvements in the form of safety paths to provide access to the school site, and the Department of Education concurs with that finding.

(B) The improvements are limited to the work necessary to install concrete, asphalt, gravel or other paving necessary to provide the safe paths.

(C) The state grant does not exceed $50,000.

(D) The improvements do not include any cost for the acquisition of land, easements or other rights-of-way.

(E) The SAB has determined that development of additional pedestrian paths is reasonable.

(c) Utility service costs associated with the CDE approved site size that are necessary to serve the master planned capacity of the site as follows:

(1) Water: Installation of water supply line(s) and connection fees from the utility company connection to the meter, meters not provided by the serving utility, or installation of a domestic water system (i.e. well, pump, tank).

(2) Sewage: Installation of main sewage disposal line from the utility company connection to the first building lateral and if applicable, connection fees. Installation of a sewage treatment/disposal system and a main disposal line from the treatment system to the nearest building lateral of the collection system.

(3) Gas: Installation of main supply line and connection fees from utility company to meter and connection fee if applicable. Installation of meters not provided by the utility. Connection of a liquefied petroleum system (and tank) from the main supply line to the first building lateral.

(4) Electric: Installation of service from the utility to the building switchboard. Primary electric service runs from the utility company's point of connection to the transformer. Secondary electric service runs from the transformer to the switchboard. Connection fee, transformer pads and protective devices.

(5) Communication systems: Installation of service from the company to the nearest distribution center.

(d) General Site Development costs within school property lines for an addition to an existing school site project wherein additional acreage is acquired, with the exception of existing school site acreage that is leased pursuant to Section 1859.22, or a new school project, determined as follows:

(1) $19,200 per Useable Acre as approved by the CDE. This sum may be increased by the percentage identified in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.

(2) 6 percent of the State and district share for Elementary School Pupils and Middle School Pupils and 3.75 percent of the State and district share for High School Pupils of the New Construction Grant. For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the district on the Form SAB 50-04.

(3) 6 percent of the State and district share for Elementary School Pupils and Middle School Pupils and 3.75 percent of the State and district share for High School Pupils of the funding provided by Sections 1859.71.2, 1859.72, 1859.73, 1859.73.2, 1859.82.1(b)(4)(A)1., 1859.82.1(b)(4)(B), 1859.82.1(b)(4)(C), 1859.82.2(b)(4)(A), 1859.82.2(b)(4)(B), 1859.83(a), (b) and (c) and 1859.125(a)(1) through (a)(2).

Subsection (d) of this section shall be suspended no later than January 1, 2031, unless otherwise extended by amendments as adopted by the Board.

The district must submit a detailed cost estimate for all requests for site development work, with the exception of General Site Development, and any justification documents that will support the work with the Form SAB 50-04.

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 Costs publication by the Sierra West Group. The design professional must certify to the district that the site development work does not exceed the minimum requirements to develop the site to meet educational needs and/or standards.

General Site Development provided pursuant to 1859.76(d)(1), service site and off-site development costs shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the master plan site acreage approved by the CDE.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17072.12 and 17072.35, Education Code.

Section 1859.77. Reduction in the New Construction Grant.

After the determination of the district's New Construction Adjusted Grant and financial hardship funding pursuant to Section 1859.81 have been made, the New Construction Adjusted Grant and any financial hardship funding provided pursuant to Section 1859.81 will be reduced by the alternative fee collected pursuant to Government Code Section 65995.7(a), if a reimbursement election or agreement pursuant to Government Code Section 65995.7 is not in effect.

Any reduction to the New Construction Adjusted Grant amount and any funding provided by Section 1859.81 made pursuant to this Section shall only include those alternative fees collected from residential units to be served by the facilities associated with the New Construction Grant. If the reduction is greater than the New Construction Adjusted Grant and the funding provided by Section 1859.81, the pupils to be housed in the proposed project will be reduced from the district's baseline eligibility and no SFP grants will be made to the district for that project. Any remaining off-set of the alternative fees collected shall be off-set on the next request for a New Construction Grant for other facilities to serve those residential units.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.20(b), Education Code and Section 65995.7, Government Code.

Section 1859.77.1. New Construction District Matching Share Requirement.

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

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

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

Note: Authority cited: Section 17070.35, Education Code.

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

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 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 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 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.

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 New Construction Grants 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 Application 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 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.

(2) The existing school site was not constructed under the SFP.

(3) The proposed project includes no more than eight Classrooms.

(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 Square Footage is less than 60 percent of the Square Footage 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 Classrooms.

(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 Square Footage 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 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 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 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 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.

Section 1859.77.4. Addition to a Site and Modernization Grant for High Performance Incentive.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in Subsections (b) or (c), as applicable, if all the following are met:

(1) The project meets the mandatory measures of the California Green Building Standards, California Code of Regulations Title 24, Part 11, as applicable.

(2) The project includes all the prerequisites in each of the five HPRC to include Sustainable Sites, Water, Energy, Materials and Indoor Environmental Quality that are within the scope of the project, and related subcategory credits.

(3) Once the prerequisites in (a)(1) and (a)(2) have been met, the district may select the criteria and credits it wishes to pursue to determine point award. The category, criteria and associated points are as indicated in Section 1859.71.6(a), with the exception of (a)(3)(C) 2., Alternate Energy Sources, that has an amended point allowance that equals three to nine points; three points for the first five percent plus one point for each additional five percent thereafter of the site's annual power consumption that is produced on site not to exceed 35 percent; and the exception of (a)(3)(E)(2)f., Low emitting materials, that has an amended point allowance equal to one to four points.

(4) A minimum of four points must come from either Section 1859.71.6(a)(3)(C)1.b. and/or 2.

(5) The project, which includes a complete set of plans, must be submitted to and accepted by the DSA on or after May 20, 2006.

(6) The DSA has reviewed the proposed project and concurs with the points specified in the HPRC.

(7) The project will not receive funding from the Energy Efficiency Account.

(8) For those projects accepted by the DSA prior to October 1, 2007, districts may utilize the *2002 CA-CHPS Criteria*, and the point standard will be in the range of 23 to 72 points. All prerequisites, credits and points obtained must be based on the *2002 Edition* requirements. Criteria and associated prerequisite or points as indicated in Section 1859.71.6 (a)(3)(D)2.a. and 4.c. and f. and (E)1.c. and 2.b. and district resolutions are ineligible, and (a)(4) is optional.

(b) Excluding Career Technical Education Facilities Projects, to determine the High Performance Incentive grant, multiply the appropriate grant listed in (1), (2), (3), (4), (5), or (6) below by the percentage allowance in accordance with the eligible high performance points in (7), (8), or (9):
(1) New Construction Grant
(2) Modernization Grant
(3) Facility Hardship Square Footage Grant
(4) Seismic Rehabilitation Grant
(5) Modernization Excessive Cost Hardship Grant pursuant to Section 1859.83(e), excluding additional grants.
(6) Charter School Facilities Program Rehabilitation Grant
(7) For those projects accepted by the DSA prior to October 1, 2007, pursuant to (a)(8), in which the level of high performance attained, as concurred by the DSA, is a minimum of 23 points, the New Construction or Modernization Grant, as appropriate, will be multiplied by:
(A) Two percent at 23 points plus 0.03 percent for each point attained from 24 through 33 points; or
(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or
(C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or
(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 72 points.
(8) For those projects accepted by the DSA utilizing the *2006 CA-CHPS Criteria*, in which the level of high performance attained as concurred by the DSA is a minimum of 20 points, the New Construction or Modernization Grant, as appropriate, will be multiplied by:
(A) Two percent at 20 points plus 0.025 percent for each point attained from 21 through 33 points; or
(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or
(C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or
(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 77 points.
(9) For those projects accepted by the DSA utilizing the *2009 CA-CHPS Criteria*, in which the level of high performance attained as concurred by the DSA is a minimum of 20 points, the Board shall provide $250,000 one time per school site as a High Performance Base Incentive Grant. In addition, the New Construction or Modernization Grant, as appropriate will be multiplied by:
(A) 2.18 percent at 20 points plus 0.025 percent for each point attained from 21 through 26 points; or
(B) 2.35 percent at 27 points plus 0.24 percent for each point attained from 28 through 33 points; or
(C) Four percent at 34 points plus 0.36 percent for each point attained from 35 through 47 points; or
(D) 9.05 percent at 48 points plus 0.060 percent for each point attained from 49 through 84.
(c) For Career Technical Education Facilities Projects accepted by the DSA utilizing the 2009 CA-CHPS Criteria, in which the level of high performance attained as concurred by the DSA is a minimum of 20 points, the Board shall provide $250,000 one time per school site as a High Performance Base Incentive Grant.

If there are no funds remaining in the High Performance School Account or the funds remaining are insufficient to fully fund the additional grant authorized in Subsections (b) or (c), the district may either withdraw its application and resubmit it should additional funds be made available in the High Performance School Account or continue with the addition to an existing site/ modernization project and accept a full and final apportionment without the additional grant authorized by Subsections (b) or (c).

Any funds apportioned pursuant to this Section shall be expended only on high performance related costs (and components as approved by the OPSC).

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

Reference: Section 101012(a)(8), Education Code.

Section 1859.78. Adjustment to the Modernization Grant.

The modernization per-unhoused-pupil grant amount, as provided by Education Code Section 17074.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.30 and the first adjustment shall be January, 1999.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.10, Education Code

Section 1859.78.1. Modernization Additional Grant for Labor Compliance Program or Prevailing Wage Monitoring and Enforcement Costs.

(a) 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 district is required under Labor Code Section 1771.7(a) and (b) to initiate and enforce a labor compliance program, the Board shall increase the per-unhoused pupil grant by the following calculation, less the district matching share required in Section 1859.79:

(1) Using the chart in Section 1859.71.4(b), determine the total amount of funding to be provided for the increased costs of a modernization project due to the initiation and enforcement of a LCP.

(2) Divide the amount determined in subsection (a)(1) by the total number of pupils, or by one if no pupils are assigned, in the approved application.

(b) After determining all other funding authorized by these Regulations, the Board shall increase the grant by 60 percent of one-fourth of one percent of the Total Projected Bond Apportionment for any project for which the construction contract is awarded on January 1, 2012 through June 19, 2014.

(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 the 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 school district failing to meet the requirements of (c) 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 school district until the date of the Board's finding.

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

Note: Authority cited: Section 17070.35, Education Code and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

Reference: Sections 17072.10 and 17072.30, Education Code.

Section 1859.78.2. Modernization Additional Grant for Project Assistance.

In addition to any other funding authorized by these Regulations, the Board shall provide $2,000 for Small School Districts for the cost necessary for project assistance. The amount will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.37 and the first adjustment shall be January 2001.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.10, Education Code.

Section 1859.78.3. Modernization Grant for Individuals With Exceptional Needs.

In lieu of the funding provided by Subdivision (a) of Education Code Section 17074.10 and Section 1859.78.6, the Board shall provide the grant amounts in subsections (a) and (b) for each pupil included in an approved project for modernization funding and shall provide the grant amount in subsections (c) and (d) for the CDE on behalf of the California Schools for

the Deaf and Blind for each pupil included in an approved project for modernization funding. The amounts in subsections (c) and (d) represent 100 percent State funding, pursuant to Education Code Section 17073.25.

(a) $7,158 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(b) $4,788 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(c) $11,930 for each pupil that meets Education Code Section 59020 and attends the California Schools for the Deaf and Blind and has facilities under 50 years old.
(d) $16,573 for each pupil that meets Education Code Section 59020 and attends the California Schools for the Deaf and Blind and has facilities 50 years old and older.

For purposes of subsections (c) and (d) above, 25 percent of the Modernization Grant shall be apportioned and released upon approval by the Board of a Separate Apportionment for Design Costs.

The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.78. The grant is eligible for any modernization grant augmentation for which the project is otherwise eligible under the law and regulations.

Note: Authority cited: Sections 17070.35, 17072.10 and 17074.10, Education Code.

Reference: Sections 17072.10, 17073.25, 17074.10 and 17074.26, Education Code.

Section 1859.78.4. Modernization Additional Grant for Fire Code Requirements.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the following grant amounts for each pupil included in an application for modernization if the project includes an automatic fire detection and alarm system as described in Education Code Section 17074.52 or the fire detection and alarm system is deferred as authorized by Subdivision (b) of Education Code Section 17074.50:
(1) $72.12 for each elementary school pupil.
(2) $72.12 for each middle school pupil.
(3) $72.12 for each high school pupils.
(4) $134.14 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $200.49 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) Pursuant to Subdivision (c) of Education Code Section 17074.56, the Board shall provide the grant amounts shown in (a) above, in addition to any other funding authorized by these Regulations, for each pupil included in an application for modernization if all the following criteria are met:
(1) The final plans for the modernization project were submitted to the Division of the State Architect for review and approval between September 1, 2001 and June 30, 2002.
(2) The final plans for the modernization project included an automatic fire detection and alarm system as described in Education Code Section 17074.52 or the project will include the system prior to the completion of the project.
(3) The modernization project did not receive the entire modernization Adjusted Grant apportionment by June 30, 2002.

The amounts shown in (a) above shall be adjusted annually in the manner prescribed in Section 1859.78.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.50, 17074.52, 17074.54 and 17074.56, Education Code.

Section 1859.78.5. Modernization Additional Grant for Energy Efficiency.

(a) For Approved Applications received on or before October 30, 2024, in addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in (b) if all the following are met:
(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.
(2) The average energy efficiency score of all the buildings in the project, as determined by EnergyPro 3.1 or a similar computer program approved by the State Energy Resources Conservation and Development Commission, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 10 percent.
(3) DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.

(4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the State Energy Resources Conservation and Development Commission.
(5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).
(b) An amount equal to the lesser of (b)(1) or (b)(2):
(1) The Modernization Grant multiplied by one percent if the percentage of energy efficiency as concurred by DSA in (a)(3) is 10 percent, or by one percent plus 0.1 percent for each 0.1 percent increment of increased energy efficiency up to 14 percent. The multiplier may not exceed five percent.
(2) The remaining funds available in the Energy Efficiency Account set aside for this Section.

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

(c) For Approved Applications received on or after October 31, 2024, in addition to any other funding authorized by these SFP Regulations, the Board shall provide the amount in (d) if all of the following are met:
(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.
(2) DSA confirmed the project exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations through the performance approach to Energy Code compliance or through a combination of prescriptive and/or performance approaches to Energy Code compliance, and the OPSC CA-CHPS requirements in (d).
(d) The Modernization Grant amount multiplied by one of the following:
(1) If the project uses the performance only approach to Energy Code compliance, with exception only of mandatory prescriptive measures, 1 percent if no OPSC CA-CHPS scorecard, (New 12/25) and incorporated by reference, is submitted; 3 percent if the OPSC CA-CHPS score is 10 to 50; or 5 percent if the OPSC CA-CHPS score is 51 to 130.
(2) If the project uses either an all prescriptive approach to Energy Code compliance or a combination of prescriptive/performance approaches to Energy Code compliance, 0 percent if no OPSC CA-CHPS score card is submitted; 2 percent if the total OPSC CA-CHPS score is from 10-50; or 4 percent if the OPSC CA-CHPS score is 51 to 130.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17077.35, Education Code.

Section 1859.78.6. Modernization Grant for 50 Year or Older Permanent Buildings.

(a) In lieu of the funding provided by Subdivision (a) of Education Code Section 17074.10 and Section 1859.78.3, the Board shall provide the amounts shown below for each pupil housed in permanent school buildings that are 50 years or older as follows:
(1) $3,120 for each elementary pupil.
(2) $3,300 for each middle school pupil.
(3) $4,320 for each high school pupil.
(4) $9,944 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $6,650 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) If the eligibility at the school site includes permanent buildings both over and under 50 years old, the number of pupils housed in 50 years or older permanent buildings, for purposes of (a) above, shall be determined by either of the following, at the district's option:
(1) A percentage of permanent classrooms that are 50 years or older to the total number of classrooms eligible for Modernization at the site determined as follows:

(A) Calculate the total number of classrooms eligible for Modernization at the site that were included in the Gross Classroom Inventory pursuant to Section 1859.31.
(B) Calculate the total number of permanent classrooms that are at least 50 years old and were not previously modernized with State funds.
(C) Divide the classrooms calculated in (b)(1)(B) by the total classrooms calculated in (b)(1)(A). Round up to the nearest one tenth of one percent.
(D) Multiply the percentage determined in (b)(1)(C) by the total modernization eligibility as determined in Option A or B on the Form SAB 50-03, for each grade group. Round up, or;
(2) A percentage of the permanent building area Square Footage that is 50 years or older to the total Square Footage eligible for Modernization at the site determined as follows:
(A) Calculate the total Square Footage building area eligible for Modernization at the site.
(B) Calculate the total permanent Square Footage of building area that is at least 50 years old and was not previously modernized with State funds.
(C) Divide the Square Footage of building area calculated in (b)(2)(B) by the total Square Footage of building area calculated in (b)(2)(A). Round up to the nearest one tenth of one percent.
(D) Multiply the percentage determined in (b)(2)(C) by the total modernization eligibility as determined in Option A or B on the Form SAB 50-03, for each grade group. Round up.

The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.78. The grant is eligible for any modernization grant augmentation for which the project is otherwise eligible under the law and regulations.

For purposes of determining the age of the building, the 20 year, 25 year and the 50 year period shall begin 12 months after the original plans for the construction of the building were approved by the DSA or in the case of permanent or portable classrooms previously modernized with State funds, the 25/20 year period shall begin on the date of its previous modernization apportionment.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.26, Education Code.

Section 1859.78.7. Modernization Additional Grant for Site Development Necessary for 50 Years or Older Permanent Buildings.

In addition to any other funding authorized by these Regulations, the Board shall provide funding for upgrading existing site development (utilities) work as necessary for the modernization of 50 years or older permanent buildings equal to the lesser of (a) or (b):

(a) 60 percent of the costs necessary to upgrade utility service to 50 year or older permanent building(s) on the site as follows:
(1) Water: Replacement or repair of main water service line(s) between the utility company connection and to five feet of the 50 years or older 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.
(2) Sewage: Replacement or repair of main sewer line between the utility company connection and to five feet of the 50 years or older 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 50 years or older building(s) on the site.
(3) Gas: Replacement or repair of main gas service line between the utility company connection and to five feet of the 50 years or older 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 50 years or older building(s) on the site.
(4) Electric: Replacement or repair of electrical service between the utility company connection and the building 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.

(5) Communication systems (i.e., cable television and telephone): Replacement or repair of service between the utility company connection and the nearest distribution center.

(b) Twenty percent of the funding authorized by Section 1859.78.6.

The district must submit a detailed cost estimate and appropriate DSA approved plans with Form SAB 50-04 for all requests for the site development work. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the modernization of the 50 years or older building(s) that will be modernized as part of the project.

The Board will approve reasonable and appropriate site development (utilities) work that meets common engineering practices and industry standards and are consistent with the specific site conditions, if the site development costs are consistent with the most current edition of the Remodeling Repair Construction Costs publication by the Sierra West Group. The design professional must certify that the site development (utilities) work does not exceed the minimum requirements to develop the site to meet educational needs and/or standards.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the 50 year or older permanent building(s).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.26, Education Code.

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 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 TK-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 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 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.

Section 1859.78.8. Modernization Grant for Facilities Previously Modernized with State Funds.

The Board shall provide an additional apportionment provided by Education Code 17074.10(a) and Section 1859.78.3, for facilities previously modernized with State funds as follows:

(a) An additional apportionment will be provided for the modernization of a permanent school building every 25 years following the date of its previous State modernization apportionment.
(b) In the case of portable classrooms, an additional apportionment will be permitted every 20 years after the date of its previous State modernization apportionment provided the modernization funds will be used to replace the portable classroom(s) and the school district must certify that the portable classrooms will be removed from any classroom use unless acceptable documentation is provided by the district indicating that the modernization of the portable classrooms is a better use of public resources.
(c) In the case of permanent school facilities that are located on a military installation and are pursuant to the criteria in Education Code Section 17073.15(b), an additional apportionment will be provided for the modernization of a permanent school building every 10 years following the date of its previous State modernization apportionment.
(d) In the case of portable school classrooms that are located on a military installation and are pursuant to the criteria in Education Code Section 17073.15(b), an additional apportionment will be provided for the replacement of the portable classrooms with a permanent structure. Portable buildings modernized pursuant to this subsection shall be replaced with a permanent structure.

If the previous SFP modernization apportionment includes both permanent and portable facilities, the number of pupil grants that will be added to the site's baseline eligibility shall be determined by the percentage of permanent or portable facilities identified on the Form SAB 50-03 that generated the initial eligibility.

The capacity and eligibility of the school district will not be adjusted for the replacement of the portable classroom pursuant to Education Sections 17074.10(f) and 17073.15.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17073.15 and 17074.10, Education Code.

Section 1859.78.9. Separate Apportionment for Modernization Reconfiguration under the Small High School Program. (Repealed)

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.32, Education Code.

Section 1859.78.9.1. Modernization Additional Grant for Minimum Essential Facilities.

In addition to any other funding authorized by these Regulations, the Board shall provide grant amounts identified in subsections (b) or (c) for an application for modernization if the eligible project includes a Minimum Essential Facility pursuant to Education Code Section 17073.16. The School District must meet all requirements to qualify for Modernization funding, prior to the additional grant pursuant to this section.

(a) A School District may request a modernization supplemental grant to construct a new or expand an existing multipurpose, gymnasium, library, school kitchen, or a hybrid combination of any of these four facility types, including, but not limited to, multipurpose/gymnasium hybrid, multipurpose/school kitchen hybrid, or multipurpose/gymnasium/school kitchen, when all of the following are met:
(1) The site does not have an existing Minimum Essential Facility, or the existing Minimum Essential Facility is not adequate to serve the enrollment of the school. For the purposes of this Section, to determine if an existing Minimum Essential Facility is inadequate, the existing Square Footage is 60 percent or less than the square footage necessary for the enrollment in the current CBEDS Report at the time of receipt of an Approved Application at the site as calculated pursuant to the chart in Section 1859.82.1(b)(4)(B)2.
(2) The site has not previously received funding pursuant to this article to construct or expand a Minimum Essential Facility.
(3) An Approved Application for Modernization funding has been received by OPSC for a project wherein the DSA-approved plans contain the construction or expansion of a Minimum Essential Facility eligible for this grant.
(A) An Approved Application received by the OPSC, on or after October 31, 2024, may be amended to request this supplemental grant provided the plans and specifications that contain the expansion or construction of a

Minimum Essential Facility eligible for this supplemental grant were approved by the DSA prior to the receipt of the Approved Application.

(B) If the School District wishes to amend its Approved Application to include a request for this supplemental grant and the plans and specifications were approved by DSA after the receipt of the Approved Application, the School District must request in writing that the Approved Application be withdrawn and removed from OPSC's workload list. The resubmitted Approved Application will receive a new received date by OPSC.

(4) The construction contract(s) for the construction or expansion of the Minimum Essential Facility was executed on or after July 3, 2024.

(5) The Minimum Essential Facility must meet the requirements pursuant to the California Code of Regulations, Title 5.

(6) 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.

(b) If all conditions in Subsection (a) are met, and the site is lacking one or more of the Minimum Essential Facilities, the application is eligible to receive a supplemental grant based on the Square Footage of the new Minimum Essential Facility constructed justified by enrollment at the project site as follows:

(1) Determine the current enrollment at the site using the CBEDS Report at the time of receipt of an Approved Application.

(2) The eligible Square Footage for the Minimum Essential Facility shall be the lesser of the actual Square Footage constructed or the Square Footage justified by enrollment pursuant to the chart in Section 1859.82.1(b)(4)(B)2.

(3) If a School District submits documentation that demonstrates additional toilet space must be constructed to obtain plan approval from DSA, the eligible toilet Square Footage may be increased by the amount of Square Footage required to obtain plan approval.

(4) Beginning September 8, 2025, the permanent Square Footage amount(s) determined in (b)(2) above shall be multiplied by $312 per square foot for all non-Toilet Facilities and by $559 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.

(5) Beginning September 8, 2025, the portable Square Footage amount(s) determined in (b)(2) above shall be multiplied by $69 per square foot for all non-Toilet Facilities and by $181 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.

(6) In addition to the funding provided in Subsections (4) and (5), an amount equal to 35 percent of the sum of Subsections (4) and (5) for costs associated with site development, demolition, landscaping and other costs incurred when adding a Minimum Essential Facility to a site, utility costs, utility connections and other related fees necessary for the Minimum Essential Facility.

(7) In lieu of 35 percent funding provided in (6) above, the School District has the option of requesting 60 percent of eligible costs contained within Section 1859.76 (a), (b), and (c) by submitting a detailed cost estimate for requests related to site development work for the eligible Square Footage in the qualifying Minimum Essential Facility and any justification documents that will support the work must be submitted with the Form SAB 50-04. The Board will approve reasonable and appropriate site development work that 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 Costs publication by the Sierra West Group. The design professional must certify to the district that the site development work does not exceed the minimum requirements to develop the site to meet educational needs and/or standards. This amount will be prorated for any excess Square Footage constructed beyond the eligible Square Footage determined in (b)(2) and (b)(3).

(c) If all conditions in Subsection (a) are met, and the site's existing Minimum Essential Facility is not adequate to serve the enrollment of the school, the application is eligible to receive a supplemental grant based on the square footage of the expanded Minimum Essential Facility constructed justified by enrollment at the project site as follows:

(1) Determine the current enrollment at the site using the CBEDS Report at the time of receipt of an Approved Application.

(2) The eligible Square Footage for the Minimum Essential Facility shall be the lesser of the delta between the Square Footage of the existing Minimum Essential Facility and actual Square Footage constructed or the delta between the Square Footage of the existing Minimum Essential Facility and the Square Footage justified by enrollment pursuant to the chart in Section 1859.82.1(b)(4)(B)(2).
(3) If a School District submits documentation that demonstrates that additional toilet space must be constructed to obtain plan approval from DSA, the eligible toilet Square Footage may be increased by the amount of Square Footage required to obtain plan approval.
(4) Beginning September 8, 2025, the permanent Square Footage amount(s) determined in (b)(2) above shall be multiplied by $312 per square foot for all non-Toilet Facilities and by $559 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.
(5) Beginning September 8, 2025, the portable Square Footage amount(s) determined in (b)(2) above shall be multiplied by $69 per square foot for all non-Toilet Facilities and by $181 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.
(6) In addition to the funding provided in Subsections (4) and (5), an amount equal to 35 percent of the sum of Subsections (4) and (5) for costs associated with site development, demolition, landscaping and other costs incurred when adding a Minimum Essential Facility to a site, utility costs, utility connections and other related fees necessary for the Minimum Essential Facility.
(7) In lieu of 35 percent funding provided in (6) above, the School District has the option of requesting 60 percent of eligible site development costs contained within Section 1859.76 (a), (b) and (c) by submitting a detailed cost estimate for requests related to site development work for the eligible Square Footage in the qualifying Minimum Essential Facility and any justification documents that will support the work must be submitted with the Form SAB 50-04. The Board will approve reasonable and appropriate site development work that 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 Costs 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. This amount will be prorated for any excess Square Footage constructed beyond the eligible Square Footage determined in (c)(2) and (c)(3).

Note: Authority cited: Sections 17070.35 and 17073.16, Education Code.

Reference: Sections 17073.16 and 17074.25, Education Code.

Regulation Section 1859.78.9.2. Modernization Additional Grant for Transitional Kindergarten Classrooms.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the funding determined in (c) for each eligible Transitional Kindergarten Classroom, up to a maximum of four Classrooms, in an Approved Application for Modernization funding if the School District demonstrates a need to adequately house Transitional Kindergarten pupils as described in Education Code Section 17073.16, and the following conditions are met:
(1) The Approved Application was received on or after October 31, 2024.
(2) Construction contracts for the construction or Retrofit of Transitional Kindergarten Classrooms were signed on or after July 3, 2024.
(3) Final DSA and CDE plan approvals for the eligible Transitional Kindergarten Classrooms were obtained prior to the receipt date of the Approved Application.
(4) The funding must construct or Retrofit facilities that result in Classroom(s) that meets the design requirements required for new kindergarten Classrooms as specified in paragraph (2) of subdivision (h) of Section 14030 of Title 5 of the California Code of Regulations.
(5) For new construction projects, Classrooms must be not less than 1,350 square feet, including restrooms, storage, teacher preparation, wet and dry areas.
(6) For Retrofit projects, Classrooms shall not be less than 1,350 square feet, including restrooms, storage, teacher preparation, wet and dry areas unless both of the following conditions are met:
(A)The project qualifies for an exemption through CDE pursuant to Title 5, Section 14030(r) of the California Code of

Regulations to Retrofit a Classroom that will be less than 1,350 square feet.
(B) The Classroom shall not be less than 1,250 square feet.
(7) The School District shall not use funds to purchase, or install, a Portable Classroom(s).
(8) The School District lacks the facilities to provide Transitional Kindergarten instruction at the project school site. A project school site is considered lacking Transitional Kindergarten facilities if the calculated enrollment exceeds the current kindergarten Classroom capacity at the site. Classrooms constructed as kindergarten or Transitional Kindergarten classrooms or altered to house kindergarten or Transitional Kindergarten students, regardless of current use, will be included when determining the existing kindergarten and Transitional Kindergarten classroom capacity, as determined by CDE. For purposes of determining Classroom capacity, a loading standard of 25 kindergarten pupils per Classroom will be used and all Transitional Kindergarten Classrooms will be loaded for full-day instruction unless the School District indicates that an existing Classroom(s) will continue to be used for non-full-day instruction at the completion of the project. The maximum calculated Transitional Kindergarten Classroom need shall be determined by one of the following:
(A) Calculate the mean of first grade, second grade, and third grade enrollment at the time of receipt of an Approved Application. The mean shall be rounded up to the nearest whole number.
(B) Calculate the mean of the Transitional Kindergarten enrollment at the time of receipt of an Approved Application, plus two prior enrollment years. The mean shall be rounded up to the nearest whole number.
(b) Applicants requesting the additional grant for Transitional Kindergarten shall include the following documentation:
(1) A description of the proposed project, including, but not limited to, the following information:
(A)The total number of Transitional Kindergarten and kindergarten Classrooms on the site prior to the construction of the proposed Transitional Kindergarten Classrooms in the project.
(B) The current CBEDS Report, at the time of receipt of an Approved Application, including Transitional Kindergarten students pursuant to EC Section 48000. To determine the appropriate enrollment reporting year, refer to the following:

OPSC 90 Day Notification of Processing	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

(C) The enrollment at the site for the three years immediately preceding the enrollment reporting year determined in (7)(B) above.
(D) The total number of Transitional Kindergarten and kindergarten Classrooms on the site after the completion of the project.
(E) Site map that includes labelling of all facilities and their current use, identifies all Classrooms constructed or previously retrofitted to house preschool, Transitional Kindergarten, and kindergarten students, and identifies any facilities that will be retrofitted in the project.
(c) Beginning September 8, 2025, the additional grant for the construction of a new Transitional Kindergarten Classroom(s) shall be equal to the sum of (1) through (6):
(1) $19,016 for each pupil housed multiplied by 25 for each Transitional Kindergarten Classroom in the DSA-approved plans.
(2) $23 for each pupil housed multiplied by 25 if the Classroom(s) in the DSA-approved plans if the project includes an automatic fire detection and alarm system.
(3) $318 for each pupil housed multiplied by 25 if the DSA-approved plans if the project includes an automatic sprinkler system.
(4) An amount equal to 35 percent of the amount determined in (1) for costs associated with site development, demolition, landscaping, utility costs, utility connections and other related fees necessary to add a Transitional Kindergarten Classroom(s) to the site.
(5) In lieu of 35 percent funding provided in (4) above, the School District has the option of requesting 60 percent of eligible site development costs contained within Section 1859.76 (a), (b) and (c) by submitting a detailed cost estimate for requests related to site development work for the qualifying Classrooms, and any justification documents that will support the work with the Form SAB 50-04. The Board will approve reasonable and appropriate site development work that 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 Costs 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.

(6) An amount equal to 12 percent of the amount determined in (a) for each pupil housed in a multilevel building that will house pupils in all levels of the building if the usable site acreage is less than 75 percent of the site size recommended by CDE, pursuant to California Code of Regulations, Title 5, Section 14010(a), for the master-planned project capacity.

(7) The grant amounts in (1), (2), and (3) 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(b).

(d) Beginning September 8, 2025, the additional grant for the Retrofit of an existing school facility to be a Transitional Kindergarten Classroom(s) shall be equal to the sum of (1) through (5) below:

(1) $6,034 for each pupil housed multiplied by 25 for each Transitional Kindergarten Classroom in the DSA-approved plans.

(2) $196 for each pupil housed multiplied by 25 for each Classroom(s) in the DSA-approved plans if the project includes an automatic fire detection and alarm system.

(3) An amount equal to 35 percent of the amount determined in (a) for costs associated with demolition, landscaping, playground safety improvements and other costs incurred when adding a preschool, transitional kindergarten or kindergarten Classroom(s) to a site, utility costs, utility connections and other related fees necessary for the project.

(4) An amount equal to 15 percent of the amount determined in (a) for upgrading existing site development (utilities) work as necessary if the project includes the Retrofit of a 50-year-old or older permanent building.

(5) In lieu of funding provided in (3) and (4) above, the School District has the option of requesting 60 percent of eligible site development costs contained within Section 1859.76 (a), (b) and (c) by submitting a detailed cost estimate for requests related to site development work for the qualifying Classrooms, and any justification documents that will support the work with the Form SAB 50-04. The Board will approve reasonable and appropriate site development work that 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 Costs 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.

(6) The grant amounts in (1) and (2) 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 17074.10(b).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17073.16 and 17375, Education Code.

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

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

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

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

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

(3) The applicant:

(A) Is a local educational agency operating a comprehensive high school pursuant to Education Code Sections

51224, 51225.3 and 51228.
(B) Has an active career technical advisory committee pursuant to Education Code Section 8070.
(C) The applicant submitted project plans to CDE and the application received a career technical education plan score from CDE with a minimum score of 105 points on or after July 3, 2024.
(4) The project meets the criteria in Education Code Section 17078.72(b) and Education Code Section 17078.74(f), as verified by CDE.
(5) Contracts and/or purchase orders for the career technical education components in the project were signed on or after July 3, 2024.
(b) The grant amount shall be the lesser of (b)(1) or (b)(2):
(1) Five percent of the Modernization Grant.
(2) 60 percent of the OPSC-approved costs for the career technical education scope of work, inclusive of equipment, included in an Approved Application for a Modernization Grant. The applicant must provide an itemized list of equipment and detailed cost estimate for the career technical education scope of work. Costs associated with new construction must be provided in conformance with the Current Construction Costs publication by Sierra West Publishing. Costs associated with reconfiguration or modernization of a school building must conform to the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing, at the F2 total unit cost amounts.

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

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

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

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

Reference: Section 17078.74, Education Code.

Section 1859.79. Modernization District Matching Share Requirement.

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

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

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

Note: Authority cited: Section 17070.35, Education Code.

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

Section 1859.79.1. Modernization Reimbursement.

The Board will not provide Modernization funding for a project if the district entered into a construction contract for that project before August 27, 1998 unless:
(a) The project met the provisions for funding under the LPP pursuant to Sections 1859.14 or 1859.15; or
(b) The project was approved on the Year-Round Schools Air Conditioning/Insulation Program unfunded approval list pursuant to Education Code Section 42250.1.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17074.10 and 42250.1, Education Code.

Section 1859.79.2. Use of Modernization Grant Funds.

The Modernization Grant plus any other funds provided by these Regulations shall be expended as set forth in Education Code Sections 17073.16, 17074.25, 17074.10(f) and 17070.15(i) and may also be utilized for other purposes as set forth in Education Code Section 100420(c), and Labor Code Section 1771.3(a) in effect on January 1, 2012 through June 19, 2014. Modernization funding may also be used for the costs incurred by the district directly or through a contract with a third party provider for the initiation and enforcement of a LCP. Modernization funding, with the exception of savings, is limited to expenditure on the specific site where the modernization grant eligibility was generated. The grant may not be used for the following:
(a) New building area with the exception of the following:
(1) Replacement building area of like kind. Additional Classrooms constructed within the replacement area will reduce the new construction baseline eligibility for the School District.
(2) Building area required by the federal Americans with Disabilities Act (ADA) or by the DSA access requirements.
(3) Additional Square Footage constructed with funding provided by Sections 1859.78.7.1, 1859.78.9.1 or 1859.78.9.2.
(4) Additional Square Footage constructed to meet the minimum requirements of California Code of Regulations, Title 5.
(b) New site development items with the exception of:
(1) Replacement, repair or additions to existing site development.
(2) Site development items required by the federal ADA Act or by the DSA's access requirements.
(3) Site development work for facilities in (a)(3) or (a)(4) above.
(c) the evaluation and removal of hazardous or solid waste and/or hazardous substances when the Department of Toxic Substance Control has determined that the site contains dangerous levels of a hazardous substance, hazardous waste, or both that exceed ten percent of the combined adjusted grant and the district matching share for the project.
(d) Leased facilities not owned by another School District or a county superintendent.

Modernization Grant funds may be used on any school facilities on the site, with the exception of portable classroom facilities eligible for an additional apportionment pursuant to Education Code Sections 17073.15 and 17074.10(f) and as defined in Section 1859.78.8, or portables funded pursuant to Education Code Section 17073.15(b). If the classroom facilities on the site include areas that are currently ineligible for modernization, it will not disqualify those facilities from future modernization funding.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.15, 17073.16, 17074.25 and 100420(c), Education Code, and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

Section 1859.79.3. Minimal Requests for Modernization Grant Funds.

(a) With the exception of Approved Applications that meet the requirements of Section 1859.107(a), districts seeking a Modernization Grant must submit Form SAB 50-04 for any one of the following:
(1) at least 52 Non-Severe grants, or
(2) at least 36 Severe grants, or

(3) at least 101 grants, or
(4) the remaining modernization eligibility at the school site if less than the grants in (1), (2), or (3).

(b) Form SAB 50-04 requesting Modernization Grant funds that do not meet the above criteria will not be accepted by the SAB.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.15, 17074.16, 17074.25 and 100420(c), Education Code.

Article 9. Hardship Assistance

Section 1859.80. General.

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

(a) A financial hardship, as provided in Section 1859.81, which prevents the School District from funding all or a portion of the matching share requirement for a SFP grant.
(b) Qualification for facility hardship as provided in Sections 1859.82.1 or 1859.82.2.
(c) An Excessive Cost Hardship Grant as a result of added construction costs due to unusual circumstances as provided in Section 1859.83.
(d) Qualification for natural disaster assistance pursuant to Sections 1859.84.1 or 1859.84.2 as a result of a natural disaster for which the Governor has declared a state of emergency.

Note: Authority cited: Section 17070.35, 17075.10 and 17075.20, Education Code.

Reference: Sections 17075.10 and 17070.15, Education Code.

Section 1859.81. Financial Hardship.

Except for Joint-Use Projects and Career Technical Education Facilities Projects, a School 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 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 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 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 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 TK-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 TK-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 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 District may also retain $19,776 per Classroom 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 Classrooms needed for interim housing shall be the quotient of the displaced pupils by 25 for TK-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

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

(c) The School 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 District meets at least one of the following:

(1) The current outstanding bonded indebtedness of the School 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 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 District is paying a debt service that was issued for capital outlay school facility purposes.

(2) The School 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 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 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 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 District's request for Financial Hardship status is denied by the Board, the School District may be deemed eligible for rental payments of $2,000 per year per Classroom under the Emergency School Classroom Law of 1979 for a two year period when relocatable classroom buildings are available and the School 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 Classrooms 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 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 TK-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

(d) The School District has not signed a contract for acquisition or construction of Classrooms that replace existing facility(ies), which were included in the determination of the School District's New Construction Eligibility pursuant to Education Code Section 17071.75, in a locally funded project during the five-year period immediately preceding the School District's Application for Financial Hardship assistance. This restriction may be lifted if the Board finds that unforeseen and extenuating circumstances existed that required the School District to use local funds to replace the facility(ies).

(e) If the School District meets the Financial Hardship requirements in this Section, the amount of Financial Hardship is equal to the School District's matching share less funds deemed available in (a).

(1) Once a School District has been notified by OPSC that it meets the requirements of Financial Hardship in this Section, the School 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 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 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 District's funds pursuant to (a) will be made to determine if additional district funds are available to fund the School District's matching share of the project(s).

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

(f) If the School 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 District's financial records on or after July 1, 2011 will be considered in calculating any adjustment to the School District's matching share.

(h) On or after September 22, 2017, a School 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 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 Application OPSC will notify the School 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 District.

(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 District shall re-qualify for Financial Hardship status.

(i) Any project expenditures made prior to a School District requesting Financial Hardship status is considered contribution due to expenditure and will reduce the Financial Hardship Apportionment amount received on the project, with the exception of: A School District may begin making expenditures on a project while seeking Financial Hardship consideration only if the School District uses bridge financing and/or interfund borrowing that meets the following criteria:

(1) The School District 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 Application number(s) (if known) that will be funded with the bridge financing.

(3) The School District'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 District 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 District to move forward with their SFP Financial Hardship project(s). The School District must provide detailed General Ledger (GL) transactions that clearly indicate the following:

a. The transfer out of the fund the School District 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 District 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 District 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 District 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 District's required matching contribution due to expenditures.
(7) Once any state funding is released for the SFP project(s), the School District 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 District 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 District'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.

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

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

(a) For a new construction project, a separate apportionment for site acquisition, with the exception of site acquisition funding authorized by Section 1859.81.2 or for projects receiving funding pursuant to the Overcrowding Relief Grant, Section 1859.180, when all the following requirements are met:
(1) The School District has eligibility for grants that equal at least 50 percent of the CDE master plan capacity of the site.
(2) The School District has received a contingent site approval letter from the CDE indicating that the proposed site is the best available.
(3) The School District has obtained a preliminary appraisal of the property by a qualified appraiser utilizing criteria outlined in Section 1859.74.1. This report may be made without access to the site.
(b) If the conditions in (a) are met on a site that does not require a RA, the Board will apportion all of the following less any district funds available for the project pursuant to Section 1859.81(a):
(1) An amount not to exceed 100 percent of the lesser of the preliminary appraised value of the site as determined by Section 1859.74.1 or the amount the district reasonably expects to pay for the site including any hazardous material clean-up.
(2) The estimated relocation expenses that will conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment, and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
(3) Four percent of the lesser of the preliminary appraised value of the site or the amount the School District reasonably expects to pay for the site acquisition including any hazardous material clean-up but not less than $50,000.
(4) The estimated DTSC costs for review, approval, and oversight of the POESA and the PEA.
(c) If the conditions in (a) are met on a site that will require a RA, the district is eligible for a separate site apportionment not to exceed 50 percent of one and one half times the value of an appraisal that conforms to Section 1859.74.1 for the costs included in (c)(1) and (c)(4) plus the additional costs included in (c)(2) and (c)(3). The costs included in (c)(2) and (c)(3) are in addition to 50 percent of one and one half times the appraisal value cap.

(1) The cost of the site as determined in Section 1859.74.1 and the amount the School District reasonably expects to pay for any hazardous materials/waste removal and/or remediation costs for the site.
(2) Fifty percent of the estimated relocation expenses that will conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment, and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
(3) Fifty percent of four percent of the lesser of the appraised value of the site or the amount the School District reasonably expects to pay for the site acquisition including any hazardous materials/waste removal and/or remediation costs for the site, but not less than 50 percent of $50,000.
(4) The estimated DTSC costs for review, approval and oversight of the POESA and the PEA.

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

(1) CDE determines that the site is the best available site for meeting the educational and safety needs of the School District.
(2) Substantiation that the costs are limited to the minimum required to complete the evaluation and RA approved by the DTSC.

(e) For new construction projects, the Board will apportion an amount not to exceed 40 percent of the new construction grant less any School District funds available for the project pursuant to Section 1859.81(a), plus $150,000 for new school projects and $250,000 for new construction addition projects that will be pursuing high performance incentive grants as indicated on the School District governing board resolution that shall be submitted to the OPSC as part of a funding request pursuant to this Section. For modernization projects, the Board will apportion an amount not to exceed the following:

(1) If the Approved Application is received on or before April 29, 2002, 20 percent of the modernization grant less any district funds available for the project pursuant to Section 1859.81(a).
(2) If the Approved Application is received after April 29, 2002, 25 percent of the modernization grant less any School District funds available for the project pursuant to Section 1859.81(a), plus $250,000 for projects that will be pursuing high performance incentive grants as indicated on the School District governing board resolution that shall be submitted to the OPSC as part of a funding request pursuant to this Section.

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

The amount apportioned is an estimate of the funds needed for design, engineering, and other pre-construction project costs.

Qualifying School Districts may request a separate Apportionment for the design and for site acquisition for the same new construction project. Those projects requesting an Overcrowding Relief Grant, pursuant to Section 1859.180, do not qualify for these separate Apportionments.

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

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

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

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

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

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

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

Section 1859.81.2. Separate Apportionment for District-Owned Site Acquisition Costs.

A district that meets the financial hardship criteria in Section 1859.81, with the exception of those projects requesting an Overcrowding Relief Grant pursuant to Section 1859.180, is eligible for the following:

(a) A separate apportionment for district-owned site acquisition cost authorized by Section 1859.74.5 when all the following are met:

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

(2) All the criteria in Section 1859.74.5(a)(1) through (a)(7) are met.

(b) If the conditions in (a) are met, the Board will apportion one half of the value of the district-owned site as determined in Section 1859.74.5(b).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.13, 17072.20, and 17079.20, Education Code.

Section 1859.81.3. Use of District-Owned Site Acquisition Apportionment.

Any funds authorized by Sections 1859.74.5 or 1859.81.2 shall be expended in accordance with Education Code Section 17072.35 and may also be used for the relocation of district facilities necessary as a result of Subdivision (b) of Education Code Section 17072.12.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.20 and 17072.35, Education Code.

Section 1859.82. Facility Hardship Program and Seismic Mitigation Program.

A school district may apply for Facility Hardship, including Seismic Mitigation Program assistance in cases of extraordinary circumstances that have caused an imminent health and safety threat.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10, 17075.15, 100420, 100620, 100820, 101012(a)(1) and 101122, Education Code.

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 District 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 Application 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 District. If a School District demonstrates that extreme or unusual circumstances prevented the submission of an eligible Application 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 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 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 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 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 Application 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 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 TK-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

l. 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 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 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 Classroom space provided is limited by the enrollment determined in 1. rounded up to the nearest whole Classroom based on 1859.82.1(b)(4)(A)2., and then reduced for any Classroom 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.
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 Classroom.	NA	NA
Classrooms (1st-12th grade)	960 sq. ft. for each replacement Classroom	960 sq. ft. for each replacement Classroom	960 sq. ft. for each replacement Classroom

Computer instructional support area, Industrial and Technology/Education Laboratory	960 sq. ft. for each replacement Classroom.	960 sq. ft. for each replacement Classroom.	960 sq. ft. for each replacement Classroom.
Laboratory Classrooms (including science and consumer home economics. (Does not include Industrial and Technology/Education Laboratory)	1,300 sq. ft. for each replacement Classroom.	1,300 sq. ft. for each replacement Classroom.	1,300 sq. ft. for each replacement Classroom.

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 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 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 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 Application 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 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 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 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 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 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.

(4) If the School District qualifies for funding to rehabilitate or repair its School Buildings, the School District 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 District 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 District, 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 District 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 District 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 District'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 Modernization as provided in Section 1859.60 will be adjusted for any funding received in accordance to (b) above. The age of the Classroom 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 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 District 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 Application 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.

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 Applications 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 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 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 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 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 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 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 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 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 seismic mitigation replacement funding that do not meet the requirements of (1) or (2) above shall be returned without review.
(4) If the School District qualifies for Replacement funding in accordance to (a)(1) or (a)(2) above, the School District is eligible to receive funding for the project as follows:

(A) If the School District is required to replace the entire site and relocate to a new 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 TK-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 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 Classroom space provided is limited by the enrollment determined in Section 1859.82.2(b)(4)(B)1. rounded up to the nearest whole Classroom 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 Classroom.	NA	NA
Classrooms (1st-12th grade)	960 sq. ft. for each replacement Classroom	960 sq. ft. for each replacement Classroom	960 sq. ft. for each replacement Classroom
Computer instructional support area and Industrial and Technology/Education Laboratory	960 sq. ft. for each replacement Classroom.	960 sq. ft. for each replacement Classroom.	960 sq. ft. for each replacement Classroom.
Laboratory Classrooms (including science and consumer home economics)	1,300 sq. ft. for each replacement Classroom.	1,300 sq. ft. for each replacement Classroom.	1,300 sq. ft. for each replacement Classroom.

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 District 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 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 1859.82.2(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 Square 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 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 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 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 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.

(4) If the School District qualifies for seismic mitigation funding to repair their permanent School Buildings, the School 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 District, 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 District 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 District 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 District'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 Modernization as provided in Section 1859.60 will be adjusted for any funding received in accordance to (b) above. The age of the Classroom 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 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 District 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 District 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 Districts may request a separate Apportionment for the design and for site acquisition for the same seismic mitigation 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 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 District does not submit the Approved Application for funding within the timelines required by Section (2) above, the Application will be reduced to eligible costs incurred.
(7) Upon receipt of the Approved Application, the 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.

Section 1859.82.3. Facility Hardship Program and Seismic Mitigation Program Conceptual Approvals.

A district may request approval from the Board to determine eligibility for facility hardship or seismic mitigation programs in advance of project funding. Board approval does not constitute a reservation of bond authority. Board approval only confirms the district meets the criteria in Section 1859.82.

(a) To request conceptual approval for facility hardship projects, the district must submit an *Application For Funding* (Form SAB 50-04) indicating the request for conceptual approval and all documents listed below:
(1) For replacement projects, all of the documents listed in Section 1859.82.1(b)(2)(A) through Section 1859.82.1(b)(2)(D).
(2) For rehabilitation projects, all of the documents listed in Section 1859.82.1(c)(3)(A) through Section 1859.82.1(c)(3)(D)3.
(b) To request conceptual approval for seismic mitigation projects, the district must submit an *Application For Funding* (Form SAB 50-04) indicating the request for conceptual approval and all documents listed below:
(1) For replacement projects, all of the documents listed in Section 1859.82.2(b)(2)(A) through Section 1859.82.2(b)(2)(F).
(2) For rehabilitation projects, all of the documents listed in Section 1859.82.2(c)(3)(A) through Section 1859.82.2(c)(3)(E).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10, 17075.15, 100420, 100620, 100820, 101012(a)(1) and 101122, Education Code.

Section 1859.83. Excessive Cost Hardship Grant.

In addition to any other funding authorized by these Regulations, a School District is eligible for funding as a result of unusual circumstances that created excessive project costs beyond the control of the School District. The Excessive Cost Hardship Grant shall be based on any of the following:

(a) Excessive Cost due to Geographic Location.
A School District with a project that is located in a geographic area designated in the Geographic Percentage Chart below is eligible for the sum of the Excessive Cost Hardship Grant(s) determined by multiplying the indicated percentage factor shown in the Geographic Percentage Chart below by each of the following amounts:
(1) The New Construction Grant and the Modernization Grant.
(2) The funding provided by Sections 1859.71.2, 1859.71.3, 1859.72, 1859.73, 1859.73.2, 1859.76(d)(1) and (2), 1859.78.4, 1859.78.5, 1859.78.7.1, 1859.78.9.1, 1859.78.9.2, 1859.78.10, 1859.82.1, 1859.82.2, 1859.83(b), (c), (d) and (e) and 1859.125(a)(1) through (a)(2).

GEOGRAPHIC PERCENTAGE CHART

COUNTY	% FACTOR	DESCRIPTION
Alpine	5	The entire county.
Amador, Eastern Part	5	All of Amador County except the portion lying west of a line drawn five miles east of, and paralleling State Highway 49.
Butte, Eastern Part	5	All of Butte County except that portion lying west of a line drawn ten miles east of, and paralleling State Highway 99.
Calaveras, Eastern Part	5	All of Calaveras County except that portion lying west of State Highway 49.
Del Norte	5	The entire county.
El Dorado, Eastern Part	15	That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to State Highway 88.
El Dorado	5	El Dorado County except the eastern part and the following areas:

COUNTY	% FACTOR	DESCRIPTION
		• West of a line drawn six miles east of and paralleling State Highway 49. • Within five miles of either side of U.S. highway 50 from the western county line to a point on the eastern limit of the community of Pollock Pines. • West of a line drawn three miles easterly from and paralleling a certain county road described as the Pleasant Valley Road which connects the community of Aukum with Diamond Springs and with the city of Plymouth.
Fresno, Eastern Part	5	All of Fresno County lying east of a line drawn ten miles east of, and paralleling the west boundary of the Sierra National Forest.
Glenn, Western Part	5	All of Glenn County except that portion lying east of a line drawn ten miles west of, and paralleling Interstate Highway 5.
Humboldt, Redwood Highway	5	That portion of Humboldt County situated within five miles of the Redwood Highway (U.S. 101) except for that portion situated within ten miles of the Redwood Highway from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell.
Humboldt, State Highway 299 and Vicinity	5	That portion of Humboldt County situated within five miles of State Highway 299 and State route 96, except for those portions situated within ten miles of the Redwood Highway (U.S. 101) from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell.
Humboldt, Southeastern Part	15	That portion of Humboldt county adjacent to or east of, the road between Harris to Blocksburg to a point ten miles north of Blocksburg.
Humboldt, Residual Area	10	All areas of Humboldt County not classified in other cost groups except for that portion situated within ten miles of the Redwood Highway from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell.
Imperial	5	The entire county.
Inyo, Southeastern Part	20	That portion of Inyo County situated east of the western boundary of the Death Valley National Monument from the northern boundary of said national monument to the southern boundary of the county.
Inyo, Residual Area	5	All of Inyo County except the southeastern part described above.
Kern, Eastern Part	5	That portion of Kern County lying east of a north-south line drawn through the eastern boundary of the town of Tehachapi.
Lake	5	The entire county.
Lassen, Southern Part	10	That portion of Lassen County lying south of an east-west line drawn through a point ten miles north of Susanville.
Lassen, Northern Part	15	All of Lassen County except the southern part described above.
Los Angeles, Santa Catalina Island only	50	The entire Santa Catalina Island.
Madera, Central Part	5	That portion of Madera County lying between a line drawn ten miles west of, and paralleling the western boundary of the Sierra National Forest and a line drawn ten miles east of and paralleling the western boundary of the Sierra National Forest.
Madera, Eastern Part	5	All of Madera County except the western part and the central part described above.

COUNTY	% FACTOR	DESCRIPTION
Mariposa, Eastern Part	5	All of Mariposa County except that portion lying west of: • A line drawn five miles east of, and paralleling State Highway 49 from the northern county line to Mormon's Bar; and • A line drawn ten miles west of, and paralleling the western boundary of the Sierra National Forest from a point due east of Mormon's Bar to the southern county line.
Mendocino, Fort Bragg Area	10	Those portions of Mendocino County lying west of the Southern Redwood Highway Area, and south of the Ten Mile River.
Mendocino, Northern Redwood Highway Area	5	That portion of Mendocino County situated within five airline miles of the Redwood Highway (U.S. 101) from a point ten miles north of the Willits City Hall to the northern boundary of the county.
Mendocino, Residual Area	10	Those portions of Mendocino County not otherwise classified except that portion situated within ten airline miles of the Redwood Highway (U.S. 101) from a point ten miles north of the Willits City Hall to the southern boundary of the county. (Comprises the Northeastern part of the county and the coastal strip in the northwestern part).
Modoc	15	The entire county.
Mono	20	The entire county.
Monterey, Southern Part	5	All Monterey County except that portion lying north of an east-west line beginning on the coast two miles south of the City of Carmel and extending due east to the eastern boundary of the county.
Nevada	5	That portion of Nevada County not included in the Eastern Part.
Nevada, Eastern Part	15	That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to the county line.
Placer, Eastern Part	15	That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to the county line.
Placer, Northeastern Part	5	All of Placer County except the Eastern Part and the following: • Within five miles of either side of State Highway 65 from the southern boundary of the county and the northern limit of the community of Lincoln. • Five miles either side of Interstate 80 from the southern boundary of the county and the northern limit of the community of Penryn. • West of a line drawn five miles east of, and paralleling State Highway 49. • Within five miles of either side of Interstate 80 between the northern limit of the community of Penryn and the northern limit of the community of Colfax.
Plumas	5	The entire county.
Riverside, Eastern Part	20	That portion lying east of a north-south line drawn 50 miles west of the Arizona State Line and north to the county line and south to the county line.
Riverside, Central Part	5	That portion of Riverside County lying east of a north-south line drawn through the intersection of Interstate 10 and Fields Road extending from the southern county line of Riverside County, north to the southern county line of San Bernardino County to the Eastern Part of the County.

COUNTY	% FACTOR	DESCRIPTION
San Benito, Southern Part	5	All of San Benito County except that portion lying north of an east-west line drawn across the county from a point two miles south of the community of Paicines.
San Bernardino, Northeastern Part	5	That portion of San Bernardino County lying north and east of an east-west line drawn two miles north of Oro Grande, extending from the western boundary of the county to its intersection with the northerly extension of, and thence along a line drawn through the following points: A point five miles east of Victorville, the eastern edge of the communities of Running Springs and Camp Angelus then due south to the San Bernardino County line.
San Bernardino, Eastern Part	20	That portion lying east of a north-south line drawn 150 miles west of the Arizona State Line and north to the county line and south to the county line.
San Diego, Northeastern Part	10	That portion of San Diego County lying east of a north-south line drawn ten miles east of the community of Julian, said line extending from the northern boundary of the county to its intersection with an east-west line extending from the eastern boundary of the county to its intersection with the aforesaid north-south line, said east-west line being at its closest point, three miles due north of the community of Mount Laguna.
San Mateo, Southwestern Part	5	That portion of San Mateo County lying more than two miles westerly from the nearest point on Skyline Boulevard and south of an east-west line drawn through a point two miles north of the community of Montara.
Santa Cruz, Northwestern Part	5	That portion of the Santa Cruz County lying northerly and westerly from a line drawn from a point one mile north of Swanton on the coast through a point one mile north of Brookdale and situated more than two miles from the nearest point on the eastern boundary of the county.
Shasta, except Valley Area	5	All of Shasta County except that portion lying south of Shasta Lake and situated within ten miles of Interstate Highway 5.
Sierra	5	The entire county.
Siskiyou, Central Part	15	That portion of Siskiyou County situated within ten miles of U.S. Highway 97 from Grass Lake to the Oregon State Line.
Siskiyou, Salmon River	25	All of the drainage area of the Salmon River (including the North and South Forks) except that portion situated within the Somes Bar Area described below.
Siskiyou, Somes Bar Area	20	Those portions of the drainage areas of the Salmon and Klamath Rivers located within the boundaries of the Junction Elementary School District.
Siskiyou, Western Part	15	That portion of Siskiyou County lying westerly from a line drawn ten miles west of and parallel to Interstate 5, except the Somes Bar and Salmon River areas described above.
Siskiyou, Yreka and Residual Area	5	All of Siskiyou County except the Salmon River, Somes Bar and Western areas described above.
Sonoma, Northwestern Part	5	That portion of Sonoma County enclosed by a line following the northern boundary of the county from the Pacific Ocean to a point 15 miles inland, thence southerly to a point two miles west of the community of Los Lomas, thence southerly to a point on the coast two miles south of the community of Fort Ross, thence northerly along the coast line to the northern boundary of the county.
Tehama, Residual Area	5	All of Tehama County except those portions situated within ten miles west of Interstate Highway 5 from the north county line to the southern county line; within ten miles east of Interstate Highway 5 from the north county line southward to a point east of Red Bluff, thence within ten

COUNTY	% FACTOR	DESCRIPTION
		miles east of and paralleling State Highway 99 southward to the county line.
Trinity, Residual Area	15	All of Trinity County except the State Highway 299 area described below.
Trinity, State Highway 299	10	That portion of Trinity County situated within five miles of State Highway 299.
Tulare, Eastern Part	5	That portion of Tulare County lying east of a north-south line drawn through the western limits of the community of Silver City.
Tuolumne, Eastern Part	5	All of Tuolumne County except that portion lying west of State Highway 49.
Yuba, Northeastern Part	5	All of Yuba County except that portion lying west of a line drawn ten miles east of, and paralleling State Highway 65 and that portion lying south of a line drawn three miles north of, and paralleling State Highway 20.

(b) Excessive Cost for Projects that House No More than 200 Pupils (Small Size Projects).

(1) Excluding Joint-Use Projects and grant requests pursuant to Section 1859.79.3(a)(1) or (a)(2), if the project will house fewer than 101 pupils, the district is eligible for an Excessive Cost Hardship Grant equal to 12 percent of the funding provided by the New Construction Grant or 12 percent of the funding provided by the Modernization Grant.

(2) Excluding Joint-Use Projects and grant requests pursuant to Section 1859.79.3(a)(1) or (a)(2), if the project will house greater than 100 and fewer than 201 pupils, the district is eligible for an Excessive Cost Hardship Grant equal to four percent of the funding provided by the New Construction Grant or four percent of the funding provided by the Modernization Grant.

(3) A Type I Joint-Use Project and a Type II, part of a qualifying SFP Modernization project, Joint-Use Project is eligible for an Excessive Cost Hardship Grant equal to:

(A) 12 percent of the funding provided by Section 1859.125(a)(1) through (a)(2), if the qualifying SFP New Construction or Modernization project pursuant to Section 1859.123 or 1859.123.1 will house fewer than 101 pupils.

(B) Four percent of the funding provided by Section 1859.125(a)(1) through (a)(2), if the qualifying SFP New Construction or Modernization project pursuant to Section 1859.123 or 1859.123.1 will house greater than 100 and fewer than 201 pupils.

(4) A Type II Joint-Use Project, not part of a qualifying SFP Modernization project, is eligible for an Excessive Cost Hardship Grant equal to eight percent of the funding provided by Section 1859.125(a)(1) through (a)(2).

(5) A grant request pursuant to Section 1859.79.3(a)(1) or (a)(2) and fewer than 101 pupils is eligible for an Excessive Cost Hardship Grant equal to four percent of the funding provided by the Modernization Grant.

(6) A Facility Hardship project that is eligible to receive funding pursuant to Sections 1859.82.1(b)(4)(B), 1859.82.1(b)(4)(C), or 1859.82.2(b)(4)(B), may request an Excessive Cost Hardship Grant for small size project if the following qualifications are met:

(A) For the purposes of determining qualification for (6)(B) or (6)(C) below:

1. Calculate the Facility Hardship Square Footage Grant pursuant to Section 1859.82.1(b)(4)(B). If the Facility Hardship project is for the replacement of portable space, calculate the sum of the Portable Replacement Grant and Portable Toilet Replacement Grant pursuant to Section 1859.82.1(b)(4)(C).
2. Divide the amount determined in (6)(A)(1) by the New Construction Grant at the time the project is approved by the Board, for the highest grade level served at the site.
3. Round the quotient to the nearest whole number.

(B) The district is eligible for an Excessive Cost Hardship Grant equivalent to 12 percent of the funding provided by the Facility Hardship Square Footage Grant if the calculated result of Section (6)(A) above is fewer than 101 pupils.

(C) The district is eligible for an Excessive Cost Hardship Grant equivalent to four percent of the funding provided by the Facility Hardship Square Footage Grant if the calculated result of Section (6)(A) above is greater than 100 and fewer than 201 pupils.

(c) Excessive Cost to Construct a New School Project.

(1) With the exception of Alternative Education schools for which the final plans and specifications for the project were accepted by the DSA on or after March 24, 2004, if the project is for a new elementary, middle or high school on a site with no existing school facilities the district is eligible for a New Construction Excessive Cost Hardship Grant equal to the difference in the amount provided by the New Construction Grant and the amount shown below, based on the number of classrooms, including classrooms used for Individuals with Exceptional Needs, in the project:

Classrooms in project	Elementary School	Middle School	High School
1	$160,000	$674,000	$1,466,000
2	$377,000	$756,000	$1,525,000
3	$566,000	$840,000	$1,885,000
4	$717,000	$932,000	$2,205,000
5	$842,000	$1,028,000	$2,428,000
6	$1,021,000	$1,125,000	$2,651,000
7	$1,202,000	$1,222,000	$2,874,000
8	$1,341,000	$1,328,000	$3,046,000
9	$1,341,000	$1,440,000	$3,184,000
10	$1,577,000	$1,553,000	$3,321,000
11	$1,577,000	$1,666,000	$3,459,000
12	$1,660,000		$3,585,000
13			$3,709,000
14			$3,833,000
15			$3,958,000
16			$4,082,000
17			$4,207,000
18			$4,331,000
19			$4,455,000
20			$4,580,000
21			$4,704,000
22			$4,828,000

The amounts shown above will be adjusted annually in the manner prescribed in Section 1859.71.

Any Excessive Cost Hardship Grant provided under this subsection for a new school project shall be offset against future New Construction Grant funds provided for that same school. The amount of the offset shall be determined by dividing the additional New Construction Grant pupil request by the difference in the New Construction Grant pupil request when the initial Excessive Cost Hardship Grant was made and 325 for an elementary school, 324 for a middle school, and 621 for a high school project and multiplying the quotient by the Excessive Cost Hardship Grant funds provided under this subsection for that project.

(2) Excessive Cost Hardship Grants for Alternative Education schools for which the plans and specifications for the project were accepted by the DSA on or after March 24, 2004, or for any Alternative Education schools for which the plans and specifications for the project were accepted by the DSA prior to March 24, 2004 and in lieu of choosing funding under Section 1859.83(c)(1), may request funding as follows:

(A) If the project is for an Alternative Education school on a site with no existing school facilities, the district is eligible for a New Construction Excessive Cost Hardship Grant equal to the difference in the amount provided by the New Construction Grant and the amount shown below, based on the number of classrooms in the project:

Classrooms	Alternative Education New School Allowance
1	$434,700
2	$527,400

3	$921,960
4	$1,037,250
5	$1,152,540
6	$1,267,830
7	$1,383,120
8	$1,504,170
9	$1,629,180
10	$1,754,190
11	$2,239,290
12	$2,364,300
13	$2,489,310
14	$2,614,320
15	$2,739,330
16	$2,864,340
17	$2,989,350
18	$3,114,360
19	$3,239,370
20	$3,364,380
21	$3,489,480
22	$3,614,490
23	$3,739,500
24	$3,864,510
25	$3,989,520
26	$4,114,530
27	$4,239,540

The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

(B) If the project is for additional classroom(s) to an existing Alternative Education school constructed under the provisions of 1859.83(c)(2), the district is eligible for a New Construction Excessive Cost Hardship Grant calculated as follows:

1. Determine the amount as shown in the chart above in Section 1859.83(c)(2)(A) for the total combined number of classrooms in the current project and all previous projects at the same site. In the first funding request when the total number of classrooms exceeds 27, the amount shown for 27 classrooms shall be used.
2. Subtract the sum of the amount previously apportioned for the New Construction Grant and the funding provided pursuant to Section 1859.83(c)(2) for the sum of the number of classrooms for all previous projects at the same site (exclude the classrooms in the current project) from (B)1.
3. Subtract the New Construction Grant for the current project from the result in (B)2.

(d) Excessive Cost Due to Urban Location, Security Requirements and Impacted Site.

(1) Excluding Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if the district had a project that was previously approved by the DSA, and prior to January 22, 2003, has received SAB approval for a time extension for substantial progress, and if the useable site acreage for the project is:

(A) at least 50 percent but less than 75 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to eight percent of the New Construction Grant and eight percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).

(B) at least 30 percent but less than 50 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to 15 percent of the New Construction Grant and 15 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).

(C) less than 30 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to 50 percent of the New Construction Grant and 50 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).

(D) less than 30 percent of the site size recommended by the CDE for the master planned project capacity.

(2) Excluding Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if all of the following conditions are met, as applicable:
(A) the Useable Acres of the site for the project are 60 percent or less of the CDE recommended site size based on:
1. the current CBEDS Report at the existing site, if any, at the time of the CDE final plan approval for the project, if any, plus the greater of the Net School Building Capacity of the final new construction project plans submitted to the DSA as calculated in Education Code Section 17071.25(a)(2) or the pupil grants requested in the COS or Charter School project. The Useable Acres will include the existing site that is being utilized for this project plus any additional acreage to be acquired as a part of the Application.
2. the current CBEDS Report at the site at the time of the CDE final plan approval for the modernization project.
(B) at least 60 percent of the classrooms in the construction plans are in multistory facilities for any type of new construction project.
(C) the value of the site being acquired for a new construction project on a new site is at least $750,000 per Useable Acre.
(3) If the criteria in (d)(2) are met, the Excessive Cost Hardship Grant:
(A) for new construction is equal to 15 percent of the New Construction Grant and 15 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c) for a project with a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent. In no event shall the amount provided in this subsection for a new construction project on a new site exceed 50 percent of the cost avoided with the purchase of a site smaller than the CDE recommended site size for the number of the pupil grants requested in the Application determined as follows:
1. The current estimated value of the project site as determined in Section 1859.74.6(a)(1).
2. Divide the amount in (A)1. by the number of Useable Acres.
3. Multiply the quotient in (A)2. by the number of Useable Acres recommended by CDE for the number of pupils described in Section 1859.83(d)(2)(A)1.
4. Subtract the value in (A)1. from the product in (A)3.
5. Multiply the difference in (A)4. above by 50 percent.
(B) for modernization is equal to 15 percent of the Modernization Grant and 15 percent of the funding authorized by Section 1859.83(b) for a project with a site that is 60 percent of the CDE recommended site size plus 0.333 percent for each percentage decrease of the CDE recommended site size below 60 percent.
(4) For Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if:
(A) the Type I Joint-Use Project's qualifying SFP New Construction project pursuant to Section 1859.123 qualifies for an Excessive Cost Hardship Grant under Section 1859.83(d)(2) and (3)(A).
(B) The Type II Joint-Use Project's qualifying SFP Modernization project pursuant to Section 1859.123.1 qualifies for an Excessive Cost Hardship Grant under Section 1859.83(d)(2) and (3)(B).
(C) The Useable Acres at the existing school site where the Type II Joint-Use Project, not part of a qualifying SFP Modernization project, is to be constructed are 60 percent or less of the CDE recommended site size based on the existing enrollment at the site.
(5) If the criteria in (d)(4)(A) or (C) are met, the Joint-Use Project Excessive Cost Hardship Grant is equal to 15 percent of the funding provided by Section 1859.125(a)(1) through (a)(2), for a project with a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent. For a Type I Joint-Use Project when the qualifying SFP New Construction project involves new construction on a new site, in no event shall the amount provided in this subsection exceed 50 percent of the cost avoided with the purchase of a site smaller than the CDE recommended site size for the qualifying SFP New Construction project pursuant to Section 1859.123 as calculated in Section 1859.83(d)(3)(A).
(6) If the criteria in (d)(4)(B) are met, the Joint-Use Project Excessive Cost Hardship Grant is equal to 15 percent of the funding provided by Section 1859.125(a)(1) through (a)(2), for a project with a site that is 60 percent of the CDE recommended site size plus 0.333 percent for each percentage decrease in the CDE recommended site size below 60 percent.
(e) Excessive cost due to accessibility and fire code requirements.
(1) The district is eligible for a Modernization Excessive Cost Hardship Grant equal to three percent of the Modernization Grant for accessibility and fire code requirements.
(2) In lieu of three percent funding provided in (1) above, the district has the option of requesting 60 percent of the amount

determined in (A), not to exceed 60 percent of the amount determined in (B):
(A) Determine the difference of the verified hard construction costs of the minimum accessibility and fire code work necessary to receive approval from the DSA minus seven percent of the sum of the Modernization Grant and the district matching share of the Modernization Grant pursuant to Section 1859.79.
(B) Determine the difference of 1. minus 2.:
1. Multiply the pupils requested in the application by the New Construction Grant.
2. The sum of the State and district share of the pupils requested on the Form SAB 50-04 multiplied by the grant determined pursuant to Section 1859.78 and 1859.78.3.
(3) The district is eligible for a Modernization Excessive Cost Hardship Grant of:
(A) $80,000 for each new two-stop elevator required to be included in the project by the DSA if the Approved Application was received on or before April 29, 2002.
(B) $60,000 for each new two-stop elevator required to be included in the project by the DSA if the Approved Application is received after April 29, 2002.
The amounts shown in (A) and (B) above shall be adjusted annually in the manner prescribed in Section 1859.78.
(4) The district is eligible for a Modernization Excessive Cost Hardship Grant of:
(A) $14,400 for each additional stop of the new elevator required in (3) above if the Approved Application was received on or before April 29, 2002.
(B) $10,800 for each additional stop of the new elevator required in (3) above if the Approved Application was received after April 29, 2002.
The amounts shown in (A) and (B) above shall be adjusted annually in the manner prescribed in Section 1859.78.

Note: Authority cited: Sections 17070.35, 17075.10 and 17075.11, Education Code.

Reference: Sections 17072.32, 17074.15, 17074.16, 17075.10, 17075.11, 17075.15, 17077.40, 17077.42, 17077.45 and 17250.30, Education Code; and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

Section 1859.84. Natural Disaster Assistance Program.

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

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

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

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17075.20, Education Code.

Section 1859.84.1. Interim Housing Assistance Following a Natural Disaster.

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

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

(a) To request funding to lease or purchase facilities, the School District must submit a completed, valid Form SAB 195 signed by an Authorized District Representative.
(b) The School District must submit one of the following to demonstrate that any funding provided by this Section will

supplement funding from insurance or any other government disaster assistance:
(1) If the School District will not receive insurance proceeds or other government disaster assistance for Interim Housing, documentation in the form of a letter of denial or a certification, demonstrating that costs associated with Interim Housing have not been covered by insurance proceeds or any other local, state, or federal government disaster assistance.
(2) If the School District reasonably expects to receive future insurance proceeds or any other government disaster assistance attributable to costs of Interim Housing, the School District must provide all of the following:
(A) An estimate of the insurance proceeds or any other government disaster assistance the School District may receive for Interim Housing expenses;
(B) A narrative statement indicating the necessity for Interim Housing assistance prior to receipt of insurance proceeds or any other government disaster assistance for this purpose; and
(C) Acknowledgement of the reporting requirement and potential future adjustment to any Apportionment, pursuant to subjection (c).
(c) Any Apportionment provided in accordance with this Section shall be adjusted for funding received from insurance proceeds or government disaster assistance for Interim Housing. The Apportionment will be reduced by 50 percent of the funding received from insurance proceeds and/or government disaster assistance for Interim Housing, or a commensurate amount adjusted for the district matching share pursuant to Section 1859.77.1. Any insurance proceeds and/or government disaster assistance collected shall be reported to OPSC in the form of an annual narrative from the date the application was submitted to OPSC until all claims for insurance proceeds and requests for government disaster assistance are closed.
(d) The Board shall provide an Apportionment subject to the requirements of Section 1859.90 or Section 1859.90.2.
(e) A Grant Agreement pursuant to Section 1859.90.4. is required as a condition of receiving funding pursuant to this Section.
(f) The School District is subject to the requirements in Sections 1859.104 and 1859.105.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17075.20, Education Code.

Section 1859.84.2. Other Assistance Following a Natural Disaster.

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

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

(a) In making a determination to provide any other assistance following a natural disaster, the Board may consider factors including, but not limited to, the following:
(1) Any previous SFP Approved Applications that received an Apportionment for the impacted site as it relates to the natural disaster.
(2) All information required on the Form SAB 195.
(b) To request funding pursuant to this Section, the School District must submit a completed, valid Form SAB 195 signed by an Authorized District Representative.
(c) The School District must submit one of the following to demonstrate that any funding provided by this Section will supplement funding from insurance or any other government disaster assistance:
(1) If the School District will not receive insurance proceeds or other government disaster assistance for the scope of work in the Form SAB 195, documentation in the form of a letter of denial or a certification, demonstrating that costs associated with the scope of work in the Form SAB 195 have not been covered by insurance proceeds or any other local, state, or federal government disaster assistance.
(2) If the School District reasonably expects to receive future insurance proceeds or any other government disaster assistance attributable to the scope of work in the Form SAB 195, the School District must provide all of the

following:
(A) An estimate of the insurance proceeds or any other government disaster assistance the School District may receive for the scope of work in the Form SAB 195.
(B) A narrative statement indicating the necessity for assistance under this Section prior to receipt of insurance proceeds or any other government disaster assistance for this purpose; and
(C) Acknowledgement of the reporting requirements and potential future adjustment to any Apportionment, pursuant to subsection (d).
(d) Any Apportionment provided in accordance with this Section shall be adjusted for funding received from insurance proceeds or government disaster assistance for the same purpose or scope of work funded by the Apportionment, as follows:
(1) Reduced by 50 percent of the funding received from insurance proceeds and/or government disaster assistance, or a commensurate amount adjusted for the district matching share pursuant to Section 1859.77.1, or
(2) Reduced by 60 percent of the funding received from insurance proceeds and/or government disaster assistance, or a commensurate amount adjusted for the district matching share pursuant to Section 1859.79.
(e) Any insurance proceeds and/or government disaster assistance collected shall be reported to OPSC in the form of an annual narrative from the date the application was submitted to OPSC until all claims for insurance proceeds and requests for government disaster assistance are closed.
(f) The Board shall provide an Apportionment subject to the requirements of Section 1859.90 or Section 1859.90.2.
(g) A Grant Agreement pursuant to Section 1859.90.4. is required as a condition of receiving funding pursuant to this Section.
(h) The School District is subject to the requirements in Sections 1859.104 and 1859.105.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17075.20, Education Code.

Article 10. Fund Release and Priority Points

Section 1859.90. Fund Release Process.

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

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

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

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

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

Note: Authority cited: Section 17070.35, Education Code.

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

Section 1859.90.1. Priority Funding Round Process

The Board will establish a one-time priority funding round to distribute $408.3 million dollars to districts who request an Apportionment during a 30 day filing period beginning May 27, 2010 and ending June 28, 2010. Any funds not apportioned as of August 25, 2010 shall remain available for any other applicable School Facilities Program project apportionments by the Board. During the priority funding round the Board will require that a district must submit the Form SAB 50-05 within 90 days of the Apportionment. Projects that apply for this priority funding round that do not submit a completed Form SAB 50-05 within 90 days shall be rescinded without further Board action. In order to be considered for an Apportionment, the district must provide a written statement signed by an authorized district representative within the 30 day filing period that contains all of the following:

(a) Request to convert the Unfunded Approval to an Apportionment; and,
(b) Concurrence with the 90 day time limit on fund release; and
(c) Acknowledgement that failure to submit a valid Form SAB 50-05 within the 90 day time limit will result in the rescission of the Apportionment without further Board action; and
(d) Acknowledgement that by participating in the priority funding round, the district is waiving its right to a standard 18 month timeline for fund release submittal.

For the purposes of this section “rescinded” shall mean that the apportionment returns to unfunded approval status with a new Unfunded Approval date. The new Unfunded Approval date will be November 2, 2010. The district will not be required to re-submit the application and no further application review will be required.

This regulation section shall become inoperative December 31, 2010.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.16, 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.90.2. Priority Funding Process.

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

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

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

(2) Acknowledgement that a complete and valid Form SAB 50-05 must be submitted and received by OPSC within 90 calendar days of Apportionment or approved advance release of funds request, except for a Career Technical Education Facilities Project in (a)(5), and that failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Acknowledgement that a complete and valid Form SAB 50-05 shall be submitted and received by OPSC within 180 calendar days of the approved advance release of funds request and that failure to do so shall result in the rescission of the approved advance release of funds request without further Board action; and
(3) Acknowledgement that a Grant Agreement shall be submitted pursuant to Section 1859.90.4 and received by OPSC prior to, or concurrently with, the Form SAB 50-05 referenced in (c)(2).

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

(1) The priority funding Apportionment or approved advance release of funds request shall be rescinded without further Board action, and
(2) If the Application is not subject to rescission pursuant to Section 1859.90.3(c) as defined in Section 1859.90.3(d), the Application shall return to the Unfunded List (Lack of AB 55 Loans) with a new unfunded approval date that is 90 calendar days from the date of Apportionment or approval of the advance release of funds request.

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

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

(1) OPSC shall identify and invite impacted school districts to submit a priority funding request that meets all other criteria in (a) above.
(2) Requests submitted under this provision shall be valid from the date the priority funding request is submitted until the end of the regularly scheduled filing period specified above.
(3) Requests submitted under this provision must comply with all other requirements of the priority funding process in this Section and Section 1859.90.3.
(4) Districts may decline to submit a request outside the normal 30-calendar day filing period without consequence. If the option to submit a request is declined, the requirements to participate in the standard 30-calendar day filing periods specified in (a) above remain in effect.
(5) Unexpected cash proceeds from sources other than bond funds include, but are not limited to, the $250 million appropriated from the General Fund to the 2016 State School Facilities Fund as a result of the enactment of Statutes of 2021, Chapter 44, Section 163 (Assembly Bill 130).

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

Note: Authority cited: Section 17070.35, Education Code.

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

Section 1859.90.3. Participation in the Priority Funding Process.

This section applies to Applications for funding for new construction, modernization, Overcrowding Relief Grant, Career Technical Education Facilities Program, Facility Hardship pursuant to Sections 1859.82.1 and 1859.82.2, Charter School Facilities Program, and Small School District Program, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment, and excluding advance release of design,

project assistance, the Project and Construction Management Grant, and any site acquisition funds from a Preliminary Small School District Program Apportionment.

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

(1) The district abstains from participating in a priority funding 30-calendar day filing period described in Section 1859.90.2 for the Application on the Unfunded List (Lack of AB 55 Loans).

(2) The Application receives a priority funding Apportionment pursuant to Section 1859.90.2(a), and the district fails to meet the fund release requirements pursuant to Section 1859.90.2(c).

(b) The first occurrence of (a)(1) or (a)(2) shall result in the following, as applicable:

(1) If (a)(1) occurs, the Application shall retain its place on the Unfunded List (Lack of AB 55 Loans).

(2) If (a)(2) occurs, the priority funding Apportionment shall be rescinded and the Application shall be returned to the Unfunded List (Lack of AB 55 Loans) pursuant to Section 1859.90.2(c)(2).

(c) If subsection (b) has occurred, a subsequent occurrence of either (a)(1) or (a)(2) shall result in the rescission of the Application's Apportionment and/or unfunded approval, as applicable, and the removal of the Application from the Unfunded List (Lack of AB 55 Loans) without further Board action. The Application shall be returned to the applicant.

(d) For purposes of subsection (c), "rescinded" or "rescission" of an unfunded approval shall mean that the bond authority associated with the Apportionment or unfunded approval, as applicable, returns to the appropriate School Facility Program bond authority source for reallocation. If applicable, the pupils housed in the project will be added back to the district's baseline eligibility pursuant to Sections 1859.51(d) for new construction or 1859.61(d) for modernization.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.16, 17076.10, 17078.35, 17078.36, 17078.37 and 17078.38, Education Code.

Section 1859.90.4. Grant Agreement Submittal.

A Grant Agreement for the project with an original signature by an authorized District Representative must be submitted prior to, or concurrently with, the Form SAB 50-05 in order for the Form SAB 50-05 to be considered valid for all projects that are approved for placement on the Unfunded List (Lack of AB 55 Loans) on or after June 5, 2017. Projects on the Unfunded List as of June 5, 2017 are exempt from this requirement.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.35, Education Code.

Section 1859.90.5. Local Bond Reimbursement Fund Releases.

When a school district uses local bond funds to make eligible project expenditures authorized in the Leroy F. Greene Act and state school bonds funds are made available to reimburse the state's share of those eligible project expenditures, the reimbursement funds shall be used as follows:

(a) Toward retiring the local bonds; and/or

(b) Toward uses permitted by the local bond, or

(c) For any high priority capital outlay expenditure in the district as permitted in Education Code Section 17070.63(c).

The use of the reimbursement funds in accordance with this section shall be subject to oversight by the applicable county office of education pursuant to Education Code Section 1240.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.63 and 17072.35, Education Code.

Section 1859.91. Implementation of Priority Points Due to Insufficient State Funds.

This Regulation shall only apply to Approved Applications for New Construction Grants funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.

(a) The OPSC shall report to the Board on a monthly basis the amount of funds available for New Construction Grants and Modernization Grants and the estimated amount of Approved Applications for New Construction Grants and Modernization Grants not yet apportioned. The Board shall implement a priority point mechanism described in (b) for New Construction Grants requests when either of the following occur:
(1) The amount of Approved Applications for New Construction Grants and Modernization Grants not yet apportioned exceed the funds available for New Construction Grants and Modernization Grants.
(2) The funds available for New Construction Grants are $300 million or less.
(b) Once either (1) or (2) in (a) occurs, the Board shall approve and apportion the funds available for New Construction Grants requests based on the following priority point mechanism:
(1) From the funds available for New Construction Grants, the Board shall establish a final allotment equal to the lesser of $450 million or the balance of the funds available for New Construction Grants, to be apportioned in accordance with (2) below. After deducting the final allotment, the Board shall divide the remaining funds into seven equal allotments, to be apportioned on a quarterly basis, commencing with the last quarter of calendar year 2000 and ending the second quarter of calendar year 2002. Quarterly apportionments are subject to the following:
(A) The Board shall apportion Approved Applications for New Construction Grants requests received prior to the beginning of the quarter that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List and New Construction Grants requests that meet the criteria of subsection (d), until the funds available for New Construction Grants for that quarter are exhausted. New Construction Grants requests eligible for an apportionment shall be apportioned in the following order:
1. To projects that meet the criteria of subsection (d) where the Approved Application date adjusted back in time would have qualified the project for an apportionment.
2. To projects exempt from priority points pursuant to Section 1859.92(e).
3. To projects having the greatest number of priority points.
(B) If two or more projects have the same number of priority points, those projects shall be first ranked according to the Approved Application date.
(C) No New Construction Grants request will be recommended for apportionment unless the project can be entirely apportioned from the funds available for that quarter.
(D) If the Approved Applications for New Construction Grants received prior to the quarter that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List prior to the quarter and New Construction Grants requests that meet the criteria of subsection (d) are less than the quarterly allotment, plus any funds remaining from the previous quarter(s), the excess funds shall be added to the next quarterly allotment.
(E) If the Approved Applications for New Construction Grants requests received prior to the quarter that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List prior to the quarter and New Construction Grants requests that meet the criteria of subsection (d) are greater than the quarterly allotment, plus any funds remaining from the previous quarter(s), any New Construction Grants requests not apportioned by the Board shall be placed on an Unfunded List.
(F) All New Construction Grants requests, as described in (A) above, that are Ready for Apportionment in a quarter shall not be apportioned before the last regularly scheduled Board meeting for that quarter with the exception of New Construction Grants requests that meet the criteria of subsection (b)(1)(A)(1) or (2). Any New Construction Grants request that is Ready for Apportionment in a quarter that meets the criteria of subsection (b)(1)(A)(1) or (2) may be apportioned at any of the regularly scheduled Board meetings during that quarter.
(2) The final allotment shall be apportioned subject to the following:
(A) The Board shall apportion Approved Applications for New Construction Grants received between April 1, 2002 and June 26, 2002 that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List and New Construction Grants requests that meet the criteria of subsection (e), until the

final allotment, plus any funds remaining from the previous quarters are exhausted. New Construction Grants requests eligible for an apportionment shall be apportioned in the following order:

1. To projects that meet the criteria of subsection (e) where the Approved Application date adjusted back in time would have qualified the project for an apportionment.
2. To projects exempt from priority points pursuant to Section 1859.92(e).
3. To projects having the greatest number of priority points.

(B) If two or more projects have the same number of priority points, those projects shall be first ranked according to the Approved Application date.

(C) If the Approved Applications for New Construction Grants received between April 1, 2002 and June 26, 2002 that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List and New Construction Grants requests that meet the criteria of subsection (e) are greater than the final allotment, plus any remaining funds from the previous quarter(s), any New Construction Grants request not apportioned by the Board shall be placed on an Unfunded List.

(D) All New Construction Grants requests, as described in (A) above, that are Ready for Apportionment shall be apportioned at the regularly scheduled Board meeting in August 2002 with the exception of New Construction Grants requests that meet the criteria of subsection (b)(2)(A)(1) or (2). Any New Construction Grants request that is Ready for Apportionment that meets the criteria of subsection (b)(2)(A)(1) or (2) may be apportioned at either the regularly scheduled Board meetings in July or August 2002.

(E) If the Approved Applications for New Construction Grants received between April 1, 2002 and June 26, 2002 that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List and New Construction Grants requests that meet the criteria of subsection (e) are less than the final allotment, plus any remaining funds from the previous quarter(s), the excess funds shall be apportioned on a monthly basis beginning in September 2002 for Approved Applications for New Construction Grants received after June 26, 2002 that are Ready for Apportionment, in descending order, commencing with the project having the greatest number of priority points. This process shall continue until the funds available are exhausted. If two or more projects have the same number of priority points, those projects shall be first ranked according to the Approved Application date.

(c) Approved Applications for New Construction Grants requests received during a quarter may, at the discretion of the Board, be considered for funding available for that quarter or a future quarter if all the following criteria are met:

(1) Either the Executive Officer of the Board, the State Architect, the Director of School Facilities Planning Division within the CDE, or the Chief of the School Property Evaluation and Cleanup Division within the Department of Toxic Substances Control (DTSC) certify to the OPSC that the district's application was delayed for a specified number of calendar days in relation to other similar applications submitted to that agency at the same time.

(2) The Approved Application date adjusted back in time for the number of calendar days the application was delayed is prior to the beginning of the quarter in which the application was received.

(d) Approved Applications for New Construction Grants requests received after June 26 2002 may, at the discretion of the Board, be considered for funding available for the final allotment if all the following criteria are met:

(1) Either the Executive Officer of the Board, the State Architect, the Director of School Facilities Planning Division within the CDE, or the Chief of the School Property Evaluation and Cleanup Division within the DTSC certify to the OPSC that the district's application was delayed for a specified number of calendar days in relation to other similar applications submitted to that agency at the same time.

(2) The Approved Application date adjusted back in time for the number of calendar days the application was delayed is prior to June 27, 2002.

Note: Authority cited: Sections 17072.25 and 17070.35, Education Code.

Reference: Section 17072.25, Education Code.

Section 1859.92. Priority Points For New Construction Projects.

This Regulation shall only apply to Approved Applications for New Construction Grants funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.

The priority points allowed for a New Construction Grants request shall be based on the following computations rounded up to the nearest whole number. The computation shall be made on a districtwide basis if the district utilized districtwide CBEDS enrollment data reported on the Form SAB 50-01 in effect at the time the district's application for funding was

submitted to the OPSC for the project. When multiple applications have the same Approved Application date, or have an Approved Application date which permits the projects to be Ready for Apportionment in the same quarter when priority points are implemented as provided in Section 1859.91, the priority order shall be as requested by the district on the Form SAB 50-04. The computation shall be made on a HSAA or Super HSAA basis if the district utilized HSAA or Super HSAA CBEDS enrollment data reported on the Form SAB 50-01 in effect at the time the district's application for funding was submitted to the OPSC for the project. Notwithstanding the provisions of Section 1859.41, a district that has previously reported its enrollment on a HSAA or Super HSAA basis may calculate both its eligibility and its priority points on a districtwide basis. A project shall receive priority points based on the total of (a), (b) and (c):

(a) Priority points for the percent of unhoused pupils for both of the following:

(1) Six points for each percent of current unhoused pupils.

(2) Four points for each percent of projected unhoused pupils.

(b) Priority points for the number of unhoused pupils for both of the following:

(1) One point for each 100 currently unhoused pupils.

(2) One point for each 200 projected unhoused pupils.

(c) A maximum of 100 priority points for the following:

(1) Twenty points if the district's CBEDS enrollment at the time of application submittal to the OPSC for funding is less than 2,501.

(2) Twenty points for a County Superintendent of Schools' project that only includes classroom space solely for Non-Severely Disabled Individuals with Exceptional Needs.

(3) Twenty points if the site acreage for the project is less than 50 percent of the site size recommended by the CDE for the master planned pupil capacity.

(4) Twenty points for a project that either used "stock plans" pursuant to Education Code Section 17070.33(b)(6) or re-used plans that were previously used to construct at least two other schools.

(5) Twenty points if the district's CBEDS enrollment at the time of application submittal to the OPSC for funding is less than 301.

(6) Twenty points for a project that uses 20 percent less energy than the Energy Budget as defined and calculated in a manner consistent with the California Energy Code, Part 6, Subchapter 5, Section 141 – Performance Approach: Energy Budgets.

(7) Twenty points for a project that is a new high school serving any grades nine through twelve.

(8) Twenty points for a project that received financial hardship assistance pursuant to Section 1859.81.

(9) Twenty points for a project where the site acquisition qualified and received an apportionment authorized under Section 1859.75.1, Separate Site Apportionment for Environmental Hardship.

(10) One hundred points if the Approved Application was accepted prior to the date the priority point mechanism is implemented by the Board pursuant to Section 1859.91(a)(1) or (a)(2).

(d) The calculation of priority points in (a), (b) and (c) above shall be determined at the time the Approved Application is accepted.

(e) The following projects are exempt from priority points:

(1) A project that received Facility Hardship approval pursuant to Section 1859.82.

(2) A county superintendent of schools' project that includes classroom space for Severely Disabled Individuals with Exceptional Needs.

(3) A county superintendent of schools' project that only includes classroom space solely for community school pupils.

(4) A school district's project that only includes classroom space solely for Severely Disabled Individuals with Exceptional Needs.

(f) The project received a separate site and/or design apportionment under the provisions of the LPP or pursuant to Sections 1859.75.1 or 1859.81.1, the district's funding priority of the project shall be determined by the Approved Application date for the New Construction Adjusted Grant or separate site funding request filed pursuant to Section 1859.81.1 (a) or 1859.75.1. If separate site funding requests have been submitted, the funding priority of the project shall be determined by the CBEDS enrollment data utilized for those applications.

Note: Authority cited: Sections 17070.35, 17072.25 and 100420(d), Education Code.

Reference: Sections 17070.33 and 17072.25, Education Code.

Section 1859.93. Modernization Project Funding Order.

Applications shall be funded as follows:
(a) First, to applications for Facility Hardship rehabilitation projects pursuant to Sections 1859.82.1(c) and 1859.82.2(c) in order of receipt of an Approved Application for funding; then,
(b) Second, to applications for Modernization projects pursuant to Section 1859.84.2 in order of receipt of a Form SAB 195, *Application for Natural Disaster Assistance,* (New 08/25), which is incorporated by reference; then
(c) If there are no applications pursuant to subsection (a) or (b), to applications for modernization funds in order of receipt of an Approved Application for funding.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.15, 17075.15 and 17075.20, Education Code.

Section 1859.93.1. New Construction Project Funding Order.

Applications, except those identified in (e) through (g) below, shall be funded as follows:
(a) First, to applications pursuant to Section 1859.84.1 in order of receipt of a Form SAB 195, *Application for Natural Disaster Assistance,* (New 08/25), which is incorporated by reference; then
(b) Second, to applications for Facility Hardship pursuant to Sections 1859.82.1(b) and 1859.82.2(b) in order of receipt of an Approved Application for funding; then,
(c) Third, to applications pursuant to Section 1859.84.2 in order of receipt of a Form SAB 195; then
(d) If there are no applications pursuant to subsection (a), (b) or (c), to applications for New Construction Grant(s) in order of receipt of an Approved Application for Funding.
(e) Approved Applications for New Construction Grant(s) funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.
(f) Approved Applications for New Construction Grant(s) authorized by Education Code Sections 17078.10 through 17078.30.
(g) Approved Applications that utilize pupil eligibility derived from the Alternative Enrollment Projection method. These applications shall be funded in order of receipt once the OPSC and the DRU have approved the Alternative Enrollment Projection method or the Alternative Enrollment Projection annual update.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.25, 17070.35, 17075.15 and 17075.20, Education Code.

Section 1859.93.2. New Construction Adjusted Grant for the Small High School Program. (Repealed)

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.93.3. New Construction Small High School Program Funding Order. (Repealed)

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.94. Hardship Funding.

(a) Hardship assistance provided as a part of a New Construction Grant shall be subject to the same priority point determination as the New Construction Grant.
(b) To the extent that hardship funds are available, the Board may elect to specifically set aside funding for financial hardship grants as provided in Section 1859.81, facility hardship grants as provided in Section 1859.82 or Excessive Cost Hardship Grants as provided in Section 1859.83.
(c) Should a district request hardship funding for either a financial hardship grant pursuant to Section 1859.81, a facility hardship grant pursuant to Section 1859.82 or an Excessive Cost Hardship Grant pursuant to Section 1859.83 and the Board has no funds to allocate for that specific hardship, the district may elect to either:

(1) Accept funding for the project less any hardship funding grants that are not available. When this option is selected, the hardship funding grants not allocated for the project shall be placed on the Unfunded List. If the project was previously placed on the Unfunded List, the project shall retain the original date it was placed on that Unfunded List.
(2) Decline to accept funding for the project. When this option is selected, the project shall be placed on the Unfunded List. If the project was previously placed on the Unfunded List, the project shall retain the original date it was placed on that Unfunded List.

A project or portion of a new construction project not funded as a result of subdivision (c) shall be subject to the Board's priority point mechanism pursuant to Sections 1859.91 and 1859.92.

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

Reference: Section 17075.15, Education Code.

Section 1859.95. Acceptance of Applications When Funding Is Unavailable.

This Section shall not apply to Approved Applications submitted to the OPSC on or after the effective date [November 1, 2012] of Section 1859.95.1.

When the Board has no funds to apportion or the application does not qualify for funding because of the Board's priority point mechanism pursuant to Sections 1859.91 and 1859.92, the Board will continue to accept and process applications for eligibility determination, with the exception of applications that include a request for review of an Alternative Enrollment Projection method. The Board will also accept and process applications for apportionment for purposes of developing an Unfunded List based on the date the application is Ready for Apportionment, with the exception of New Construction funding applications that utilize eligibility generated by the Alternative Enrollment Projection.

The Board will return any applications for the review of the Alternative Enrollment Projection method and New Construction applications that utilize eligibility generated by the Alternative Enrollment Projection once the funding apportioned for these projects reaches $500 million or the Board has no funds to apportion from the Kindergarten-University Public Education Facilities Bond Act of 2004.

If either the Executive Officer of the Board, the State Architect, the Director of School Facilities Planning Division within the CDE or the Chief of the School Property Evaluation and Cleanup Division within the Department of Toxic Substances Control certify to the OPSC that the district's application was delayed for a specified number of calendar days in relation to other similar applications submitted to that agency at the same time, the application may, at the discretion of the Board, receive a date on the Unfunded List or receive funding pursuant to Section 1859.91 based on the date the application is Ready for Apportionment, adjusted back in time for the number of calendar days the application was delayed.

Applications for New Construction Adjusted Grants for a project where the site was apportioned pursuant to Section 1859.75.1 shall receive a date on the Unfunded List based on the date the environmental hardship site apportionment was made for the project.

With the exception of financial hardship eligibility, a district with an application included on an Unfunded List shall not be required to re-establish eligibility for that application prior to apportionment.

An application for funding included on an Unfunded List is eligible for reimbursement subject to adjustments in the New Construction Grants amount pursuant to Section 1859.77.

Note: Authority cited: Sections 17070.35 and 17072.25, Education Code.

Reference: Sections 17070.35 and 17071.75, Education Code.

Section 1859.95.1. Applications Received When Bond Authority Is Unavailable.

This Section shall not apply to Approved Application for Joint-Use Funding, Approved Application for Career Technical Education Facilities Project Funding, a Form SAB 50-04 submitted for Critically Overcrowded Schools

Facilities funding, (commencing with Section 1859.140), Charter School Facilities Program funding (commencing with Section 1859.160), or for Overcrowding Relief Grants.

(a) When the Board has Insufficient Bond Authority to apportion the School District's funding request on the Form SAB 50-04, the following will apply:

(1) The Office of Public School Construction (OPSC) will receive and determine if the Form SAB 50-04 is an Approved Application. To be placed on the Applications Received Beyond Bond Authority List, the Approved Application for funding shall be accompanied by a school board resolution, as specified in paragraph (b) of this Section. The OPSC will not determine if the Approved Application is Ready for Apportionment.

(2) A School District seeking financial hardship funding will not be required to submit a financial hardship status preapproval request pursuant to Section 1859.81. The OPSC will not process requests for financial hardship status. The School District may continue to submit the Form SAB 50-04 pursuant to (a)(1).

(b) A resolution from the governing board of the school district shall be submitted with the Form SAB 50-04 prior to the Approved Application being placed on the Applications Received Beyond Bond Authority List, pursuant to paragraph (a) of this Regulation. A School District's governing board resolution shall include paragraphs (b)(1) through (b)(5) or, if applying for financial hardship funding, paragraphs (b)(1) through (b)(6).

(1) The school board acknowledges that the remaining School Facility Program bond authority is currently exhausted for the funds being requested on this application.

(2) The school board acknowledges that the State of California is not expected nor obligated to provide funding for the project and the acceptance of the application does not provide a guarantee of future State funding.

(3) The school board acknowledges that any potential future State bond measures for the School Facility Program may not provide funds for the application being submitted.

(4) The school board acknowledges that criteria (including, but not limited to, funding, qualifications, and eligibility) under a future State school facilities program may be substantially different than the current School Facility Program. The district's Approved Application may be returned.

(5) The school board acknowledges that they are electing to commence any pre-construction or construction activities at the district's discretion and that the State is not responsible for any pre-construction or construction activities.

(6) The school board acknowledges that, if bond authority becomes available for the Board to provide funding for the submitted application, the School District must apply for financial hardship status.

(c) The OPSC will continue to receive and determine if the Forms SAB 50-01, 50-02, and 50-03 are Approved Applications. The OPSC will not determine if the Approved Application is Ready for Apportionment. This Regulation Section does not constitute notification from the Board pursuant to Government Code Section 65995.5(b)(1).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.40, 17072.20 and 17073.10, Education Code.

Section 1859.96. Inactive Apportionments Under a State of California Fiscal Crisis.

In the event of a fiscal emergency or crisis on the part of the State of California, the Board can make a finding that a project has an Inactive Apportionment, as defined in Regulation Section 1859.2, that no longer meets the meaning of Apportionment as defined in Education Code Section 17070.15, and that the 18-month requirement set forth in

Education Code Section 17076.10(d) is therefore suspended as of December 17, 2008 and until such time as the Board finds that State bond funds are available for the project when the balance of the 18-month time period which existed on December 17, 2008 shall resume. Once the Board finds that State bond funds are available for the project, the 18-month requirement set forth in Education Code Section 17076.10(d) shall resume but in no case shall that period of time exceed a total of 18 months while the subject project has an Apportionment. Each project will resume where its originating period of time was suspended, as of December 17, 2008. An Apportionment for projects impacted by this Section is full and final, pursuant to Education Code Section 17070.63.

This regulation section shall become inoperative January 1, 2011.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17072.30, 17072.32, 17074.16, and 17076.10, Education Code.

Section 1859.97. Labor Compliance Program Documentation for Fund Release.

As required pursuant to Labor Code Section 1771.7 subdivisions (a) and (b), 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, the district shall initiate and enforce, or contract with a third party to initiate and enforce, an LCP, with respect to that project. For purposes of obtaining the release of bond funds from the Board, the following LCP requirements shall be met:

(a) The district shall submit a written finding to the OPSC that the district has initiated and enforced, or has contracted with a third party to initiate and enforce, the LCP with respect to that project.

(b) Where the construction contract was signed either prior to the district's LCP being approved by the DIR or prior to the district entering into a contract with a third party to implement the LCP, the district shall be determined to have complied with Labor Code Section 1771.7(a), only upon satisfaction of all of the following:

(1) The DIR has approved either the district's or the third party LCP, and such approval had not been revoked at the time of implementing the LCP.

(2) The district or the third party with whom the district contracted to implement its LCP submitted an application for approval of its LCP in accordance with the DIR's LCP regulations prior to January 1, 2012;

(3) The district submits the report of a third party that has been approved by the DIR to operate an LCP in accordance with DIR LCP regulations, and such approval has not been revoked as of the date of the report. In the case of a district that has entered into a contract with a third party to implement the LCP, the report must be prepared by a different third party that has been approved by DIR to implement an LCP, and such approval had not been revoked as of the date of the report. The report must be submitted to the OPSC and the DIR and include all of the following:

(A) Verification that the applicable duties of an LCP were performed on the project as set forth in Labor Code Section 1771.5(b) and DIR regulations; and

(B) Verification that the performance of the applicable LCP duties began within one month after the commencement of the construction work on the project as set forth in Labor Code Section 1771.7(b); and

(C) A written record of the LCP's confirmation of payroll records for each month in which a contractor or subcontractor reports having workers employed on the public work pursuant to Title 8, California Code of Regulations, Section 16432(c).

(4) The district shall provide notice to each worker for which confirmation of payroll records has been performed pursuant to Title 8, California Code of Regulations, Section 16432(c), informing that the district has submitted a written report to the OPSC that the district has initiated and enforced, or contracted with a third party to initiate and enforce, a labor compliance program on the project to monitor and ensure the payment of prevailing wages to workers. The notice shall inform these workers of the manner in which they may contact the OPSC and the DIR concerning the accuracy of the report set forth in subsection (b)(3) above.

(5) The district shall provide the DIR a copy of the report set forth in subsection (b)(3) above at the same time the report is submitted to the OPSC. The DIR may notify the OPSC if the DIR determines the verifications in the awarding body's report to be incorrect.

(6) The report shall not be determined to comply with Labor Code Section 1771.7(a) if the DIR submits the notice described in subsection (b)(5) above within 60 calendar days of receiving the report in subsection (b)(3) above.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.32 and 17074.16, Education Code and Sections 1771.5 and 1771.7, Labor Code.

Article 11. Miscellaneous School Facility Program Requirements

Section 1859.100. Restricted On-going and Major Maintenance Fund.

A district, regardless of size, shall certify on the Form SAB 50-04, the Form SAB 50-07, or the Form SAB 50-08, that a restricted account within the district's general fund has been established for the exclusive purpose of providing on-going and major repair of its facilities, pursuant to Education Code Section 17070.75.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.75, 17077.40 and 17078.10, Education Code.

Section 1859.101. Districts that are Exempt from the Specified Annual Deposit.

A district, including a county superintendent of schools, that is not required to make a specified annual deposit into the restricted maintenance account as provided in Education Code Section 17070.75 must certify on the Form SAB 50-04, the Form SAB 50-07 or the Form SAB 50-08, that the district can maintain its facilities with a lesser annual deposit.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.75, 17077.40 and 17078.10, Education Code.

Section 1859.102. Maintenance Plan.

A district shall certify on the Form SAB 50-04, the Form SAB 50-07 or the Form SAB 50-08, that it has developed and implemented an on-going and major maintenance plan in accordance with Education Code Section 17070.75 and 17070.77. In each fiscal year following the fiscal year in which the district received funds as a result of an application funded on or after January 1, 2002, the district shall certify that the plan has been reviewed and updated as required in Education Code Section 17070.77.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.75, 17070.77, 17077.40 and 17585, Education Code.

Section 1859.103. Savings.

A district may expend the savings not needed for a project on other high priority capital facility needs of the district including the relocation of district facilities necessary as a result of Subdivision (b) of Education Code Section 17072.12. Savings may be declared by the district in writing to the OPSC any time after the release of all funds for the project.

Any interest earned on a project not expended on eligible project expenditures will be treated as savings.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.63, 17072.12, 17077.40 and 17079.20, Education Code.

Section 1859.104. Program Reporting Requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Upon either project completion, or not later than 96 months from the date of the Apportionment, that the Portable Classrooms purchased for Interim Housing have either been removed or remain in use within the School District.

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

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

Section 1859.104.1. Material Inaccuracy Penalties.

When the Board makes a finding that a Material Inaccuracy occurred for a SFP Project, the district shall be subject to the following penalties:

(a) If the Material Inaccuracy finding occurred prior to the apportionment, the district shall be:

(1) Prohibited from self-certifying the project information for a period of up to five years from the date the Board made the finding of Material Inaccuracy for the project. A prohibition from self-certification of project information may be less than five years as determined on a case-by-case basis by the Board.

(2) Required to file all projects pursuant to Section 1859.104.2 for the time period required in subsection (a)(1).

(3) Subject to the fee prescribed by Section 1859.104.3.
(b) If the Material Inaccuracy finding occurred after the apportionment but no funds have been released for the project:
(1) The Board shall reduce the project apportionment by the additional funding received beyond the amount the district was entitled to for the project.
(2) The school district shall be prohibited from self-certifying project information for a period of up to five years from the date the Board made the finding of Material Inaccuracy for the project. A prohibition from self-certification of project information may be less than five years as determined on a case-by-case basis by the Board.
(3) The school district shall be required to file all projects pursuant to Section 1859.104.2 for the time period required in subsection (b)(2).
(4) The school district shall be subject to the fee prescribed by Section 1859.104.3.
(c) If the Material Inaccuracy finding occurred after the apportionment and funds were released for the project, the district:
(1) Must repay the additional funding received beyond the amount the district was entitled to for the project with interest within five years from the date the Board made the finding of Material Inaccuracy. Interest shall be assessed as prescribed in Education Code Section 17070.51(b)(1).
(2) Shall be prohibited from self-certifying project information for a period of up to five years from the date the Board made the finding of Material Inaccuracy for the project. A prohibition from self-certification of project information may be less than five years as determined on a case-by-case basis by the Board.
(3) Shall be required to file all projects pursuant to Section 1859.104.2 for the time period required in subsection (c)(2).
(4) Shall be subject to the fee prescribed by Section 1859.104.3.
(d) The Board may direct that adjustments to the school district's New Construction or Modernization baseline eligibility be made pursuant to Sections 1859.51 and 1859.61 based on the determination of Material Inaccuracy.

A school district filing a *Project Information Worksheet* with the best available information at the time of filing will not be subject to a Material Inaccuracy for that information.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51 and 17077.40, Education Code.

Section 1859.104.2. Self-Certification Prohibition.

If the Board has made a finding of Material Inaccuracy pursuant to Section 1859.104.1, the OPSC may request supporting documentation as it deems appropriate for any application filed after a finding of material inaccuracy for the time prescribed in 1859.104.1(a)(1), (b)(2) or (c)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.51, Education Code.

Section 1859.104.3. Self-Certification Prohibition Processing Fee.

If the Board has made a finding of Material Inaccuracy pursuant to Section 1859.104.1, the Board shall charge the district an amount of $100 per hour for the additional hours necessary to process and review the district's applications submitted during the timelines prescribed in Section 1859.104.1(a)(1), (b)(2) or (c)(2). The maximum hours subject to the fee per application is the greater of 50 hours or one percent of the enrollment of the district as reported in Part A, the continuation high pupils reported in Part C, and the special day class pupils reported in Part D of Form SAB 50-01. The Board will not make a release of funds for any project subject to the fee in this section until the fee has been remitted to the OPSC. All fees collected shall be deposited in the School Facility Fund and available for apportionment as directed by the Board.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.51, Education Code.

Section 1859.105. Program Accountability Progress Audit.

(a) When the district has received funds for a SFP project, the Board shall conduct a review to assure the district has made substantial progress in the completion of the project pursuant to Education Code Section 17076.10(b). The review shall consist of an analysis of the district's progress report in accordance with Section 1859.104(b). Sufficient evidence of substantial progress shall be any of the following:
(1) At least 75 percent of all site development work that is necessary prior to building construction activity is complete.
(2) At least 90 percent of the building construction activities are under contract, unless the building construction activities are delayed as a result of necessary site development work.
(3) All construction activities are at least 50 percent complete.
(4) Other evidence satisfactory to the Board of circumstances beyond the control of the district that precludes substantial progress being made.
(b) When the district has received funds pursuant to Section 1859.81.1(a), the Board shall conduct a review to assure the district has made substantial progress in the completion of the project. The audit shall consist of a review and analysis of the district's progress report in accordance with Section 1859.104(b). Acceptable evidence of substantial progress shall be when the district has completed all of the following:
(1) Obtained the final appraisal of the site; and,
(2) Completed all California Environmental Quality Act requirements; and,
(3) Obtained final approval of the site by the CDE; and,
(4) Provided final escrow instructions or evidence the district has filed condemnation proceedings and intends to request an order of possession of the site; or,
(5) Other evidence satisfactory to the Board detailing the reason(s) and circumstance(s) beyond the control of the district that precludes substantial progress being made. If the Board determines that substantial progress has been made pursuant to Education Code Section 17076.10(b), the Board shall condition its finding of substantial progress upon the district's commitment to complete and submit satisfactory evidence that the district meets the provisions of Section 1859.105(b)(1) through (b)(4) within a period not to exceed 18 months from the date of the Board's determination of substantial progress.
(c) When the district has received funds pursuant to Section 1859.81.1(e), the Board shall conduct a review to assure the district has made substantial progress in the completion of the project. Sufficient evidence of substantial progress shall be any of the following:
(1) An Approved New Construction or Modernization Adjusted Grant Application; or
(2) A school district certification that the final building plans for the project have been submitted to and accepted by the DSA for review and approval; or
(3) An approved separate site funding application pursuant to Section 1859.81.1(a) or an approved environmental hardship funding application pursuant to Section 1859.75.1 or an approved Preliminary Apportionment pursuant to Section 1859.140, that met the criteria of Section 1859.142(b); or
(4) Other evidence satisfactory to the Board detailing the reason(s) that plans have not been completed and accepted by the DSA. If the Board determines that substantial progress has been made pursuant to Education Code Section 17076.10(b), the Board shall condition its finding of substantial progress upon the district's commitment to complete and submit an Approved New Construction or Modernization Adjusted Grant Application within a period not to exceed 18 months from the date of the Board's determination of substantial progress.

After the Board has received the progress report required in Section 1859.104(b) for items (a), (b), and (c) above, a review and analysis of the report by the OPSC will be made for compliance with this Section within 60 days of the submittal of the report by the district. The OPSC must notify the district within 60 days of the submittal of the report if it intends to recommend to the Board that no substantial progress has been made on the project. If the OPSC does not respond to the district within 60 days of submittal of the report, the OPSC concurs with the district that substantial progress has been made.

Should the OPSC respond within 60 days of submittal of the progress report by the district that no substantial progress has been made or the district fails to submit the progress report within the timelines in Section 1859.104 (b) for items (a), (b), and (c) above or the district has not filed an Approved Application for funds received pursuant to Section 1859.81.1(b), the district must report the final expenditures on the project on the Form SAB 50-06 to the OPSC within 60 days of the OPSC notification. After receipt of the expenditure report, the OPSC will recommend to the Board that a finding be made that no substantial progress on the project has been made and that the apportionment be reduced,

after accounting for the district's matching share, by any funds not yet committed by a contract for the project and any interest earned on State funds for the project. The recommendation will be made at the next regularly scheduled Board meeting. If the expenditure report is not received within the 60 day period, the OPSC will recommend that the apportionment be rescinded and any interest earned on State funds be returned to the State.

If the apportionment is reduced or rescinded as a result of a finding by the Board that no substantial progress has been made on the project, the pupils assigned to the project will be added to the district's baseline eligibility. If the apportionment was reduced, the adjustment to the baseline eligibility shall reflect any funding retained by the district based on the New Construction or Modernization Adjusted Grant funding provided for the project. The district may refile a new application for the project subject to district eligibility and priority funding at the time of resubmittal.

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

Reference: Sections 17070.35, 17076.10 and 17077.40, Education Code.

Section 1859.105.1. Program Accountability Environmental Hardship.

(a) When the district has received funds pursuant to Section 1859.75.1, the Board shall conduct a review to assure the district has made progress towards acquisition of the site pursuant to Education Code Section 17072.13(c)(2). The review shall consist of an analysis of the district's progress report in accordance with Section 1859.104(c). Acceptable evidence of substantial progress shall be when the district has completed all of the following:
(1) Obtained the final appraisal of the site.
(2) Completed all California Environmental Quality Act requirements.
(3) Obtained final approval of the site by the CDE.
(4) Provided final escrow instructions or evidence the district has filed condemnation proceedings and intends to request an order of possession of the site.

After the Board has received the progress report required in Section 1859.104(c) a review and analysis of the report by the OPSC will be made for compliance with this Section within 60 days of the submittal of the report by the district. The OPSC must notify the district within 60 days of the submittal of the report if it intends to recommend to the Board that the district has not made progress towards acquiring the site. If the OPSC does not respond to the district within 60 days of submittal of the report, the OPSC concurs with the district that it has made progress towards the site acquisition.

Should the OPSC respond within 60 days of submittal of the progress report by the district that no progress has been made towards site acquisition or the district fails to submit the progress report within the timelines in Section 1859.104(c), the OPSC will recommend at the next available Board meeting that the site apportionment for the project be rescinded and that any interest earned on State funds be returned to the State. If the apportionment is rescinded as a result of a finding by the Board that no progress has been made towards acquiring the site, the pupils assigned to the project will be added to the district's baseline eligibility.

(b) The district may request one-year extensions of the site apportionment as authorized by Education Code Section 17072.13(c)(2). Acceptable criteria for approval of an extension are any of the following:
(1) The district has received letters from the DTSC and the CDE that indicate the agency concurs that the district is making reasonable progress towards acquisition of the site.
(2) Other reasonable evidence of effort the district has made towards acquiring the site as approved by the Board.

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

Reference: Sections 17070.35, 17072.13 and 17076.10, Education Code.

Section 1859.105.2. Program Accountability for District-Owned Site Acquisition Cost.

When the district has received funds pursuant to Section 1859.74.5 for a district-owned site and has not submitted the certification required pursuant to Section 1859.104(d), the site apportionment is subject to the provisions of material inaccuracy as prescribed in Education Code Section 17070.51.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51 and 17072.12, Education Code.

Section 1859.106. Program Accountability Expenditure Audit.

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

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

(a) The difference in the value of the site, relocation costs, DTSC fees, and hazardous waste/materials removal costs that were used to determine the New Construction Additional Grant and the actual amount paid by the School District for the site, relocation costs, DTSC fees, and hazardous waste/materials removal costs. For applications received on or after January 1, 2004, the adjustment may be made regardless of whether the hazardous waste/materials removal costs were requested on the application for funding.

(b) For any insurance proceeds collectable by the School District for displaced facilities and net proceeds available from the disposition of displaced facilities pursuant to Sections 1859.82.1(d) and 1859.82.2(d).

(c) For any insurance proceeds or other government disaster assistance collected by the School District for any project that received funding pursuant to Sections 1859.84.1(c) or 1859.84.2(d).

(d) For any project that received funding pursuant to 1859.71.4(c) or 1859.78.1(b), 50 percent of one-fourth of one percent of the difference between the original Total Projected Bond Apportionment and the newly calculated amount.

(e) Any adjustments made pursuant to this Section will be made only if sufficient bond authority is available for the adjustment. If an Unfunded List has been created by the Board, then any adjustments made pursuant to this Section will be placed on the Unfunded List.

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

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

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

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

Should the OPSC conduct an audit of the School District certifications or the expenditures for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Sections 1859.84, 1859.84.1 or 1859.84.2 for projects following a natural disaster, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, Education Code Section 17074.25 and Section 1859.79.2 for

modernization projects, and Education Code Sections 17072.13 and 17072.14 for projects with additional costs imposed by the DTSC, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings.

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

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

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

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

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17071.75, 17072.13, 17072.14, 17072.18, 17072.35, 17074.25, 17075.20, 17076.10, 17077.40, 17078.35, 17078.36, 17078.37, 17078.38, 17078.52 and 17251, Education Code, and Section 1771.3, Labor Code.

Section 1859.106.1. Repayment of State Funds.

Upon adoption of the audit findings by the Board and in lieu of the collection procedures outlined in Education Code Section 17076.10(c)(1), a school district, county office of education, or Charter School may request a repayment schedule of up to twenty years, in equal annual installments, if the total repayment of State funds within 60 days of the Board action would cause the school district, county office of education, or Charter School to fall into fiscal distress. School districts, county offices of education, or Charter Schools requesting a repayment schedule must be in a severe hardship condition as evidenced by at least one of the following criteria:

(a) For a school district or county office of education, the district or county office of education is listed on the current CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education.
(b) For a school district or county office of education, the amount due to the State for one or more projects would cause the district or county office of education to be listed on the CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education report. Where the financial condition of a school district is involved, the county office of education must submit a letter to the OPSC on behalf of its representative school districts for consideration substantiating that the repayment will place the district on the CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education. Where the financial condition of a county office of education is involved, the CDE must submit a letter to the OPSC on behalf of the county office of education for consideration substantiating that the repayment will place the county office of education on the CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education.

(c) For a Charter School, the amount due to the State for one or more projects would cause the Charter School severe financial hardship. The Charter School's authorizing agency must submit a letter to the OPSC on behalf of the Charter School for consideration substantiating that the repayment may result in the Charter School being unable to meet its financial obligations for the current or subsequent two fiscal years.

The repayment schedule will commence on July 1 of the fiscal year following the repayment schedule approval date.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17076.10 and 17078.52, Education Code.

Section 1859.107. Amending and Withdrawal of Applications.

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

A funding application, with the exception of funding applications identified in Subsection (a) below, that has received an approval pursuant to Section 1859.95, but has not received an apportionment, may receive an adjustment as allowed under Sections 1859.71,1859.71.2(c), 1859.78.4(b) or 1859.78 at the time the apportionment is made. If the adjustment is a result of Sections 1859.71.2(c) or 1859.78.4(b), the district must submit an amended Form SAB 50-04. The amended application shall retain its OPSC processing date. No other adjustments may be made, including those resulting from changes to the regulations prior to final funding by the SAB. As an alternative, the application may be withdrawn and resubmitted for SAB approval under the provisions of any amended or new regulation that becomes effective prior to the apportionment for the project. The district must first request from the OPSC that the application be withdrawn and removed from the Unfunded List. The district may then resubmit the application to the OPSC under the provisions of the amended or new regulation once it is effective. The resubmitted application will receive a new processing date by the OPSC. School districts that have already received a site apportionment under Section 1859.81.1(a) may withdraw the application and file as an environmental hardship pursuant to Section 1859.75.1 without forfeiting their original site apportionment, provided that the new application does not exceed the amount already apportioned.

A funding application, with the exception of funding applications identified in Subsection (a) below, submitted to the OPSC that has not received an approval will receive funding under the provisions of the regulations that were in effect when the application was submitted to the OPSC and any funding adjustment authorized by Sections 1859.71.2(c) or 1859.78.4(b). If the funding adjustment is a result of Sections 1859.71.2(c) or 1859.78.4(b), the district must submit an amended Form SAB 50-04. The amended application shall retain its OPSC processing date. At the option of the district, a funding application submitted to the OPSC that has not received an approval may be withdrawn and resubmitted for SAB approval under the provisions of any amended or new regulation once it is effective. The district must request that the application be withdrawn and removed from the OPSC workload list. The resubmitted application will receive a new processing date by the OPSC.

At the option of the district, an Approved Application for Career Technical Education Facilities Project Funding submitted to OPSC prior to January 1, 2012 may be resubmitted for the purpose of requesting the funding as prescribed in Section 1859.71.6 or Section 1859.77.4, as applicable. To request that funding, the district must submit an amended Form SAB 50-10 at least 90 days prior to requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2 or receiving an Apportionment pursuant to Section 1859.195. The amended application shall retain its original OPSC processing date. This paragraph is subject to Education Code Sections 17070.965 and 17078.73.

(a) A district that submitted an Approved Application request for either a Modernization Adjusted Grant or a Separate Design Apportionment for a modernization project pursuant to Section 1859.81.1 that meets the criteria in (1) and (2) below must submit a new Form SAB 50-04 that meets the criteria in Subsections (b) or (c) no later than 60 calendar days after the effective date (September 16, 2002) of this Subsection:
(1) The Approved Application was received by the OPSC after April 29, 2002 but no later than the date this Subsection becomes effective (September 16, 2002).
(2) The Approved Application has not received an approval or has received an approval pursuant to Section 1859.95, but has not received an apportionment.

(b) The new Form SAB 50-04 identifies the same number of pupils assigned to the original project or a lesser amount that is not less than 37.5 percent of the pupils originally assigned to the project (round up). In this case, the district will be required to contribute additional funds to the project to meet the 40 percent district contribution required pursuant to Section 1859.79(b). If the project was approved as a financial hardship project under the provisions of Section 1859.81, the project shall maintain its financial hardship status, however, the district will be subject to a financial review pursuant to Section 1859.81(a) to determine if there are additional district funds available for the project.

(c) The new Form SAB 50-04 identifies a lesser number of pupils assigned to the project that does not exceed an amount determined by multiplying the pupils assigned to the original project by 37.5 percent (round down). In this case, the district will not be required to contribute additional funds to the project to meet the 40 percent district contribution required pursuant to Section 1859.79(b).

(d) If a new Form SAB 50-04 is submitted under the provisions of subsection (b), the Architect of Record or Design Professional certification made on the original Form SAB 50-04 will be accepted as satisfying the requirements of the new Form SAB 50-04.

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

Any application for eligibility determination that has received an approval may be amended to comply with provisions of an amended or new regulation once it is effective. The amended application will receive a new processing date by the OPSC.

Any application for eligibility determination that has not received an approval may be amended at any time to conform to an amended or new regulation. The application shall retain its OPSC processing date.

Any application for new construction eligibility determination that has received an approval must be amended to conform to Regulation Section 1859.51(l) prior to submittal of Form SAB 50-04.

Any application for new construction eligibility determination that has not received an approval must be amended to conform to Form SAB 50-02 and Form SAB 50-03 prior to submittal of Form SAB 50-04.

Any application for modernization eligibility determination that has received an approval must be amended to conform to Regulation Section 1859.61(g) prior to submittal of Form SAB 50-04.

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

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

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

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

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

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

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

Section 1859.108. Extension of Fire Code Requirements Exemption.

A portable building that has received a three-year exemption by the Division of the State Architect from the fire code requirements described in Education Code Sections 17074.50 and 17074.52 may receive up to an additional three-year extension of that exemption provided all the following criteria are met:

(a) The portable was acquired or leased with SFP modernization funds.
(b) The portable was used solely for interim housing during the construction of a SFP modernization project.
(c) The portable building meets the definition outlined in Subdivision (c) of Education Code Section 17074.54.
(d) The district has presented acceptable evidence to the Board that the portable building continues to be needed to house pupils as a result of the SFP modernization project.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.54, Education Code.

Article 12. Joint-Use Project Grant Determination

Section 1859.120. General (Joint-Use Project Funding).

A district seeking Joint-Use Project funding pursuant to the provisions of Education Code Section 17077.40, shall complete and file Form SAB 50-07.

If the Joint-Use Project will serve more than one grade configuration or the Joint-Use Project will serve multiple public school sites, the Joint-Use Project eligibility and funding will be determined based on the highest grade level served by the facility.

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

Reference: Section 17077.40, Education Code.

Section 1859.121. Joint-Use Project Application Submittals and Apportionments.

The Board shall accept Approved Applications for Joint-Use Funding on a yearly basis as follows:

(a) For any funding made available for this purpose by May 31, 2003, applications will be accepted from November 5, 2002 through May 31, 2003. The Board will apportion the funding made available by May 31, 2003 at the July 2003 Board meeting.
(b) For any additional funding that is made available for this purpose from June 1, 2003 through May 31, 2008, the Board will accept applications from June 1 of the prior calendar year through May 31 of the current calendar year for any funding made available for this purpose by May 31 of each year. The Board will apportion the funding made available by May 31 of each year at the following July Board meeting based on the SFP regulations in effect at that time.
(c) For any funding that is made available for this purpose the Board will accept applications for the 2008/2009 funding cycle from June 1, 2008 through March 1, 2009. For the 2009/2010 funding cycle and for all future funding cycles, the Board will accept applications from March 2 of the prior calendar year through March 1 of the current calendar year. Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the Board will apportion the funding made available based on the SFP regulations in effect at that time.

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

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

Section 1859.122. Type I Joint-Use Program Eligibility Criteria.

A district requesting funding for a Type I Joint-Use Project may submit Form SAB 50-07 to the OPSC if all the following criteria are met:

(a) The plans and specifications for the Type I Joint-Use Project are included in the plans and specifications for a new school or an addition to an existing public school for which the district has requested SFP new construction funding.
(b) The Type I Joint-Use Project will be located on the same site where the SFP new construction project is located.
(c) The Type I Joint-Use Project will increase the square footage and/or Extra Cost for any of the following proposed facilities included in the SFP new construction project:
(1) A multipurpose room.
(2) A gymnasium.
(3) A Childcare facility.
(4) A library.
(5) A Teacher Education facility.
(d) At least one of the Joint-Use Partner(s) is an institution of Higher Education, a governmental agency, or a Non-Profit Organization. The Joint-Use Partner(s) may be a county office of education or another district provided the funds contributed by those agencies pursuant to Section 1859.127 are not otherwise available for other SFP projects.
(e) The district has entered into a Joint-Use Agreement that meets the criteria in Education Code Section 17077.42.
(f) The district has joint-use square footage eligibility pursuant to Section 1859.124(a) or has demonstrated that it will incur Extra Cost pursuant to Section 1859.125.1.
(g) The construction contract for the Type I Joint-Use Project was not executed prior to April 29, 2002.
(h) The plans and specifications for the Type I Joint-Use Project have been approved by the DSA.
(i) The plans for the Type I Joint-Use project have been approved by the CDE.

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

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

Section 1859.122.1. Type II Joint-Use Program Eligibility Criteria.

A district requesting funding for a Type II Joint-Use Project may submit Form SAB 50-07 to the OPSC if the following criteria are met:

(a) If the Joint-Use Project proposes to Reconfigure an existing school building, then the plans and specifications for the Type II Joint-Use Project may be included in the plans and specifications for modernization to an existing public school for which the district has requested SFP modernization funding. If the Joint-Use Project will be part of a qualifying SFP Modernization project, then the Type II Joint-Use Project will be located on the same site where the SFP modernization project is located and the site does not have the type of facility for which the Joint-Use Funding is requested or the facility is Inadequate.
(b) If the Joint-Use Project proposes to construct new school buildings, then the project will be located on an existing school site that does not have the type of facility for which the Joint-Use Funding is requested or the facility is Inadequate.
(c) The Type II Joint-Use Project will either Reconfigure an existing school building or construct new school buildings, and will provide facilities to be used for any of the following:
(1) A multipurpose room.
(2) A gymnasium.
(3) A childcare facility.
(4) A library.
(5) A Teacher Education facility.
(d) At least one of the Joint-Use Partner(s) is a governmental agency, an institution of Higher Education or a Non-Profit Organization. The Joint-Use Partner(s) may be a county office of education or another district provided the funds contributed by those agencies pursuant to Section 1859.127 are not otherwise available for other SFP projects.
(e) The district has entered into a Joint-Use Agreement that meets the criteria in Education Code Section 17077.42.
(f) The district has demonstrated it has joint-use square footage eligibility pursuant to Section 1859.124(b).
(g) The construction contract for the Type II Joint-Use Project was not executed prior to April 29, 2002.

(h) The plans and specifications for the Type II Joint-Use Project, to reconfigure existing school buildings as part of a qualifying SFP project, have been approved by the DSA and the CDE.
(i) The Preliminary Plans for the Type II Joint-Use Project, to either reconfigure existing school buildings, construct new school buildings, or both, have been approved by the CDE.

Reconfiguring an existing school building must not reduce the district's capacity or displace another minimum essential facility. In any case involving the replacement of capacity or a minimum essential facility due to the reconfiguration of an existing building, the replacement must be part of the plans submitted in support of the Joint-Use Application, must occur concurrently, and cannot be part of a SFP Application for new construction.

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

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

Section 1859.122.2. Additional Type II Joint-Use Program Eligibility Criteria for Pupil Academic Achievement.

A district requesting funding for a Type II Joint-Use Project that will Reconfigure existing school buildings, construct new school buildings, or both to provide for pupil Academic Achievement may submit Form SAB 50-07 to the OPSC if the criteria in sections 1859.122.1(a), 1859.122.1(b), 1859.122.1(d), 1859.122.1(e), 1859.122.1(f), and 1859.122.1(g), 1859.122.1(h), and 1859.122.1(i) are met and the plans and specifications were accepted by the DSA for review and approval prior to January 1, 2004.

Reconfiguring an existing school building must not reduce the district's capacity or displace another minimum essential facility. In any case involving the replacement of capacity or a minimum essential facility due to the reconfiguration of an existing building, the replacement must be part of the plans submitted in support of the Joint-Use Application, must occur concurrently, and cannot be part of a SFP Application for new construction.

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

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

Section 1859.123. Qualifying SFP New Construction Project.

For purposes of meeting the requirements in Sections 1859.122(a), the district may combine the plans and specifications of its Joint-Use Project with any of the following new construction applications:
(a) A new construction funding request that is submitted at the same time as the Joint-Use Project application.
(b) An Approved Application for new construction funding that has not yet received an approval (i.e., not yet on the Unfunded List) if all the following criteria are met:
(1) The plans and specifications for the Joint-Use Project were not included in the original DSA approved plans and specifications for the Approved Application for new construction funding.
(2) The original DSA approved plans and specifications for the Approved Application for new construction funding are modified to incorporate the plans and specifications for the Joint-Use Project.
(3) The district has withdrawn the Approved Application for new construction funding pursuant to Section 1859.107 for the benefit of adding a Joint-Use Project.
(4) A revised new construction funding application and the Joint-Use Project application are resubmitted to the OPSC at the same time.
(c) An Approved Application for new construction funding that has been approved, but has not received a full apportionment (i.e., currently on the Unfunded List) or has been fully funded, if all the following criteria are met:
(1) The plans and specifications for the Joint-Use Project were included in the original DSA approved plans and specifications for the Approved Application for new construction funding.
(2) The contract for the construction of the Joint-Use Project was not executed prior to April 29, 2002.
(3) The district entered into a joint-use agreement that meets or will be amended to meet the criteria of Education Code Section 17077.42 and:
(4) The Joint-Use Project application is submitted separately. There is no requirement that the Approved Application for new construction be withdrawn from the Unfunded List.

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

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

Section 1859.123.1. Qualifying SFP Modernization Project.

For purposes of meeting the requirements in Sections 1859.122.1(a) or 1859.122.2, the district may combine the plans and specifications of its Joint-Use Project with any of the following modernization applications:

(a) A modernization funding request that is submitted at the same time as the Joint-Use Project application.

(b) An Approved Application for modernization funding that has not yet received an approval (i.e., not yet on the Unfunded List) if all the following criteria are met:

(1) The plans and specifications for the Joint-Use Project were not included in the original DSA approved plans and specifications for the Approved Application for modernization funding.

(2) The original DSA approved plans and specifications for the Approved Application for modernization funding are modified to incorporate the plans and specifications for the Joint-Use Project.

(3) The district has withdrawn the Approved Application for modernization funding pursuant to Section 1859.107 for the benefit of adding a Joint-Use Project.

(4) A revised modernization funding application and the Joint-Use Project application are resubmitted to the OPSC at the same time.

(c) An Approved Application for modernization funding that has been approved, but has not received a full apportionment (i.e., currently on the Unfunded List) or has been fully funded, if all the following criteria are met:

(1) The plans and specifications for the Joint-Use Project were included in the original DSA approved plans and specifications for the Approved Application for modernization funding.

(2) The contract for the construction of the Joint-Use Project was not executed prior to April 29, 2002.

(3) The district entered into a joint-use agreement that meets or will be amended to meet the criteria of Education Code Section 17077.42 and:

(4) The Joint-Use Project application is submitted separately. There is no requirement that the Approved Application for modernization be withdrawn from the Unfunded List.

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

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

Section 1859.124. Joint-Use Project Square Footage Eligibility.

With the exception of funding requests for Extra Cost of a Type I Joint-Use Project, the district must have square footage eligibility in order to submit an application for Joint-Use Project funding. Depending on the type of Joint-Use Project, the square footage eligibility is calculated as follows:

(a) If the funding request is for a Type I Joint-Use Project, the square footage eligibility is calculated as follows:

(1) Determine the total square footage of the joint-use facility for which Joint-Use Project funding is requested.

(2) Determine the square footage for the type of joint-use facility for which Joint-Use Project funding is requested in the Square Footage Chart shown in Section 1859.124.1.

(3) Determine the square footage eligibility by subtracting the amount determined in (a)(2) from the amount determined in (a)(1). If a negative number results, the square footage eligibility is zero.

(b) If the funding request is for a Type II Joint-Use Project, the square footage eligibility is calculated as follows:

(1) Determine the total square footage of any existing like-kind joint-use facilities at the same site where the Joint-Use Project facility will be located.

(2) Determine the square footage for the type of joint-use facility for which Joint-Use Project funding is requested in the Square Footage Chart shown in Section 1859.124.1.

(3) Multiply the amount in (b)(2) by 60 percent.

(4) If the amount determined in (b)(1) is greater than the amount determined in (b)(3), the square footage eligibility is zero. If the amount determined in (b)(1) is equal to or less than the amount determined in (b)(3), the square footage eligibility is the amount determined in (b)(2).

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

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

Section 1859.124.1. Square Footage Facility Chart.

Use the Chart below to determine 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 TK-6, TK-8	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 to TK-6 schools only 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 new construction 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.

Section 1859.125. Joint-Use Project Grant Determination Based on Square Footage.

If the funding request is to construct square footage, the Joint-Use Grant is the lesser of the amount determined in (a) or (b):
(a) The sum of the amounts determined below:

(1) $173.30 for the Toilet Facilities in the Joint-Use Project as calculated in (a)(1)(B) below:
(A) Divide the eligible square footage of the Joint Use Project as determined in Section 1859.124 by the total square footage of the joint-use facility.
(B) Multiply the quotient determined in (a)(1)(A) by the Toilet Facilities in the joint-use facility.
(2) $96.30 for non-Toilet Facilities in the Joint-Use Project as calculated in (a)(2)(B) below.
(A) Divide the eligible square footage of the Joint Use Project as determined in Section 1859.124 by the total square footage of the joint-use facility.
(B) Multiply the quotient determined in (a)(2)(A) by the non-Toilet Facilities in the joint-use facility.
(3) 50 percent of site development work that meets the following criteria:
(A) It is necessary and applicable to the Joint-Use Project.
(B) It meets the requirements for service site development or utility costs as outlined in Section 1859.76(a) and/or (c). Off-site development work is not allowed as part of a Joint-Use Project; however, if off-site development work is necessary pursuant to Section 1859.76(b) for a Type I Joint-Use Project, the district may request the eligible off-site work under the qualifying SFP New Construction project pursuant to Section 1859.123.
(C) It is considered excessive site development costs and not eligible for funding under the qualifying SFP New Construction or Modernization project pursuant to Section 1859.123 or 1859.123.1.
(b) $1 million if the Joint-Use Project will be located on a school site that is or will be serving Elementary School Pupil(s).
$1.5 million if the Joint-Use Project will be located on a school site that is or will be serving Middle School Pupil(s).
$2 million if the Joint-Use Project will be located on a school site that is or will be serving High School Pupils.

If the district is requesting funding for site development work applicable to the Joint-Use Project, the district must submit a detailed cost estimate and appropriate DSA approved plans, with the Form SAB 50-07. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Joint-Use Project and conform to the requirements of Section 1859.76.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Joint-Use Project.

The dollar amounts shown in (a) are adjusted in a manner prescribed in Section 1859.71 and are eligible for Excessive Cost Hardship Grant(s) pursuant to Section 1859.83 (a), (b) and (d). 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, the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4(a). For any project for which the construction contract is awarded on January 1, 2012 through June 19, 2014, the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations established in Section 1859.71.4(d).

The Joint-Use Grant amounts provided in this Section and Section 1859.125.1, if applicable, shall be deemed the full and final apportionment for the application. Any costs incurred by the district beyond the Joint-Use Grant amount and the Joint-Use Partner(s) and district financial contribution pursuant to Section 1859.127, shall be the responsibility of the district and/or the Joint-Use Partner(s).

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

Reference: Sections 17077.40, 17077.42, 17077.45 and 17250.30, Education Code, and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

Section 1859.125.1. Additional Type I Joint-Use Project Extra Cost Grant.

In addition to the square footage Joint-Use Grant provided in Section 1859.125, a Type I Joint-Use Project may receive funding for Extra Cost equal to the lesser of (a) or (b):
(a) An amount determined by subtracting (a)(2) from (a)(1):
(1) The sum of the following:
(A) 50 percent of the estimated cost to construct the Joint-Use Project.
(B) 50 percent of site development work that meets the following criteria:
1. It is necessary and applicable to the Joint-Use Project.

2. It meets the requirements of Section 1859.76(a) and/or (c).
3. It is considered excessive site development costs and not eligible for funding under the qualifying SFP New Construction project pursuant to Section 1859.123.
4. The district did not receive funding for the site development work under Section 1859.125.

(2) The sum of the following:

(A) $173.30 for the Toilet Facilities in the Joint-Use Project.

(B) $96.30 for the non-Toilet Facilities in the Joint-Use Project.

(b) An amount determined by subtracting (b)(2) from (b)(1):

(1) $1 million if the Joint-Use Project will be located on a school site that is or will be serving Elementary School Pupil(s).
$1.5 million if the Joint-Use Project will be located on a school site that is or will be serving Middle School Pupil(s).
$2 million if the Joint-Use Project will be located on a school site that is or will be serving High School Pupils.

(2) The Joint-Use Grant amount determined in Section 1859.125 based on square footage, if applicable.

If the district is requesting funding for site development work applicable to the Joint-Use Project, the district must submit a detailed cost estimate and appropriate DSA approved plans with the Form SAB 50-07. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Joint-Use Project and conform to the requirements in Section 1859.76.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Joint-Use Project.

The amounts shown in (a) are adjusted in a manner prescribed in Section 1859.71. 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, the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4(a). For any project for which the construction contract is awarded on January 1, 2012 through June 19, 2014, the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations established in Section 1859.71.4(d).

The Joint-Use Grant amount provided in this Section and Section 1859.125, if applicable, shall be deemed the full and final apportionment for the application. Any costs incurred by the district beyond the Joint-Use Grant amount and the Joint-Use Partner(s) and district financial contribution pursuant to Section 1859.127, shall be the responsibility of the district and/or the Joint-Use Partner(s).

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

Reference: Sections 17077.40, 17077.42, 17077.45 and 17250.30, Education Code, and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

Section 1859.126. Joint-Use Project Funding Priority and Funding Availability.

In each application acceptance period, the Board shall fund eligible Joint-Use Projects as follows:

(a) Type I Joint-Use Projects in the following order:

(1) By date order received for the applications the districts have designated as first funding priority.

(2) By date order received for the applications the districts have designated as second funding priority and so on until all Type I Joint-Use Project applications have been apportioned.

(b) Type II Joint-Use Projects in the following order:

(1) By date order received for the applications the districts have designated as first funding priority.

(2) By date order received for the applications the districts have designated as second funding priority and so on until all Type II Joint-Use Project applications have been apportioned.

If a Joint-Use Project cannot be fully apportioned because of the funding available, the district may either accept the available funding as the full and final apportionment for the project or refuse funding. If funding is refused, the application will be returned to the district and the Board shall consider funding the next project eligible for an apportionment based on the above funding priority mechanism.

Any Joint-Use Project not considered for an apportionment because of the above funding priority mechanism shall be returned to the district. A district may resubmit a returned Joint-Use Project application during the subsequent application acceptance period identified in Section 1859.121(b), if the application meets the eligibility criteria at the time of re-submittal.

Any funds not apportioned in the application acceptance period identified in Section 1859.121(a) or any Joint-Use Project funds returned due to projects being rescinded or reduced to cost incurred shall be made available for apportionment in the application acceptance period identified in Section 1859.121(b).

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

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

Section 1859.127. Joint-Use Partner(s) Financial Contribution.

A financial contribution towards the cost of the Joint-Use Project equal to the state funding provided by these Regulations is required. The contribution made by the Joint-Use Partner(s) shall be no less than 25 percent of eligible project costs. The remaining local contribution may come from any other district source that would not otherwise be available to the State Allocation Board.

If the school district has passed a local bond that was authorized prior to February 27, 2008 which specifies that such funds are to be used for the Joint-Use Project, then the school district may opt to provide up to the full 50 percent local share of eligible costs. The Joint-Use Project may also be identified in the voter approved local bond language, the school district board resolution authorizing the bond, or the school district board meeting minutes.

If the school district has passed a local bond that was authorized on or after February 27, 2008 which specifies that such funds are to be used for the Joint-Use Project, then the school district may opt to provide up to the full 50 percent local share of eligible costs-providing the voter approved local bond language contains an acknowledgement that the proceeds will or may be used for both of the following:

(a) Joint-use purposes verified through the term, “joint-use” present in the voter approved local bond language.
(b) The Joint-Use Project identified in either of these two ways:
(1) The specific facility type requested and/or
(2) The specific school site.

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

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

Section 1859.128. Additional Financial Contribution.

If additional project costs will be incurred by the district beyond the state funding and the Joint-Use Partners’ financial contribution required pursuant to Section 1859.127, the additional financial contribution may be made by the Joint-Use Partner(s), the district or from any other local source.

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

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

Section 1859.129. Time Limit on Apportionment.

(a) If the district received an apportionment for a Type I Joint-Use Project or a Type II, part of a qualifying SFP Modernization project, Joint-Use Project, the district is subject to the time limit on the apportionment as outlined in Education Code Section 17076.10.
(b) If the district received an apportionment for a Type II Joint-Use Project, not part of a qualifying SFP Modernization project, the district:

(1) Has one year from the date of that apportionment to submit the plans and specifications to the OPSC for the Joint-Use Project that have been approved by the DSA and the CDE (plans only), otherwise the apportionment will be rescinded without further Board action. If, upon review by the OPSC, the final Division of the State Architect approved plans create a reduction in square footage that is greater than or equal to five percent of the square footage contained in the preliminary plans, a commensurate reduction to the apportionment pursuant to Section 1859.125 shall be taken to the next available State Allocation Board meeting.

(A) In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board can make a finding that a project has an Inactive Apportionment, as defined in Regulation Section 1859.2, and that the districts' ability to submit completed plans to the DSA has been impacted, and therefore the district will no longer be able to meet the approval requirement in Education Code Section 17077.45(c). In the event the Board makes that determination and finding, the Board may suspend the 12-month period for a period not to exceed 12 months beyond the time period as required in (b)(1). Once the suspension period has concluded, each project will resume where its originating period of time was suspended. Regulation Section 1859.129(b)(1)(A) shall become inoperative January 1, 2010.

(2) Has 18 months from the date the DSA and CDE approved plans were submitted to the OPSC to submit a completed Form SAB 50-05 or the apportionment will be rescinded without further Board action. If the district is requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2, the Board will require that this time limit be reduced to no more than 90 days from the date of the apportionment.

(3) Is subject to substantial progress time limit on the apportionment as outlined in Subdivision (b) of Education Code Section 17076.10.

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

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

Section 1859.130. Eligible Joint-Use Project Expenditures.

Joint-Use Project Grants shall be expended as set forth in Education Code Section 17072.35 with the exception of site acquisition, including lease of land. When a new site is necessary for a Type I Joint-Use Project, the district may request site acquisition costs under the qualifying SFP New Construction project pursuant to Section 1859.123.

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

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

Article 13. Critically Overcrowded School Facilities

Section 1859.140. General (Preliminary Apportionment).

A district seeking a Preliminary Apportionment pursuant to the provisions of Education Code Sections 17078.10 through 17078.30 for new construction shall complete and file a Form SAB 50-08.

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

Reference: Sections 17078.10 and 17078.22, Education Code.

Section 1859.141. Preliminary Application Submittals.

The Board shall accept Preliminary Applications as follows:

(a) A district seeking a Preliminary Apportionment from the funding made available from Education Code Section 100620(a)(5), shall complete and submit Form SAB 50-08 between November 6, 2002 and May 1, 2003.

(b) A district seeking a Preliminary Apportionment from the funding made available from Education Code Section 100820(a)(3), shall complete and submit Form SAB 50-08 between 60 calendar days prior to and 120 calendar days after the 2004 election authorizing the funding.

After the Board has approved a Preliminary Apportionment for a Preliminary Application submitted as provided in (a) and/or (b), a district seeking an advance release of funds for site acquisition pursuant to Section 1859.153(b) or (c), shall be required to submit an additional Form SAB 50-08, to the OPSC, to determine eligible site acquisition costs. A district seeking an advance release of funds for design, engineering, and other pre-construction project costs pursuant to Section 1859.153(a), shall not be required to submit an additional Preliminary Application, as otherwise provided in (a) and/or (b).

If the voters do not approve Proposition 47 and/or the Kindergarten-University Public Education Facilities Bond Act of 2004, any Preliminary Application accepted for processing by the OPSC as provided in (a) and/or (b) as appropriate will be returned unprocessed to the district.

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

Reference: Sections 17078.10 and 17078.20, Education Code.

Section 1859.142. Preliminary Apportionment Eligibility Criteria.

A district may apply for a Preliminary Apportionment by submittal of Form SAB 50-08 if all of the following criteria are met:
(a) The district has demonstrated that it has SFP new construction eligibility under Education Code Section 17071.75.
(b) The project for which the district is requesting funding has not received an apportionment under the LPP, the SFP or other Proposition 1A funds, with the exception of apportionments prior to November 5, 2002 pursuant to Section 1859.81.1(e).
(c) At least 75 percent of the number of pupils requested on Form SAB 50-08 are Qualifying Pupils from a Source School(s) as determined in Section 1859.143.
(d) The General Location of a proposed school meets the criteria of Education Code Section 17078.22(a)(3) or (b).

If the proposed school will serve a combination of elementary school pupils and middle school pupils, the General Location of the school for purposes of (d) above shall be based on the highest grade served.

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

Reference: Sections 17078.18 and 17078.22, Education Code.

Section 1859.143. Determination of Source School Qualifying Pupil Baseline Eligibility.

After the CDE Source School List has been published by the CDE, the Qualifying Pupils for a Source School shall be determined as follows:
(a) Multiply the Useable Acres of the Source School by:
(1) 86 pupils per acre for a Source School identified as elementary on the CDE Source School List.
(2) 68 pupils per acre for a Source School identified as a middle school or a high school on the CDE Source School List.
(b) Determine the latest CBEDS enrollment for the Source School as of the date the district submitted the Preliminary Application to the OPSC.
(c) Subtract the amount determined in (a) from the amount determined in (b). The difference is the Qualifying Pupils baseline eligibility for the specific Source School.

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

Reference: Section 17078.18, Education Code.

Section 1859.144. Adjustments to the Source School Qualifying Pupil Baseline Eligibility.

The Source School Qualifying Pupil baseline eligibility determined in Section 1859.143 will be adjusted as follows:
(a) Reduced by the number of Qualifying Pupils the district assigned on the Preliminary Application to meet the 75 percent requirement in Section 1859.142(c).
(b) Increased by the Qualifying Pupils the district assigned on the Preliminary Application to meet the 75 percent requirement in Section 1859.142(c) that has been rescinded pursuant to Section 1859.148.

(c) Increased/decreased for changes in CBEDS enrollment in subsequent enrollment reporting years.
(d) Increased/decreased for changes in the Useable Acres originally reported on the CDE Source School List.

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

Reference: Section 17078.18, Education Code.

Section 1859.145. Preliminary Apportionment Determination.

The Preliminary Apportionment shall be equal to the sum of the following:
(a) The amounts shown below for each pupil included in a Preliminary Application:
(1) $5,226.82 for each elementary school pupil.
(2) $5,533.65 for each middle school pupil.
(3) $7,225.94 for each high school pupil.
(4) $16,653.06 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $11,137.37 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) An amount equal to 12 percent of the amount determined in (a) for multilevel construction, if requested by the district.
(c) An amount equal to one-half of the site acquisition value determined in Section 1859.145.1.
(d) An amount for site development cost determined, at the option of the district, by one of the following:
(1) One-half of the Site Development Cost for the specific site as authorized by Section 1859.76.
(2) One-half of the Site Development Cost as authorized by Section 1859.76 using historical information in the General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the General Location.
(3) $70,000 multiplied by the proposed acres requested on the Form SAB 50-08.
(e) If the Preliminary Application request is for a small new school on a site with no existing school facilities, an amount equal to the difference in the amount determined in (a) and the amount shown in the Chart in Section 1859.83(c). To determine the number of classrooms in the proposed project, divide the number of pupils requested on Form SAB 50-08, by 25 for elementary school pupils, 27 for middle and high school pupils, 13 for Non-Severely Disabled Individuals with Exceptional Needs and 9 for Severely Disabled Individuals with Exceptional Needs. Round up.
(f) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (a) for a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent when the following criteria are met:
(1) The district has requested an increase for multilevel construction pursuant to (b) above.
(2) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size determined by multiplying the sum of the pupil grants requested on Form SAB 50-08, and the current CBEDS enrollment on the site (if applicable) by .01775 for elementary school pupils, .021 for middle school pupils and 02472 for high school pupils. For purposes of this calculation, assign Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupil grants requested on Form SAB 50-08, as either elementary, middle or high school pupils based on the type of project selected by the district on Form SAB 50-08. For purposes of COS projects, if the site for which the Preliminary Apportionment is requested is a Source School, for purposes of assigning Qualifying Pupils in the Preliminary Application, subtract those Qualifying Pupils from the current CBEDS enrollment on the site before completing this calculation.
(3) The value of the property as determined in Section 1859.145.1(a)(1) is at least $750,000 per Useable Acre. This criterion does not apply to an application for an addition to an existing school site.
(g) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (a), (b), (d)(3), (e) and (f) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
(h) For purposes of COS projects, an amount equal to 12 percent of the sum of the amounts determined in (a) through (g) for all Preliminary Applications received no later than May 1, 2003. For all Preliminary Applications received after May 1, 2003 an amount equal to the sum of the amounts determined in (a) through (g) multiplied by a factor determined as follows:
(1) Divide the January Class B Construction Cost Index in effect at the time of Preliminary Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Apportionment. Round to four decimal places.
(2) Subtract 1 from the quotient in (1). Round to two decimal places.

(i) If the district qualifies for financial hardship assistance pursuant to Section 1859.81 at the time of submittal of the Preliminary Application, an amount equal to the sum of the amounts determined in (a) through (h) less any district funds determined available for the project pursuant to Section 1859.81(a). Districts must meet the financial hardship criteria pursuant to Section 1859.81 at the time the request is made to convert the Preliminary Apportionment to a Final Apportionment, including an accountability of any district contribution made available at the time of the Preliminary Apportionment was made, in order to continue with financial hardship assistance for the project.
(j) If the district received an apportionment prior to November 5, 2002 pursuant to Section 1859.81.1(e), an amount equal to the sum of the amounts determined in (a) through (i) less the previously authorized apportionment amount.

The amounts shown in (a) are adjusted in a manner prescribed in Section 1859.71. 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, the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4(a). For any project for which the construction contract is awarded on January 1, 2012 through June 19, 2014, the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations established in Section 1859.71.4(d).

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

Reference: Sections 17075.10, 17078.10, 17078.24 and 17250.30, Education Code, and Section 1771.3, Labor Code.

Section 1859.145.1. Preliminary Apportionment Site Acquisition Value.

(a) If the Preliminary Application includes a request for site acquisition funding, the preliminary value of the proposed site shall be the sum of the following:
(1) The value of the property determined by one of the following:
(A) By an appraisal or a preliminary appraisal of the property made no more than six months prior to the date the Preliminary Application was submitted to the OPSC, using the guidelines outlined in Section 1859.74.1. The preliminary appraisal may be made without access to the property. The acreage identified in the appraisal or the preliminary appraisal may not exceed the proposed useable acreage requested on Form SAB 50-08.
(B) The Median Cost of an acre of land in the General Location of the proposed project using historical information in the General Location multiplied by the number of proposed useable acres requested on Form SAB 50-08. Historical information that may be considered to determine land cost may include prior real-estate sales consummated and documented by the county recorder or pending real-estate sales documented by a title insurance company's escrow instructions. For purposes of historical information, include all real-estate sales consummated and documented by the county recorder for a minimum of six months and a maximum of up to two years prior to the date the Preliminary Application was submitted to the OPSC.
(2) An amount for the estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA as determined by one of the following:
(A) 21 percent of the value determined in (a)(1).
(B) The sum of the following:
1. The approved relocation expenses for the specific site to be acquired that conform to Title 25, California Code of Regulations, Section 6000, et seq.
2. The DTSC cost for review, approval, and oversight of the POESA and the PEA for the specific site to be acquired.
(C) The estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA using historical information in the General Location. Historical information that may be considered to determine these estimated costs may include prior real-estate acquisitions of the district or other districts in the General Location.
(3) Four percent of the amount determined in (a)(1), but not less than $50,000. This amount shall provide an allowance of any appraisal, escrow, survey, site testing, CDE review/approvals and preparation of the POESA and the PEA.
(4) For allowable costs of hazardous material/waste removal and remediation costs, one-half times the value of the property determined in either (a)(1)(A) or (a)(1)(B), above.
(b) If the Preliminary Application includes a request for hazardous waste removal required on an existing school site, the preliminary value for site acquisition funding shall be the sum of the following:
(1) With the exception of projects that received initial site acquisition funds under the SFP, the Board shall provide an amount for the necessary hazardous waste materials/waste removal and/or remediation costs on an existing school site where the Preliminary Apportionment will be used if all the following are met:

(A) The Preliminary Application request is for additional school facilities on an existing school site.
(B) The Preliminary Application request does not include a funding request for site acquisition costs allowed pursuant to Section 1859.145.1(a).
(C) The existing school site where the Preliminary Apportionment will be expended has a functioning school on the site or the site had a closed school that will again be used as a functioning school.
(D) The hazardous material cleanup costs are required by the DTSC.
(2) If all the criteria in subsection (b) are met, the allowable hazardous waste removal cleanup costs shall be all the following:
(A) The costs for preparation of the POESA, the PEA and the RA.
(B) The costs to implement the RA as determined necessary in the PEA that has been approved by the DTSC subject to the following:
1. The costs may include the DTSC costs for review and oversight of the preparation and implementation of the RA.
2. The costs may not include continuous operational and maintenance costs associated with the RA.

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

Reference: Sections 17072.13, 17072.18, 17078.10 and 17078.24, Education Code.

Section 1859.146. Preliminary Apportionment Funding Priorities.

If the amount of the Preliminary Applications received pursuant to Section 1859.141 exceed the funds available, the Board shall first apportion those Preliminary Applications that will house pupils from Source Schools with the highest pupil density levels. The calculation in (a) through (e) below is made independently for each Source School from which Qualifying Pupils are assigned. All calculations are rounded up to four decimal places. The pupil density level for the Preliminary Application is the amount determined in (f) as follows:
(a) Divide the latest CBEDS enrollment of the Source School by the Useable Acres of the Source School as shown on the CDE Source School List.
(b) Divide the quotient determined in (a) by:
(1) 115 if the Source School is identified as an elementary school on the CDE Source School List.
(2) 90 if the Source School is identified as a middle school or a high school on the CDE Source School List.
(c) Subtract 1 from the quotient determined in (b).
(d) Divide the Source School's Qualifying Pupils by the total Qualifying Pupils assigned.
(e) Multiply the difference determined in (c) by the quotient determined in (d).
(f) Add the product(s) determined in (e) for each Source School the district assigned Qualifying Pupils from to meet the 75 percent requirement in Section 1859.142(c).

All Preliminary Applications received from a district will be processed in the date order received by the OPSC. If more than one Preliminary Application is received on the same day, those applications will be processed by the OPSC based on the priority order assigned to those applications by the district on Form SAB 50-08.

If two or more Preliminary Applications have the same pupil density level, the Board shall first apportion that Preliminary Application that was received first by the OPSC.

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

Reference: Section 17078.20, Education Code.

Section 1859.147. Conversion of Preliminary Apportionment.

When a Preliminary Apportionment is converted to a Final Apportionment, the following criteria must be met:
(a) The district must have current New Construction Eligibility utilizing a fifth-year projection per Section 1859.42(a) sufficient to support at least 75 percent of the pupils the district requested and received the Preliminary Apportionment, except as allowed in (d) or (e).
(b) The Final Apportionment request must meet all criteria for a New Construction Adjusted Grant pursuant to Section 1859.21.

(c) A district seeking to convert a Preliminary Apportionment to a Final Apportionment shall complete and file Form SAB 50-04, which requests funding for at least 75 percent, but not more than 100 percent, of the pupils the district requested and received the Preliminary Apportionment.
(d) In lieu of (c), when the district's enrollment has decreased to less than 75 percent of the pupils requested for the project's Preliminary Apportionment, the district may utilize any SFP eligibility justified for its conversion to a Final Apportionment.
(e) In lieu of (a), sufficient project eligibility may be determined utilizing:
(1) The current year enrollment as recorded on the Form SAB 50-01 for the year in which the application for the Final Apportionment is submitted.
(2) Either (A) or (B) below for a district reporting eligibility pursuant to Section 1859.41. Once utilized that same subparagraph must be used for all remaining Preliminary Apportionments under this subdivision:
(A) The current year pupil residence data within the HSAA in which the project will be built, for the year in which the application for the Final Apportionment is submitted.
(B) The projected pupil residence for the year in which the application for the Final Apportionment is submitted, calculated by the cohort survival enrollment projection method, utilizing pupil residence data for the HSAA in which the project will be built.

It is not necessary to re-justify the Qualifying Pupils assigned to the Preliminary Application as required by Section 1859.142(c) at the time the application is converted to a Final Apportionment.

An Approved Application received by the OPSC on or after January 1, 2005 to convert a Preliminary Apportionment to a Final Apportionment may utilize an alternate eligibility justification pursuant to Section 1859.147(e), provided that the project meets all other funding requirements at the time of submittal.

If the district is unable to meet the criteria in this Section, the Preliminary Apportionment shall be rescinded pursuant to the provisions of Section 1859.148.

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

Reference: Section 17078.27, Education Code.

Section 1859.148. Time Limit on a Preliminary Apportionment.

(a) A Preliminary Apportionment not converted or requested to be converted to a Final Apportionment shall be rescinded:
(1) After one year from the date the Preliminary Apportionment was made unless the CDE has determined:
(A) There is at least one approvable site for the project within the General Location; and,
(B) The General Location of the proposed school will serve the Qualifying Pupils assigned to the Preliminary Application.
(2) After four years from the date the Preliminary Apportionment was made unless the district received approval of an extension pursuant to Section 1859.148.1.
(3) After five years from the date the Preliminary Apportionment was made if the district qualified for an extension pursuant to Section 1859.148.1.
(b) If a Preliminary Apportionment that did not have an advance release of funds pursuant to Section 1859.153 is rescinded, the following will occur:
(1) The SFP new construction baseline eligibility will be increased for the pupils assigned to the Preliminary Application not previously included in an apportionment pursuant to Section 1859.81.1(e). The previous design only apportionment, prior to November 5, 2002, shall be reduced to cost incurred with a corresponding SFP new construction baseline eligibility adjustment and closeout pursuant to Section 1859.106.
(2) The Qualifying Pupil baseline eligibility will be increased by the Qualifying Pupils assigned to meet the 75 percent requirement in Section 1859.142(c) of the Preliminary Application.
(3) Any Preliminary Apportionment rescinded is subject to accountability pursuant to Section 1859.154(c).
(4) The district may request funding for the proposed project again, without restriction under any SFP Program, provided the project meets the eligible criteria of that specific program. Re-submittal of the funding request may occur as follows:
(A) If the project was rescinded pursuant to (a)(1) or (a)(3), anytime after the Preliminary Apportionment is rescinded.
(B) If the project was rescinded pursuant to (a)(2) and the final plans for the project are not complete within four years of the Preliminary Apportionment, anytime after the Preliminary Apportionment is rescinded.
(C) If the project was rescinded pursuant to (a)(2) and the final plans for the project were completed within four years after the Preliminary Apportionment, anytime after a period of five years from the date of the Preliminary Apportionment.

(5) The Preliminary Apportionment shall be transferred to the Unrestricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account.

(c) If a Preliminary Apportionment that had an advance release of funds as provided in Section 1859.153 and/or an apportionment pursuant to Section 1859.81.1(e) prior to November 5, 2002, is rescinded pursuant to (a)(2) or (a)(3), the following will occur:

(1) The remaining Preliminary Apportionment, not released to the district, shall be transferred to the Unrestricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account.

(2) Funds released pursuant to Sections 1859.81.1(e) and 1859.153 shall be reduced to cost incurred and closeout pursuant to Section 1859.106 with a corresponding SFP new construction baseline eligibility adjustment for the pupils assigned to the Preliminary Application. Funds returned pursuant to Section 1859.106 shall be transferred to the Unrestricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account.

(3) The Qualifying Pupil baseline eligibility will be adjusted proportionately to the adjustment in (c)(2) and maintain the ratio of SFP New Construction Eligibility to Qualifying Pupils assigned to meet the requirements in Section 1859.142(c) of the Preliminary Application.

(4) Any Preliminary Apportionment rescinded is subject to accountability pursuant to Section 1859.154(c).

(5) The district may request funding for the proposed project again, in accordance with (b)(4), provided this rescinded Preliminary Apportionment is disclosed.

Should the district not submit Form SAB 50-04 pursuant to Section 1859.150 within the time limits of this Section, the district must report the final expenditures on the project on the Form SAB 50-06 to the OPSC within 30 days of the OPSC notification. If the expenditure report for funds released pursuant to Section 1859.153(a), (b) and/or (c) is not received within the 30-day period, the OPSC will recommend that the Preliminary Apportionment be rescinded and any interest earned on State funds be returned to the State.

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

Reference: Sections 17078.22 and 17078.25, Education Code.

Section 1859.148.1. Preliminary Apportionment Time Limit Extension.

A district that has received a Preliminary Apportionment may request a one-year extension of the time limit on the apportionment prescribed in Section 1859.148. The Board shall approve the request provided the criteria in (a) or (b) are met:

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

(1) The CDE has made a contingent or final approval of the proposed site.

(2) The DSA has confirmed that the final plans for the project have been submitted to the DSA for review and approval.

(b) Other evidence satisfactory to the Board.

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

Reference: Section 17078.25, Education Code.

Section 1859.148.2. Inactive Preliminary Apportionments Under a State of California Fiscal Crisis.

In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board can make a finding that a project has an Inactive Preliminary Apportionment, as defined in Regulation Section 1859.2, that no longer meets the meaning of Preliminary Apportionment as defined in Education Code Section 17078.10(c), and that the four-year period with a possible one time one-year extension requirement set forth in Education Code Section 17078.25(a) and (b) is therefore suspended as of December 17, 2008 and until such time as the Board finds that State bond funds are available for the project, the balance of four-year period with a possible one time one-year extension period which existed on December 17, 2008 shall resume. Once the Board finds that State bond funds are available for the project, the four-year period with a possible one time one-year extension requirement set forth in Education Code Section 17078.25(a) and (b) shall resume but in no case shall that period of time exceed a total of four-year period with a possible one time one-year extension while the subject project has a Preliminary Apportionment. Each project will resume where its originating period of time was suspended, as of December 17, 2008.

This regulation section shall become inoperative July 1, 2011.

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

Reference: Section 17078.25, Education Code.

Section 1859.149. Preliminary Apportionment Progress Reporting Requirements.

Until a Preliminary Apportionment is converted to a Final Apportionment, the district shall submit an annual progress report of the project to the OPSC. The reports are due annually, beginning in the twelfth month after the date the Preliminary Apportionment was made.

(a) The first progress report shall include:

(1) A statement as to whether the CDE has made a certification that there is at least one approvable site for the project within the General Location and whether the General Location will serve the Qualifying Pupils assigned to the Preliminary Application to meet the 75 percent requirement in Section 1859.142(c).

(2) A copy of the CDE letter supporting the certifications in (a)(1), if appropriate.

(3) Progress towards completing the requirements for a Final Apportionment as provided in Education Code Section 17078.25(d).

(b) Subsequent progress reports shall include the progress made towards completing the requirements for a Final Apportionment provided in Education Code Section 17078.25(d).

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

Reference: Section 17078.25, Education Code.

Section 1859.150. Final Apportionment.

The amount of the Final Apportionment is based on the provisions of any amended or new regulations that are effective at the time the Form SAB 50-04, for the Final Apportionment is submitted and accepted for processing by the OPSC. The Board shall convert the amounts determined below from the Preliminary Apportionment to the Final Apportionment:

(a) If the Final Apportionment request is equal to or less than the Preliminary Apportionment, the Board shall convert the Preliminary Apportionment to a Final Apportionment. The difference in the Final Apportionment and the Preliminary Apportionment shall be transferred to the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account. The Final Apportionment shall become the full and final apportionment for the project.

(b) If the Final Apportionment request is greater than the Preliminary Apportionment, the Board shall:

(1) Convert the Preliminary Apportionment to a Final Apportionment, if the balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account is greater than the difference in the Final Apportionment and the Preliminary Apportionment. The difference in the Final Apportionment and the Preliminary Apportionment shall be transferred from the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account and converted to a Final Apportionment for the project. The combined Final Apportionments shall become the full and final apportionment for the project.

(2) Convert the Preliminary Apportionment to a Final Apportionment, if the balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account is less than the difference in the Final Apportionment and the Preliminary Apportionment. The balance of the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account shall be converted to a Final Apportionment for the project. Any amount of the Final Apportionment request not converted to a Final Apportionment shall be placed on a Final Apportionment Unfunded List and may be converted to a Final Apportionment at a later date pursuant to the provisions of Section 1859.150.1.

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

Reference: Section 17078.27, Education Code.

Section 1859.150.1. Final Apportionment Unfunded List.

Any portion of a Final Apportionment request not converted to a Final Apportionment pursuant to Section 1859.150(b)(2), shall be placed on a Final Apportionment Unfunded List based on the date of the Final Apportionment. If, at a later date, funds become available in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account as a result of rescissions pursuant to Section 1859.148, the Board shall convert the amounts shown on the Final Apportionment Unfunded List to a Final Apportionment based on the oldest date first and subject to the following:

(a) If the funds available are sufficient to convert the entire amount shown on the Final Apportionment Unfunded List, the amount shown shall be converted and added to the amount initially converted to a Final Apportionment. The total amounts converted shall become the full and final apportionment for the project.
(b) If the funds available are insufficient to convert the entire amount shown on the Final Apportionment Unfunded List, the district may:
(1) Request that the funds available be converted and added to the amount initially converted to a Final Apportionment. The total amounts converted shall become the full and final apportionment for the project.
(2) Request that the project not be converted until there are sufficient funds to convert the entire amount shown on the Final Apportionment Unfunded List.

The amounts shown on the Final Apportionment Unfunded List are not subject to any adjustments as prescribed in Section 1859.71.

If the amount shown on the Final Apportionment Unfunded List cannot be converted to a Final Apportionment because there are no funds remaining in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account after all rescissions and final expenditure audits pursuant to Section 1859.148 have been made, the amount converted previously shall become the full and final apportionment for the project.

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

Reference: Section 17078.27, Education Code.

Section 1859.151. Preliminary Apportionment District Matching Share Requirement.

Once a Preliminary Apportionment is converted to a Final Apportionment or has funds released pursuant to Section 1859.153, the district will be subject to the district matching share requirement as described in Section 1859.77.1.

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

Reference: Sections 17072.30, 17078.10 and 17078.24, Education Code.

Section 1859.152. Eligible Expenditures.

SFP grants provided as the Final Apportionment or pursuant to Section 1859.153 must comply with Education Code Section 17072.35. Additionally, expenditures for construction are eligible only if the construction contract was entered into on or after April 29, 2002.

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

Reference: Sections 17072.35, 17078.10 and 17078.27, Education Code.

Section 1859.153. Preliminary Apportionment Fund Release.

Once the provisions in Section 1859.148(a)(1) have been met, a district that meets the following may request an advance release of funds from a Preliminary Apportionment:
(a) A district that meets the financial hardship criteria in Section 1859.81 is eligible for an amount not to exceed 40 percent of the amount determined in Section 1859.145(a), less any funds pursuant to Section 1859.145(i) and/or (j).
(b) A district that meets the financial hardship criteria in Section 1859.81 is eligible for an amount, not to exceed the Preliminary Apportionment, for site acquisition pursuant to Section 1859.81.1(a), (b) or (c) after submittal of a Form SAB 50-08 pursuant to Section 1859.141.
(c) A district is eligible for an amount, not to exceed the Preliminary Apportionment, for environmental hardship site acquisition pursuant to Section 1859.75.1 after submittal of a Form SAB 50-08 pursuant to Section 1859.141.

Qualified districts may request a separate advance release of funds for the design and for the site acquisition for the same project. A district seeking an advance release of funds pursuant to Section 1859.153(a) and/or (b) must have been

approved and maintained financial hardship status pursuant to Section 1859.81. The OPSC will release State funds included in a Preliminary Apportionment pursuant to (a), (b) or (c) to the district after submittal of the Form SAB 50-05.

The OPSC shall not release funds in excess of the Preliminary Apportionment. State funds released from a Preliminary Apportionment pursuant to this Section shall be subject to the provisions in Section 1859.148. Once the Preliminary Apportionment is converted to a Final Apportionment pursuant to Section 1859.150, the district may request a release of the remaining funds as prescribed in Section 1859.90.

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

Reference: Sections 17072.30 and 17078.27, Education Code.

Section 1859.154. Fund Distribution.

(a) From the funding made available from Education Code Section 100620(a)(5), the Board shall transfer the amount determined in (3) below, to the SFP New Construction Account after the Preliminary Apportionment(s) are approved by the Board:
(1) Determine the total value of the Preliminary Applications received pursuant to Section 1859.141(a).
(2) Multiply the amount determined in (1) by 15 percent.
(3) Subtract the sum of the amounts determined in (1) and (2) from $1.7 billion. If negative number, the amount is zero.
(b) From the funding made available from Education Code Section 100820(a)(3), the Board shall transfer the amount determined in (3) below, to the SFP New Construction Account after the Preliminary Apportionment(s) are approved by the Board:
(1) Determine the total value of the Preliminary Applications received pursuant to Section 1859.141(b).
(2) Multiply the amount determined in (1) by 15 percent.
(3) Subtract the sum of the amounts determined in (1) and (2) from $2.44 billion. If negative number, the amount is zero.
(c) Any funds remaining in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account not needed for purposes of converting projects to a Final Apportionment shall be transferred to the SFP New Construction Account.

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

Reference: Sections 17072.27, 17078.30, 100620 and 100820, Education Code.

Section 1859.155. Preliminary Apportionment.

The Board shall approve Preliminary Applications from the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account as follows:
(a) If the total amount of the Preliminary Apportionment requests received during the application filing period described in Section 1859.141 are equal to or less than the amount in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account, the Board shall approve all Preliminary Apportionment requests.
(b) If the total amount of the Preliminary Apportionment requests received during the application filing period described in Section 1859.141 are greater than the amount in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account, the Board shall approve Preliminary Apportionment in accordance with the funding priorities described in Section 1859.146. Any Preliminary Application that cannot be fully approved shall be returned unprocessed to the district.

All funds approved as a Preliminary Apportionment shall be transferred to the Restricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account. Any funds not approved as a Preliminary Apportionment shall be transferred to the Unrestricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account.

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

Reference: Sections 17078.10, 17078.30, 100620 and 100820, Education Code.

Article 13.5. Small School District Program

Section 1859.156. General.

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

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

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

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

Section 1859.157. Application Process.

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

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

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

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

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

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

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

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

(a) A New Construction Grant for all eligible pupils included on the Form SAB 50-12 at the per-pupil grant amounts in effect at the time the Preliminary Small School District Program Apportionment is approved by the Board, and eligible New Construction additional grants as follows:
(1) Fire code requirements pursuant to Section 1859.71.2,
(2) Energy efficiency pursuant to Section 1859.71.3,

(3) Individuals with Exceptional Needs pursuant to Section 1859.72,
(4) An amount equal to 12 percent of the amount determined in (a) for multilevel construction pursuant to Section 1859.73,
(5) Project assistance pursuant to Section 1859.73.1,
(6) An amount equal to one-half of the site acquisition value pursuant to Sections 1859.74, 1859.74.5, and 1859.75.1, for the lesser of the following:
(A) The value of the property, determined by one of the following:
1. Actual Site Cost pursuant to Section 1859.74(a), or
2. An appraisal or preliminary appraisal of the property made no more than six months prior to the date the complete and valid Form SAB 50-12 is accepted by OPSC, pursuant to Section 1859.74.1. The preliminary appraisal may be made without access to the property. The acreage identified in the appraisal or the preliminary appraisal may not exceed the proposed useable acreage requested on the Form SAB 50-12, or
3. The Median Cost of an acre of land in the General Location of the proposed project using historical information in the General Location multiplied by the number of proposed useable acres requested on Form SAB 50-12. Historical information that may be considered to determine land cost may include prior real-estate sales consummated and documented by the county recorder or pending real-estate sales documented by a title insurance company's escrow instructions. For purposes of historical information, include all real-estate sales consummated and documented by the county recorder for a minimum of six months and a maximum of up to two years prior to the date the Form SAB 50-12 is accepted by OPSC.
(B) An amount for the estimated relocation cost and estimated DTSC costs for review, approval and oversite of the POESA and the PEA as determined by one of the following:
1. 15 percent of the value determined in (a)(6)(A)(2.), or
2. Half of the sum of the following:
a. The approved relocation expenses for the specific site to be acquired that conform to Title 25, California Code of Regulations, Section 6000, et. seq.
b. The DTSC cost for review, approval, and oversight of the POESA and the PEA for the specific site to be acquired.
3. The estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA using historical information in the General Location. Historical information that may be considered to determine these estimated costs may include prior real-estate acquisitions of the School District or other School Districts in the General Location.
4. Four percent of the amount determined in (a)(6)(A), but not less than $50,000. This amount shall provide an allowance of any appraisal, escrow, survey, site testing, CDE review/approvals and preparation of the POESA and the PEA.
5. For allowable costs of hazardous material/waste removal and remediation costs, up to one-half times the value of the property determined in either (a)(6)(A)(2.) or (a)(6)(A)(3.), pursuant to Sections 1859.74.2, 1859.74.3, and 1859.74.4.
(7) An amount for site development cost determined, at the option of the School District, by one of the following:
(A) One-half of the Site Development Cost for the specific site as authorized by Section 1859.76.
(B) One-half of the Site Development Cost as authorized by Section 1859.76 using historical information in the General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the General Location.
(C) $70,000 multiplied by the proposed acres requested on the Form SAB 50-12.
(D) 35 percent of the New Construction base grant.
(8) Energy Efficiency pursuant to Section 1859.71.3.
(9) An amount for the geographic location of the proposed project pursuant to Section 1859.83(a)
(10) If the Form SAB 50-12 request is for a new school on a site with no existing school facilities, an amount equal to the difference in the amount determined in (a) and the amount shown in the chart in Section 1859.83(c). To determine the number of classrooms in the proposed project, divide the number of pupils requested on the Form SAB 50-12, by 25 for elementary school pupils, 27 for middle and high school pupils, 13 for Non-Severely Disabled Individuals with Exceptional Needs and 9 for Severely Disabled Individuals with Exceptional Needs. Round up, and
(11) Small size projects pursuant to Section 1859.83(b).
(12) An amount due to urban location, security requirements, and impacted site equal to 15 percent of the amount determined in (a) for a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent when the following criteria are met:

(A) The School District has requested an increase for multilevel construction pursuant to (a)(4) above.
(B) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size determined by multiplying the sum of the pupil grants requested on the Form SAB 50-12, and the current CBEDS enrollment on the site (if applicable) by .01775 for elementary school pupils, .021 for middle school pupils and .02472 for high school pupils. For purposes of this calculation, assign Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupil grants requested on the Form SAB 50-12 as either elementary, middle or high school pupils based on the type of project selected by the School District on the Form SAB 50-12.
(C) The value of the property as determined in (a)(6)(A) is at least $750,000 per Useable Acre. This criterion does not apply to an application for an addition to an existing school site.
(b) For all Preliminary Small School District Program Apportionments, the inflator factor shall be an amount equal to the sum of the amount determined in (a) and multiplied by a factor determined as follows:
(1) Divide the January Class B Construction Cost Index in effect at the time of the Preliminary Small School District Program Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Small School District Program Apportionment. Round to two decimal places.
(2) Subtract 1 from the quotient in (1). Convert to a percentage with zero decimal places.
(c) The Project and Construction Management Grant shall be equal to five percent of the sum of the amounts determined in (a) and (b).

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

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

Section 1859.157.2. Preliminary Apportionment Grant Determination for Modernization Applications.

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

(a) A Modernization Grant for all eligible pupils included on the Form SAB 50-12 at the per-pupil grant amounts in effect at the time the Preliminary Small School District Program Apportionment is approved by the Board, and eligible Modernization additional grants as follows:
(1) Prevailing wage monitoring and enforcement costs pursuant to Section 1859.78.1,
(2) Project assistance pursuant to Section 1859.78.2,
(3) Energy efficiency pursuant to Section 1859.78.5,
(4) Site development necessary for 50 years or older permanent buildings pursuant to the amount allowable in Section 1859.78.7(b),
(5) Replacement of 75 years or older buildings and necessary site development pursuant to Section 1859.78.7.1,
(6) Fire code requirements pursuant to Section 1859.78.4,
(7) Minimum Essential Facilities and site development pursuant to Section 1859.78.9.1,
(8) Transitional Kindergarten Classroom(s) and site development pursuant to Section 1859.78.9.2,
(9) Career Technical Education components pursuant to Section 1859.78.10,
(10) Geographic location pursuant to Section 1859.83(a),
(11) Small size projects pursuant to Section 1859.83(b),
(12) Urban location and security requirements and impacted site pursuant to Section 1859.83(d),
(13) Accessibility and fire code pursuant to Section 1859.83(e), and
(14) Individuals with Exceptional Needs pursuant to Section 1859.78.3.

(b) For all Preliminary Small School District Program Apportionments, the inflator factor shall be an amount equal to the sum of the amount determined in (a) and multiplied by a factor determined as follows:
(1) Divide the January Class B Construction Cost Index in effect at the time of the Preliminary Small School District Program Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Small School District Program Apportionment. Round to two decimal places.
(2) Subtract 1 from the quotient in (1). Convert to a percentage with zero decimal places.
(c) The Project and Construction Management Grant shall be equal to five percent of the sum of the amounts determined in (a) and (b).

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

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

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

Once the provisions in Section 1859.157.5 have been met, an applicant that meets the following may request an advance release of funds from a Preliminary Small School District Apportionment:
(a) An applicant that meets the Financial Hardship criteria in Section 1859.81 is eligible for an amount not to exceed the following:
(1) 40 percent of the New Construction Grant and the amounts determined in Sections 1859.157.1(a)(5), and 1859.157.1(c).
(2) 25 percent of the Modernization Grant and the amount determined in Sections 1859.157.2(a)(2), and 1859.157.2(c).
(b) An applicant that meets the Financial Hardship criteria in Section 1859.81 is eligible for an amount, not to exceed the Preliminary Small School District Program Apportionment, for site acquisition pursuant to Section 1859.81.1(a), (b) or (c) after submittal of a Form SAB 50-12 pursuant to Section 1859.157.
(c) An applicant is eligible for an amount, not to exceed the Preliminary Small School District Program Apportionment, for environmental hardship site acquisition pursuant to Section 1859.75.1 after submittal of a Form SAB 50-12 pursuant to Section 1859.157.

Qualified applicants may request a separate advance release of funds for the design and for the site acquisition for the same project. An applicant seeking an advance release of funds pursuant to Section 1859.157.3(a) and/or (b) must have been approved and maintained Financial Hardship status pursuant to Section 1859.81. OPSC will release State funds included in a Preliminary Small School District Program Apportionment pursuant to (a), (b), or (c) to the School District after submittal of a complete and valid Form SAB 50-05.

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

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

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

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

To request to convert a Preliminary Small School District Program Apportionment to a Final Small School District Program Apportionment, an applicant must submit a complete and valid Form SAB 50-04 and meet all the following criteria:
(a) The total number of pupil grants requested on the Form SAB 50-04 cannot exceed the number approved on the Preliminary Small School District Program Apportionment. The number of pupil grants on the Form SAB 50-04 shall be for at least 50 percent of the pupil grants approved by the Board on the Preliminary Small School District Program Apportionment for New Construction funding or for at least 60 percent of the pupil grants approved by the Board on the Preliminary Small School District Program Apportionment for Modernization funding.
(b) An applicant seeking Financial Hardship assistance, in accordance with Sections 1859.81 through 1859.81.3, must request Financial Hardship assistance on the Form SAB 50-04.
(c) Any applicant that qualified to participate in the program and received a Preliminary Small School District Program Apportionment as a Small School District based on the applicant's total enrollment at the time of the Preliminary Small School District Program Apportionment, may submit a complete and valid Form SAB 50-04 to convert a Preliminary Small School District Program Apportionment to a Final Small School District Program Apportionment.
(d) At the time of converting the Preliminary Small School District Program Apportionment to a Final Small School District Program Apportionment, additional funding for Modernization supplemental grants shall be calculated using

the qualifying enrollment demonstrated at the time of the Preliminary Small School District Program Apportionment for the following additional grants:
(1) Minimum Essential Facility pursuant to Section 1859.78.9.1.
(2) Transitional Kindergarten Classroom pursuant to Section 1859.78.9.2.

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

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

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

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

(a) A complete and valid request to convert a Preliminary Small School District Program Apportionment to a Final Small School District Program Apportionment, pursuant to Section 1859.157.4, shall be made within four years of the date of the Preliminary Small School District Program Apportionment, unless the applicant receives approval for an extension pursuant to Section 1859.157.6.
(b) If (a) is not met, the Preliminary Small School District Program Apportionment shall be rescinded without further Board action and returned to the fund source.
(c) If (a) is not met, and the applicant has received an advance release of funds as provided in Section 1859.157.3, the following shall occur:
(1) The Preliminary Small School District Program Apportionment shall be rescinded without further Board action and any remaining Preliminary Small School District Program Apportionment not released to the applicant, shall be returned to the fund source.
(2) The New Construction Eligibility or Modernization Eligibility shall be adjusted by the number of pupil grants not used. The number of pupil grants returned shall be equal to the number of pupil grants requested on the Form SAB 50-12, less the pupil grants equivalent to the total amount of state funding retained by the applicant.
(3) Funds released pursuant to Section 1859.157.3(a) or (b) shall be reduced to cost incurred and closed out, pursuant to Section 1859.106, with a corresponding New Construction or Modernization baseline eligibility adjustment for the pupil grants assigned to the Preliminary Small School District Program Application. Funds returned pursuant to Section 1859.106 shall be returned to the fund source.

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

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

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

An applicant that has received a Preliminary Small School District Program Apportionment pursuant to Section 1859.157.1 or 1859.157.2 may request a single one-year extension of the time limit prescribed in Section 1859.157.5. The Board may approve the request provided the criteria in (a) or (b) are met:
(a) The applicant has provided evidence of both of the following:
(1) CDE has made a contingent or final approval for the project or of the proposed site; and,
(2) DSA has confirmed that the final plans for the project have been submitted to the DSA for review and approval.
(b) Other evidence satisfactory to the Board justifying the extension.
A single one-year extension request from an applicant may be approved by the Board to extend the time limit prescribed in Section 1859.157.5. OPSC must receive the single one-year extension request from the applicant on or prior to the time limit prescribed in Section 1859.157.5.

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

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

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

The amount of the Final Small School District Program Apportionment shall be based on the provisions of any amended or new regulations that are effective at the time the complete and valid Form SAB 50-04 for the Final Small School District Program Apportionment is accepted by OPSC. The Board shall approve conversions from the Preliminary Small School District Program Apportionment to the Final Small School District Program Apportionment as follows:
(a) If the Final Small School District Program Apportionment is equal to or less than the Preliminary Small School District Program Apportionment, the Final Small School District Program Apportionment shall be funded entirely. The difference in the Final Small School District Program Apportionment and the Preliminary Small School District Program Apportionment shall be returned to the fund source. The Final Small School District Program Apportionment shall be the full and final Apportionment for the project.
(b) If the Final Small School District Program Apportionment is greater than the Preliminary Small School District Program Apportionment, the applicant shall receive an increase using any remaining balance in the fund source, if applicable.
(1) Availability of any remaining balance in the fund source shall be prioritized in date order that OPSC received a complete and valid Form SAB 50-04.
(2) In the event there are more applications submitted on the same date than can be funded with the balance in the fund source, a lottery system will be used to determine the funding order.

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

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

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

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

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

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

Section 1859.158. Substantial Progress and Expenditure Reporting Timelines.

A Small School District receiving funds pursuant to this Article shall submit the following:
(a) An expenditure report from the Small School District on the Form SAB 50-06. The program reporting requirements are as follows:
(1) The first expenditure report shall be due one year from the date that any funds were released to the Small School District for the project pursuant to Section 1859.90 or 1859.90.2, or upon notice of completion of the project to OPSC, whichever occurs first. A project shall be deemed complete when either of the following occur:
(A) When the notice of completion for the project has been filed with OPSC, all outstanding invoices, claims, and change orders have been satisfied, and the facility is currently in use by the Small School District.
(B) Three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.
(2) The second and subsequent expenditure reports, if necessary, shall be due annually beginning one year from the first report, or upon notice of completion of the project to OPSC, whichever occurs first. The final expenditure report must be made no later than three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.
(b) A progress report, in the form of a narrative from the Small School District, shall be due 18 months from the date any funds were released to the Small School District for the project, pursuant to Section 1859.90 or 1859.90.2. The progress report shall include information regarding the progress the Small School District has made towards substantial completion of the project. If the notice of completion to OPSC has been filed within 18 months of the release of funds, pursuant to Section 1859.90 or 1859.90.2, or the expenditure reports required in (a)(1) or (2)

indicate that substantial progress (as defined in Section 1859.105) on the project has occurred, no progress report is required.
(c) A progress report, in the form of a narrative from the Small School District, shall be due 12 months from the date the site acquisition funds were apportioned to the Small School District for the project pursuant to Section 1859.75.1. The progress report shall include information regarding the progress the Small School District has made towards acquiring the site as outlined in Section 1859.105.1, and may contain other evidence of reasonable effort to substantiate progress towards acquiring the site for purposes of an extension of the site apportionment as authorized by Education Code Section 17072.13(c)(2).
(d) If an Apportionment was made for a Small School District owned site pursuant to Section 1859.74.5, a certification that the non-school function currently taking place on the Small School District owned site has been discontinued or relocated is required. The certification must be submitted to OPSC no later than the following dates:
(1) If the project is for an elementary school, 66 months from the date of the site Apportionment.
(2) For all other projects, 78 months from the date of the site Apportionment.

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

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

Article 14. Charter School Facilities Program

Section 1859.160. General.

An applicant seeking a Preliminary Charter School Apportionment pursuant to the provisions of Education Code Sections 17078.52 through 17078.66 for new construction or rehabilitation shall complete and file a Form SAB 50-09. In addition, the applicant must provide all required documents necessary for a financial soundness determination.

Once the Board has approved a Preliminary Charter School Apportionment for a Preliminary Charter School Application submitted pursuant to this Section after July 2, 2003, an applicant seeking an advance release of funds for site acquisition pursuant to Section 1859.164.2(b), shall be required to submit an additional Form SAB 50-09, to the OPSC, to determine eligible site acquisition costs. An applicant seeking an advance release of funds for design, engineering, and other pre-construction project costs pursuant to Section 1859.164.2(a), shall not be required to submit an additional Preliminary Charter School Application.

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

Reference: Sections 17078.52 and 17078.53, Education Code.

Section 1859.161. Preliminary Charter School Application Submittals.

An applicant seeking a Preliminary Charter School Apportionment shall complete and submit a Form SAB 50-09 during a period of 120 calendar days beginning 180 calendar days after an election authorizing additional funding.

The Board may establish additional application filing periods as needed.

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

Reference: Section 17078.53, Education Code.

Section 1859.162. General Preliminary Charter School Apportionment Eligibility Criteria.

An applicant may apply for a Preliminary Charter School Apportionment by submittal of Form SAB 50-09 if all of the following requirements are met:
(a) Prior to submission of the Preliminary Charter School Application the requirements of EC Sections 17078.53(c) and (e) are met.
(b) Prior to submission of the Preliminary Charter School Application, a Charter School applying on its own behalf must notify the school district where the project will be physically located of its intent to apply. This notification must occur at least 30 days prior to the application submittal. As part of the Preliminary Charter School Application, the Charter School must submit evidence of the date the notification was received by the school district.

(c) The Preliminary Charter School Application shall include a description of the proposed project including, but not limited to, the identification of the number of classrooms, the grade level of the pupils to be served, the intended opening date of the project, the Charter School General Location, and whether the project will be permanent or portable construction.

If a Charter School project has already received a Preliminary Charter School Apportionment under the CSFP but would like to re-apply under a future funding cycle, the original Preliminary Charter School Apportionment must be withdrawn by the applicant and rescinded by the Board prior to the submittal of a subsequent application.

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

Reference: Sections 17071.75, 17078.52 and 17078.53, Education Code.

Section 1859.162.1. Preliminary Charter School New Construction Apportionment Eligibility Criteria.

For Charter Schools applying on their own behalf, the notification to the school district of the Charter School's intent to apply pursuant to Section 1859.162(b) must include the following:

(a) A request for the school district to provide a certification to the number of the district's unhoused pupils, pursuant to Section 1859.50, that the project will serve. Prior to submitting the certification as part of the Preliminary Charter School Application, the school board must have discussed the issue as an action item at a regularly scheduled, publicly held board meeting. The certification, in the form of a board resolution, and supporting documentation must be submitted to the OPSC within 90 days from the date the Charter School notified the school district of its intent to apply to the CSFP.
(b) A request that the school district update its current year enrollment on file with the OPSC.

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

Reference: Section 17078.53, Education Code.

Section 1859.162.2. Preliminary Apportionment Eligibility Adjustments for New Construction Projects.

The baseline eligibility for new construction determined by the Form SAB 50-03 of the appropriate school district where the project will be physically located will be decreased based upon the number of unhoused pupils, calculated pursuant to Section 1859.50, the CSFP project will serve as determined by either of the following:

(a) For a Charter School applying on its own behalf, the number of unhoused pupils the project will serve will be determined and certified to by the school district in which the project will be physically located.
(b) For school districts applying on behalf of a Charter School, the school district must indicate the number of unhoused pupils the project will serve. The supporting documentation for arriving at this number must be submitted to the OPSC as part of the Preliminary Charter School Application.

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

Reference: Section 17078.53, Education Code.

Section 1859.162.3. Overlapping District Boundaries.

If the Charter School provides or will provide instruction for a combination of grade levels and therefore is or will be located in more than one school district's boundaries (e.g. elementary and high school district, not unified), a separate Form SAB 50-09 indicating the number of unhoused pupils served from each district, as appropriate will be required. Sections 1859.162.1 and 1859.162.2 shall apply to all districts involved in the Preliminary Charter School Apportionment. For the purposes of receiving a Preliminary Charter School Apportionment pursuant to Section 1859.163, the applications will be combined into one to be funded concurrently.

In addition, if the project will be located in an area of overlapping district boundaries but proposes to house only the grade levels served by just one of the districts, the district that serves the same grade levels will be subject to the district related requirements of this article.

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

Reference: Sections 17078.53 and 17078.54, Education Code.

Section 1859.163. Approval of Applications for Preliminary Charter School Apportionments.

Prior to approving a Preliminary Charter School Apportionment, the Board will require a certification from the Authority that the applicant is Financially Sound. In providing a Preliminary Charter School Apportionment, the Board shall use the funding criteria established in Section 1859.164. The apportionment provided by the Board may be 100 percent of the total project cost dependent upon the method of the applicant's contribution as determined by the Authority.

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

Reference: Sections 17078.52 and 17078.53, Education Code.

Section 1859.163.1. Preliminary Charter School New Construction Apportionment Determination.

The Preliminary Charter School New Construction Apportionment shall be determined as follows:
(a) The Preliminary Charter School Apportionment for construction costs shall be equal to the sum of (1) through (9) below:
(1) The amounts shown below for each pupil, based on the project capacity, included in a Preliminary Charter School Application:
(A) $5,227 for each elementary school pupil.
(B) $5,534 for each middle school pupil.
(C) $7,226 for each high school pupil.
(D) $16,653 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(E) $11,137 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(2) An amount equal to 12 percent of the amount determined in (1) for multilevel construction, if requested by the applicant.
(3) An amount for site development cost determined, at the option of the applicant, by one of the following:
(A) One-half of the site development cost for the specific site as authorized by Section 1859.76.
(B) One-half of the site development cost as authorized by Section 1859.76 using historical information in the Charter School General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the Charter School General Location.
(C) $70,000 multiplied by the proposed acres requested on the Form SAB 50-09.
(4) General Site Development costs within school property lines for an addition to an existing school site project wherein additional acreage is acquired or a new school project, determined as follows:
(A) $9,600 per proposed acre requested on the Form SAB 50-09. This sum may be increased pursuant to the provisions in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.
(B) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(1). For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the applicant on the Form SAB 50-09.
(C) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(2) and (5).
(5) If the Preliminary Application request is for a small project that will house no more than 200 pupils, an amount pursuant to the following:
(A) If the project will house less than 101 pupils, the applicant is eligible for an amount equal to 12 percent of the funding provided by (a)(1).
(B) If the project will house between 101 and 200 pupils, the applicant is eligible for an amount equal to four percent of the funding provided by (a)(1).

(6) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (1) and (5), plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent when the following criteria are met:
(A) The applicant has requested an increase for multilevel construction pursuant to (2) above.
(B) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size.
(C) The value of the property as determined in Section 1859.163.2(a) is at least $750,000 per Useable Acre. This criterion does not apply to an application for an addition to an existing school site.
(7) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (1), (2), (3)(C), (4)(A) and (B), (5) and (6) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
(8) An amount equal to 5 percent of the funding provided in 1859.163.1(a)(1) for energy efficiency, if requested by the applicant.
(9) For all Preliminary Apportionments received after February 23, 2005, an amount equal to the sum of the amounts determined in (1) through (8) 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.
(10) If the applicant is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to the items in (1) through (9) above.
(b) The Preliminary Charter School Apportionment for site acquisition costs shall be:
(1) Equal to one-half of the site acquisition value determined in Section 1859.163.2(a) and (c).
(2) If the applicant is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to (1) above.
(c) The Preliminary Charter School Apportionment to initiate and enforce a LCP or to provide for the prevailing wage monitoring and enforcement costs shall be:
(1) 50 percent of the amount to initiate and enforce a LCP as prescribed in Section 1859.71.4(a), if required by the Labor Code, or
(2) 50 percent of the amount of the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code, and
(3) If the applicant is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to either (1) or (2) above, as applicable.
(d) The total amount calculated in (a) above will be added to any amount calculated in (b) and (c) above, which will provide the Preliminary Charter School Apportionment amount.

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

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

(e) Pursuant to Labor Code Section 1771.3 in effect on January 1, 2012 through June 19, 2014, any public works project paid in whole or in part from public funds that are derived from bonds issued by the State and for which the construction contract is awarded on January 1, 2012 through June 19, 2014, is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b) in effect on January 1, 2012 through June 19, 2014.
(f) Any applicant failing to meet these requirements shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the applicant until the date of the Board's finding.
(g) If the DIR revokes the applicant's internal LCP's approval and the applicant fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3 in

effect on January 1, 2012 through June 19, 2014, the applicant shall return to the State any State funding received for the project, including interest, as calculated in subsection (f) above for any construction projects for which the violations occurred.

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

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

Section 1859.163.2. Preliminary Charter School Apportionment Site Acquisition Value.

If the Preliminary Charter School Application includes a request for site acquisition funding, the preliminary value of the proposed site shall be the sum of the following:

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

(1) By an appraisal or a preliminary appraisal of the property made no more than six months prior to the date the Preliminary Charter School Application was submitted to the OPSC, using the guidelines outlined in Section 1859.74.1. The preliminary appraisal may be made without access to the property.

(2) The Median Cost of an acre of land in the Charter School General Location using historical information in the Charter School General Location multiplied by the number of proposed Useable Acres requested on Form SAB 50-09. 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 Preliminary Charter School Application was submitted to the OPSC.

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

(1) 15 percent of the value determined in (a).

(2) The sum of the following:

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

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

(3) The estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA using historical information in the Charter School General Location. Historical information that may be considered to determine these estimated costs may include prior real-estate acquisitions of the district or other districts in the Charter School General Location.

(c) Four percent of the amount determined in (a), but not less than $50,000. This amount shall provide an allowance of any appraisal, escrow, survey, site testing, CDE review/approvals and preparation of the POESA and the PEA.

(d) For allowable costs of hazardous material/waste removal and remediation costs, up to one-half times the value of the property determined in either (a)(1) or (a)(2) above.

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

Reference: Section 17078.52, Education Code.

Section 1859.163.3. Establishment of Funds for Relocation/DTSC Fee and Hazardous Material/Waste Removal.

For Preliminary Charter School Apportionments awarded on February 23, 2005, the Board shall establish two separate funds from the funding provided through the 2004 Bond for the site acquisition values calculated pursuant to costs provided in Section 1859.163.2(b) and (d) that will not be part of the Preliminary Charter School Apportionment determined in Section 1859.163.1. The amount to reserve for the funds will be determined as follows:

Relocation/DTSC Fee Fund

(a) For all projects requesting an additional grant for relocation and DTSC costs on the Form SAB 50-09 pursuant to Section 1859.163.2(b), the value of each property as determined in Section 1859.163.2(a) will be added. The sum would then be multiplied by 15 percent. The product would provide the dollar value to be reserved, but shall not be less than $2.75 million.

Hazardous Material/Waste Removal Fund

(b) For all projects requesting an additional grant for hazardous material/waste removal and remediation costs provided pursuant to Section 1859.163.2(d), the value of each property as determined in Section 1859.163.2(a) will be added. The sum would then be multiplied by 10 percent. The product would provide the dollar value to be reserved, but shall not be less than $2.5 million.

Any Charter School that received a Preliminary Charter School Apportionment on February 23, 2005 that is requesting a Final Charter School Apportionment may request the funding provided in (a) and/or (b) above when the Form SAB 50-04 is submitted. At the time of Final Charter School Apportionment, should insufficient funds remain in either the Relocation/

DTSC Fee Fund or Hazardous Material/Waste Removal Fund to fully apportion those site acquisition costs, any amount not apportioned by the Board for relocation, DTSC fees, or hazardous material waste removal or remediation shall be placed on an Unfunded List in Board date approval order. Any funds returned to the Unrestricted Charter School Fund pursuant to Section 1859.167(b) shall be used by the Board to fund projects remaining on the Unfunded List.

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

Reference: Section 17078.56, Education Code.

Section 1859.163.4. Preliminary Charter School Rehabilitation Apportionment Eligibility Criteria.

A Charter School or School District may apply for a Preliminary Charter School Rehabilitation Apportionment by submittal of Form SAB 50-09 if all of the following requirements are met:
(a) The application includes existing school buildings made available by a school district; and,
(b) The application includes classrooms that are at least 15 years of age at the time of submittal; and,
(c) The facilities included in the application were not previously built or modernized with SFP funds; and,
(d) For a Charter School applying on its own behalf, the application must include an agreement between the school district and the Charter School for the use of the facilities to be rehabilitated. The agreement must have been approved prior to submittal of application and must have been discussed and approved at the school district board meeting.

The age of the facilities shall begin 12 months after the plans for the building were approved by the DSA; or in the case of facilities that were previously modernized under the LPP, the 15 year old period shall begin on the date of its previous modernization apportionment.

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

Reference: Sections 17078.54, and 17078.58, Education Code.

Section 1859.163.5. Preliminary Charter School Rehabilitation Apportionment Determination.

The Preliminary Charter School Rehabilitation Apportionment will be determined based on the eligible Square Footage included in the project. For purposes of the Preliminary Charter School Rehabilitation Apportionment, eligible Square Footage is defined as the total enclosed exterior Square Footage of the school buildings. For multilevel buildings, include the Square Footage at each level.

The amount of funding for each Preliminary Charter School Rehabilitation Apportionment will be equal to the sum of the amounts determined in (a)(1) through (a)(9) and (b) below:
(a)(1) The lesser of the amount determined in (A) or (B) below:
(A) The dollar value calculated using a per square foot amount and the total eligible Square Footage for the site as follows:
1. Determine the total Square Footage for each Classroom included in the project (limited by the Charter School's projected enrollment).
2. Determine the total Square Footage for any multi-purpose room included in the project.
3. Determine the total Square Footage for any gymnasium included in the project.
4. Determine the total Square Footage for any library included in the project.
5. Determine the total Square Footage for any administration building included in the project.
6. Add the total Square Footage in 1. through 5. above to obtain the total Square Footage for the project.

7. From the total determined in 6., determine the total Square Footage for toilet facilities and the total Square Footage for other facilities. Multiply the toilet facilities Square Footage by $173.30 and the other facilities Square Footage by $96.30. The sum of these figures is the Square Footage dollar value for the project.

(B) The dollar value calculated using the New Construction Grant amount and the project capacity based on the State loading standards as follows:

1. Determine the proposed grade level usage of each Classroom in the project (limited by the Charter School's projected enrollment).
2. Multiply the number of Classrooms at the 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.
3. Multiply the number of pupils calculated pursuant to 2. by the appropriate dollar value determined in Section 1859.163.1(a)(1).

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

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

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

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

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

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

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

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

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

(9) For all Preliminary Apportionments received after February 23, 2005, an amount equal to the sum of the amounts determined in (a)(1) through (a)(8) 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 1859.163.6. Preliminary Charter School Rehabilitation Apportionment Eligibility for Sites Previously Funded Under the SFP Modernization Program.

For school sites that have established eligibility and received funding for all or some of the eligible buildings, but have not exhausted all of the eligibility, the site may be eligible for CSFP rehabilitation funds, subject to Board approval. However, the rehabilitation apportionment will be offset by the previous amount of modernization funding received for the building(s) to be rehabilitated at the time of the final apportionment.

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

Reference: Sections 17078.52, 17078.54 and 17078.58, Education Code.

Section 1859.163.7. Eligible Use of Charter School Facilities Program Rehabilitation Funds.

Funds Apportioned under the Charter School Facilities Program for Rehabilitation projects are to be used for work consistent with the definition of Charter School Facilities Program Rehabilitation. If the rehabilitation project includes reconfiguration of an existing building and the project decreases the district's capacity at the site or displaces a minimum essential facility, the original capacity and minimum essential facility will still be considered to be in existence. Furthermore, State funding may not be used to replace the capacity or the original minimum essential facility in the future.

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

Reference: Sections 17078.52, 17078.54 and 17078.58, Education Code.

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) TK-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 an 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 New Construction Eligibility in the School 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.

Section 1859.164.1. Calculation of Preference Points.

Preference points will be calculated for all Preliminary Charter School Applications. An application shall receive preference points based on the total of (a), (b), (c) and (d), up to a maximum of 160 points, as follows:
(a) Low Income: Up to 40 points based on the percentage of pupils at either the Charter School or school district where the Charter School is or will be located, or any public school within the Charter School General Location

meeting the definition of Low-income. The applicant may report the highest percentage of the three. Use the following sliding scale to determine the number of preference points:

Percentage Receiving Free/Reduced Lunch	Preference Points Assigned
5–15%	4
16-30%	8
31-39%	12
40-47%	16
48-55%	20
56-64%	24
65-73%	28
74-82%	32
83-92%	36
93%	36.5
94%	37
95%	37.5
96%	38
97%	38.5
98%	39
99%	39.5
100%	40

(b) Overcrowded School District: Up to 40 points if the school district where the Charter School is physically located is determined to be overcrowded by dividing the remaining New Construction Eligibility (prior to the reduction from this application) by the district's current enrollment and multiplying the product by 100. The following sliding scale determines the maximum number of preference points available for the degree of overcrowding:

Percentage Overcrowded	Preference Points Assigned
2-9%	4
10-13%	8
14-16%	12
17-19%	16
20-22%	20
23-25%	24
26-33%	28
34-41%	32
42-49%	36
50% and above	40

The method of allocating preference points to applicants will utilize the percentage overcrowded chart for a maximum point distribution. Next, each application will be assigned an "effort" percentage which further allocates points within each overcrowding point category. The percentage generated by the number of unhoused pupils that the project will house, divided by the project capacity will represent the effort made to relieve overcrowding in the district. The "effort" percentage will be assigned the following point distribution:

% Effort to Relieve Overcrowding	Ratio of Overcrowded Points Awarded
40% or more	100% of the points for the overcrowded category
30-39%	90% of the points for the overcrowded category
20-29%	80% of the points for the overcrowded category
10-19%	70% of the points for the overcrowded category
1-9%	60% of the points for the overcrowded category
0	No points for the overcrowded category

The total points assigned for overcrowding will be calculated by applying the appropriate "effort" percentage and its corresponding ratio of points to the percentage overcrowded category for the district in which the project will be physically located.

(c) Non-Profit Entity: If the entity operating the Charter School meets the definition of a Non-Profit Entity, the project will receive 40 preference points.
(d) Existing Facilities: If the project proposes to rehabilitate existing facilities, the project will receive 40 preference points.

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

Reference: Sections 17078.53 and 17078.56, Education Code.

Section 1859.164.2. Preliminary Charter School Apportionment Fund Release.

An applicant receiving a Preliminary Charter School Apportionment from the Board after July 2, 2003 may request an advance release of funds for either of the following:
(a) A separate advance release of funds for design equal to 20 percent of the amount determined in Section 1859.163.1(a)(1) through (9) and Section 1859.163.1(c)(1) and (2) or Section 1859.163.5(a)(1) through (9) and Section 1859.163.5(b)(1) and (2).
(b) A separate advance release of funds for site acquisition once the requirements in Section 1859.81.1(a)(2) and (3) are met for an amount not to exceed the Preliminary Charter School Apportionment for site acquisition. The Board shall release to the applicant an amount up to the Preliminary Charter School Apportionment determined in Section 1859.163.1(b).

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

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

Reference: Sections 17078.53 and 17078.58, Education Code.

Section 1859.165. Conversion of Preliminary Charter School Apportionment.

When a Preliminary Charter School Apportionment is converted to a Final Charter School Apportionment, all the following criteria must be met:

(a) The Final Charter School Apportionment request must meet all criteria on the Form SAB 50-04.
(b) An applicant seeking to convert a Preliminary Charter School Apportionment to a Final Charter School Apportionment shall complete and file Form SAB 50-04. The number of pupils being requested cannot exceed the amount the applicant originally requested and received at the Preliminary Charter School Apportionment.

If the applicant is unable to meet the criteria in this Section, the Preliminary Charter School Apportionment shall be rescinded pursuant to the provisions of Section 1859.166.

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

Reference: Section 17078.52, Education Code.

Section 1859.166. Time Limit on Preliminary Charter School Apportionment.

(a) A complete request to convert a Preliminary Charter School Apportionment to a Final Charter School Apportionment pursuant to Section 1859.165 shall be made within four years of the date of the Preliminary Charter School Apportionment unless the applicant received approval of an extension pursuant to Section 1859.166.1.
(b) If (a) is not met, and the applicant has not received an advance release of funds as provided in Section 1859.164.2, the following will occur:
(1) the Preliminary Charter School Apportionment shall be rescinded and any remaining Preliminary Charter School Apportionment, not released to the applicant, shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account, and;
(2) the SFP New Construction Eligibility will be increased by the number of unhoused pupils pursuant to Section 1859.162.2 for the school district that physically contains the Charter School within its geographical boundaries.
(c) If (a) is not met, and the applicant has received an advance release of funds as provided in Section 1859.164.2, the following will occur:
(1) The Preliminary Charter School Apportionment shall be rescinded and any remaining Preliminary Charter School Apportionment, not released to the applicant, shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account, and;
(2) Funds released pursuant to Section 1859.164.2(a) shall be reduced to cost incurred and closed-out pursuant to Section 1859.106 with a corresponding SFP new construction baseline eligibility adjustment for the pupils assigned to the Preliminary Charter School Application. The adjustment to the baseline eligibility shall be based on the ratio of the number of unhoused pupils pursuant to Section 1859.162.2 and the project capacity which generated the project funding to the eligible expenditures. Any funds released are subject to the fifty percent local matching share requirement as required by EC 17078.54(d). Funds returned pursuant to Section 1859.106 shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account, and;
(3) Funds released pursuant to Section 1859.164.2(b) shall be subject to the provisions of Section 1859.171.

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

Reference: Sections 17078.52 and 17078.53, Education Code.

Section 1859.166.1. Preliminary Charter School Apportionment Time Limit Extension.

An applicant that has received a Preliminary Charter School Apportionment may request a single one-year extension of the time limit prescribed in Section 1859.166(a). The Board shall approve the request provided the criteria in (a) or (b) are met:
(a) The applicant has provided evidence of both of the following:
(1) The CDE has made a contingent or final approval of the proposed site; and,
(2) The DSA has confirmed that the final plans for the project have been submitted to the DSA for review and approval.
(b) Other evidence satisfactory to the Board justifying the extension.

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

Reference: Section 17078.52, Education Code.

Section 1859.166.2. Inactive Preliminary Charter School Apportionments Under a State of California Fiscal Crisis.

In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board can make a finding that a project has an Inactive Preliminary Charter School Apportionment, as defined in Regulation Section 1859.2, that no longer meets the meaning of Preliminary Charter School Apportionment as defined in Education Code Section 17078.52(c)(3), and that the four-year period with a possible one time one-year extension requirement set forth in Education Code Section 17078.25(a) and (b) is therefore suspended as of December 17, 2008 and until such time as the Board finds that State bond funds are available for the project, the balance of four-year period with a possible one time one-year extension period which existed on December 17, 2008 shall resume. Once the Board finds that State bond funds are available for the project, the four-year period with a possible one time one-year extension requirement set forth in Education Code Section 17078.25(a) and (b) shall resume but in no case shall that period of time exceed a total of four-year period with a possible one time one-year extension while the subject project has a Preliminary Charter School Apportionment. Each project will resume where its originating period of time was suspended, as of December 17, 2008.

This regulation section shall become inoperative July 1, 2012.

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

Reference: Section 17078.52 and 17078.53, Education Code.

Section 1859.167. Final Charter School Apportionment.

(a) With the exception of Charter School Preliminary Apportionments provided by the Board on February 23, 2005, the amount of the Final Charter School Apportionment will be based on the provisions of any amended or new regulations that are effective at the time the Form SAB 50-04, for the Final Charter School Apportionment is submitted and accepted for processing by the OPSC. Prior to the Board providing a Final Charter School Apportionment, the applicant will need to have a current Financial Soundness certification from the Authority. The Board shall convert the amounts determined below from the Preliminary Charter School Apportionment to the Final Charter School Apportionment:

(1) If the Final Charter School Apportionment request is equal to or less than the Preliminary Charter School Apportionment, the Final Charter School Apportionment shall be funded entirely. The difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment shall be transferred to the Unrestricted Charter School Fund in the appropriate Charter School Facilities Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.

(2) If the Final Charter School Apportionment request is greater than the Preliminary Charter School Apportionment, the Board shall convert the Preliminary Charter School Apportionment to a Final Charter School Apportionment by either of the following:

(A) If the balance in the Unrestricted Charter School Fund in the appropriate Charter School Facilities Account is greater than the difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment, fund the Final Charter School Apportionment entirely. The Final Charter School Apportionment shall become the full and final apportionment for the project.

(B) If the balance in the Unrestricted Charter School Fund in the appropriate Charter School Facilities Account is less than the difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment, fund the Final Charter School Apportionment using any remaining balance in the Unrestricted Charter School Fund in the appropriate Charter School Facilities Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.

(b) For Preliminary Charter School Apportionments provided by the Board on February 23, 2005:

(1) the Final Charter School Apportionment will be subject to the provisions of any amended or new regulations that are effective at the time the Form SAB 50-04 is submitted and accepted for processing by the OPSC for the Final Charter School Apportionment; and,

(2) The Final Charter School Apportionment shall not contain additional pupil grants beyond that which the applicant may have requested at the time of the Preliminary Charter School Application; and,

(3) Prior to the Board providing a Final Charter School Apportionment the applicant will need to have a current Financial Soundness certification from the Authority; and,
(4) The amount of the Final Charter School Apportionment shall not exceed the Preliminary Charter School Apportionment with the exception of amounts available pursuant to Section 1859.167.4 and 1859.167.5. The additional amount of funds available to an individual project may include amounts from both the Conversion Increase Fund and Unrestricted Charter School Fund. The sum of the Preliminary Apportionment, the additional funds from the Conversion Increase Fund, and the additional amounts from the Unrestricted Charter School Fund shall not exceed the amount necessary to bring the total eligible project costs current to the grant amounts in place at the time of conversion. The Board shall convert the Preliminary Charter School Apportionment to the Final Charter School Apportionment as outlined below:
(A) If the Preliminary Charter School Apportionment is greater than the Final Charter School Apportionment request then the difference shall be used to return the Relocation/DTSC Fund and the Hazardous Material/Waste Removal Fund to the amounts originally reserved for these purposes. The amount returned to the Relocation/DTSC Fund shall be equal to 83.6 percent of the amount available for return; the amount returned to the Hazardous Material/Waste Removal Fund shall be equal to 16.4 percent of the amount available for return. Once these funds have been replenished, any remaining funds shall be transferred to the Unrestricted Charter School Fund in the 2004 Charter School Facilities Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.
(B) If the project is eligible for an additional grant for relocation expenses, DTSC fees, or hazardous waste removal pursuant to Sections 1859.74 or 1859.74.2, the Preliminary Charter School Apportionment may be increased accordingly using the funding set aside in Section 1859.163.3.
(C) If the Preliminary Charter School Apportionment plus the additional amounts provided from the Conversion Increase Fund and the Unrestricted Charter School Fund is less than the Final Charter School Apportionment request, the difference shall be placed on an Unfunded List.

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

Reference: Sections 17078.52 and 17078.56, Education Code.

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

The Final Charter School Apportionment for Charter School Facilities Program Rehabilitation is the sum of the Charter School Facilities Program Rehabilitation Grant and the applicable grants provided in Sections 1859.77.4, 1859.78.5, 1859.78.10, 1859.167.2, and 1859.167.3, and is subject to the adjustments pursuant to Section 1859.163.6 and Section 1859.167. The Charter School Facilities Program Rehabilitation Grant will be used in place of the Modernization Grant to calculate the funding provided by Sections 1859.78.5 and 1859.78.10. Funding provided by Section 1859.78.10(b)(2) will be 50 percent of the OPSC-approved costs for the career technical education scope of work, inclusive of equipment, included in an Approved Application for a Charter School Facilities Program Rehabilitation Grant.
(a) The Charter School Facilities Program Rehabilitation Grant will be determined based on the Square Footage included in the project. The Charter School Facilities Program Rehabilitation Grant will be the lesser of the amount determined in (1) or (2) below:
(1) The dollar value calculated using a per square foot amount and the total eligible Square Footage for the site as follows:
(A) Determine the total Square Footage for each Classroom included in the project.
(B) Determine the total Square Footage for any multi-purpose room included in the project.
(C) Determine the total Square Footage for any gymnasium included in the project.
(D) Determine the total Square Footage for any library included in the project.
(E) Determine the total Square Footage for any administration building included in the project.
(F) Add the total Square Footage in (A) through (E) above to obtain the total Square Footage for the project.
(G) From the total determined in (F), determine the total Square Footage for toilet facilities and the total Square Footage for other facilities, not to exceed the Square Footage determined pursuant to Section 1859.163.5(a)(1)(A)6. Multiply the toilet facilities Square Footage by $173.30 and the other facilities Square Footage by $96.30. The sum of these figures is the Square Footage dollar value for the project. The per-square

foot amounts for toilet and other facilities shall be adjusted annually in the manner prescribed in Section 1859.71.

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

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

(B) Multiply the number of Classrooms at the 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, 17077.35, 17078.52, 17078.54, 17078.58 and 17078.72, Education Code.

Section 1859.167.2. Charter School Facilities Program Rehabilitation Additional Grant for Labor Compliance Program or Prevailing Wage Monitoring and Enforcement Costs.

The additional grant to initiate and enforce a LCP or to provide for the prevailing wage enforcement costs shall be determined according to (a) or (b) below, as applicable:

(a) 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 Charter School Facilities Program Rehabilitation Grant by 50 percent of the following calculation:

(1) 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.

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

(b) 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 January 1, 2012 through June 19, 2014.

(1) 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 (b) above.

(2) 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.

(3) 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.

(4) 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 (3) above for any construction projects for which the violations occurred.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

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

Section 1859.167.3. Excessive Cost Hardship Grant for Charter School Facilities Rehabilitation.

In addition to any other funding authorized by these Regulations, the applicant is eligible for funding as a result of unusual circumstances that created excessive project costs beyond the control of the applicant. The Excessive Cost Hardship Grant shall be based on any of the following:

(a) Excessive Cost due to Geographic Location.
An applicant with a project that is located in a geographic area designated in the Geographic Percentage Chart in Section 1859.83(a) is eligible for an Excessive Cost Hardship Grant determined by multiplying the indicated percentage factor shown in the Geographic Percentage Chart by each of the following amounts:

(1) The Charter School Facilities Program Rehabilitation Grant.

(2) The funding provided by Sections 1859.167.3(b), (c), and (d).

(b) Excessive Cost for Projects that House No More than 200 Pupils (Small Size Projects).

(1) 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 Excessive Cost Hardship Grant equal to 12 percent of the funding provided by the Charter School Facilities Program Rehabilitation Grant.

(2) 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 Excessive Cost Hardship Grant equal to four percent of the funding provided by the Charter School Facilities Program Rehabilitation Grant.

(c) Excessive Cost Due to Urban Location, Security Requirements and Impacted Site.

(1) The applicant is eligible for an Excessive Cost Hardship Grant if the Useable Acres of the site for the project are 60 percent or less of the CDE recommended site size based on the current CBEDS Report at the site at the time of the CDE final plan approval for the Charter School Facilities Program Rehabilitation project.

(2) The Excessive Cost Hardship Grant is equal to 15 percent of the Charter School Facilities Program Rehabilitation Grant and 15 percent of the funding authorized by Section 1859.167.3(b) for a project with a site that is 60 percent of the CDE recommended site size plus 0.333 percent for each percentage decrease of the CDE recommended site size below 60 percent.

(d) Excessive cost due to accessibility and fire code requirements:

(1) The applicant is eligible for an Excessive Cost Hardship Grant equal to three percent of the Charter School Facilities Program Rehabilitation for accessibility and fire code requirements.

(2) In lieu of the three percent funding provided in (1), the applicant has the option of requesting 50 percent of the amount determined in (2)(B), not to exceed 50 percent of the amount determined in (2)(C):

(A) Multiply the project's classroom capacity, calculated pursuant to Education Code Section 17071.25(a)(2)(A), by the Modernization Grant.

(B) Determine the difference of the verified hard construction costs of the minimum accessibility and fire code work necessary to receive approval from the DSA minus seven percent of the amount in (2)(A) and the district matching share of the Modernization Grant, pursuant to Section 1859.79.

(C) Determine the difference of 1. minus 2.:

1. Multiply the project's classroom capacity, as determined in (2)(A), by the New Construction Grant.
2. The sum of the State and district share of the Modernization Grant multiplied by the project's classroom capacity, as determined in (2)(A).

(3) The applicant is eligible for an Excessive Cost Hardship Grant of $84,082 for each new two-stop elevator required to be included in a Charter School Facilities Program Rehabilitation project by the DSA. This amount shall be adjusted annually in the manner prescribed in Section 1859.78.

(4) The applicant is eligible for an Excessive Cost Hardship Grant of $15,133 for each additional stop of the new elevator required in (3) above for a Charter School Facilities Program Rehabilitation project. This amount shall be adjusted annually in the manner prescribed in Section 1859.78.

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

Reference: Sections 17075.10, 17075.15, 17078.54, and 17078.58, Education Code.

Section 1859.167.4. Preliminary Apportionment Rescissions.

(a) For projects apportioned on or before February 23, 2005 that are rescinded by the Board for purposes other than those outlined in Section 1859.166, the following will occur upon rescission:
(1) the SFP New Construction Eligibility will be increased for the pupils assigned to the Preliminary Charter School Application for the school district that physically contains the Charter School within its geographical boundaries.
(2) Those projects that have received an advanced release of funds as provided in Section 1859.164.2(a), shall be reduced to costs incurred and closed-out pursuant to Section 1859.106 with a corresponding SFP new construction baseline eligibility adjustment for the pupils assigned to the Preliminary Charter School Application.
(b) For projects apportioned on July 2, 2003 that are rescinded by the Board for purposes other than those outlined in Section 1859.166, the funds shall be returned to the program as follows:
(1) A fund shall be established within the 2002 Charter School Facilities Account to be known as the Conversion Increase Fund. An amount equal to $16,634,364 from Preliminary Charter School Apportionments rescinded on or before April 25, 2007 shall be transferred, on a one time basis, from the Unrestricted Charter School Fund to the Conversion Increase Fund established within that same account. The Conversion Increase Fund shall be used for the purposes outlined in Section 1859.167(b)(4).
(2) Funds available due to projects that rescind after April 25, 2007 shall be transferred to the Unrestricted Charter School Fund within the 2002 Charter School Facilities Account.
(c) For projects apportioned on February 23, 2005 that are rescinded by the Board for purposes other than those outlined in Section 1859.166, the funds shall be returned to the program as follows:
(1) A fund shall be established within the 2004 Charter School Facilities Account to be known as the Conversion Increase Fund. This fund shall be used for the purposes outlined in Section 1859.167(b)(4). This fund shall include all amounts from Preliminary Charter School Apportionments rescinded from the 2004 Charter School Facilities Account on or before April 25, 2007, plus the amounts initially reserved for the DTSC/Relocation Fund and the Hazardous Material/Waste Removal Fund established in Section 1859.163.3.
(2) Funds available due to project rescissions after April 25, 2007 including both the Preliminary Apportionment reservation and any amount available pursuant to subsection (c)(1) above that is not needed for a Final Charter School Apportionment, shall first be used to replenish the DTSC/Relocation Fund and the Hazardous Material/Waste Removal Fund until the cumulative deposits made back into the funds total the amount of funds initially reserved. Once these funds have been replenished, future rescinded amounts shall be returned to the Unrestricted Charter School Fund.
(d) The maximum amount available for each individual Final Charter School Apportionment from the 2002 and/or 2004 Conversion Increase Fund shall be equal to the ratio of the project's Preliminary Charter School Apportionment to the total value of Preliminary Charter School Apportionments awarded on February 23, 2005, for those recipients eligible for these Conversion Increase Fund funds, multiplied by the sum of the amount of funds available for the Conversion Increase Fund in both the 2002 and 2004 Charter School Facilities Accounts.
(e) For projects apportioned after February 23, 2005 any rescinded amounts shall be transferred into the Unrestricted Charter School Fund in the appropriate Charter School Facilities Account. Projects shall be rescinded pursuant to the process described in subsection (a) above with the exception that any adjustments to the baseline eligibility shall be based on the ratio of the number of unhoused pupils pursuant to Section 1859.162.2 and the project capacity which generated the project funding to the eligible expenditures.

Any funds released are subject to the fifty percent local matching share requirement as required by Education Code Section 17078.54(d).

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

Reference: Section 17078.54, Education Code.

Section 1859.167.5. Use of the Unrestricted Charter School Funds.

(a) Any funds that return to the Unrestricted Charter School Fund in the 2002 Charter School Facilities Account shall be available on a first come, first served basis for the purposes outlined in Section 1859.167(a)(2).
(b) With the exception of funds that return to the program due to the collection of lease payments for local matching share amounts which may not be used for the purposes outlined in Section 1859.167(b)(4), any funds in the Unrestricted Charter School Fund in the 2004 Charter School Facilities Account shall first be used to fund projects on the Unfunded List pursuant to Section 1859.163.3 and then for the purposes outlined in Section 1859.167(b)(4)(C) on a first come, first served basis.
(c) Once all Preliminary Charter School Apportionments made on July 2, 2003 have either converted to a Final Charter School Apportionment or have been rescinded by the Board, the funds remaining in the Unrestricted Charter School Fund in the 2002 Charter School Facilities Account, with the exception of funds that return to the program due to the collection of lease payments for local matching share amounts, may be used for the purposes outlined in Sections 1859.163.3 and 1859.167(b)(4).
(d) Once all Preliminary Charter School Apportionments made on February 23, 2005 have either converted to a Final Charter School Apportionment or have been rescinded by the Board, the funds remaining in the Unrestricted Charter School Fund in the 2004 Charter School Facilities Account, in addition to any lease payments collected, may be used by the Board for other Charter School facility projects pursuant to Education Code Section 17078.58.

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

Reference: Section 17078.58, Education Code.

Section 1859.168. Preliminary Charter School Apportionment Matching Share Requirement.

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

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

Reference: Sections 17078.54 and 17078.58, Education Code.

Section 1859.169. Eligible Expenditures.

Expenditures made with the Final Charter School Apportionment must comply with Education Code Section 17072.35 and 17078.54(a). Expenditures for construction are eligible only if the construction contract was entered into on or after September 27, 2002.

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

Reference: Sections 17078.52, Education Code.

Section 1859.169.1. Charter School Project Savings. (Repealed)

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

Reference: Sections 17078.54, Education Code.

Section 1859.170. Additional Program Reporting Requirements.

A Charter School filing a Form SAB 50-09 on its own behalf pursuant to this Article shall comply with the reporting requirements of Sections 1859.100, 1859.101, 1859.102, and 1859.106.

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

Reference: Section 17078.54, Education Code.

Section 1859.171. Use of Facility.

If an applicant that has received funding pursuant to Section 1859.164.2(b) and has not met the timelines established in Section 1859.166 on a Preliminary Charter School Apportionment, or is no longer occupying the Facility constructed with funds derived through a Final Charter School Apportionment, and the review process outlined in Education Code Section 17078.62(b)(1) has been completed (if applicable), then the following events shall occur:

(a) Any qualifying successor Charter School shall be permitted to occupy the Facility pursuant to Education Code Section 17078.62(b)(2). A qualifying successor Charter School will be selected in the following manner:

(1) The School District in which the project is physically located that serves the same grade level as the pupils housed in the project shall publicly notify all eligible Charter Schools authorized to operate in the School District's boundaries. An eligible Charter School is at minimum a Charter School with an approved petition that provides classroom-based instruction as defined by Education Code Section 47612.5(e)(1). A qualifying successor Charter School must be able to assume payment of any funds owed pursuant to Section 1859.168, enter into the Charter School Agreements, and be found Financially Sound by CSFA, in addition to any School District requirements approved by both OPSC and CSFA. Examples of possible School District requirements may include:

(A) Requirements to avoid a health and/or safety concern, such as grade levels of Charter Schools that are co-located on other school sites, and

(B) If local funds were provided to construct the Facility, requirements or restrictions related to local fund sources that do not conflict with CSFP requirements.

(2) If more than one eligible Charter School responds to the School District's notification, the School District must use a fair and competitive process, such as a request for proposal, to identify and rank eligible Charter Schools. When ranking eligible Charter Schools, preference shall be provided to Charter Schools that serve Low-Income students, as well as Charter Schools that meet the definition of a Non-Profit Entity. School Districts may add additional preference point categories approved by OPSC and CSFA. The combined total eligible points and/or weighing provided by the additional School District categories shall not exceed the combined total eligible points and/or weighing for Low-Income and Non-Profit Entity categories. Examples of possible School District preference points categories include:

(A) Charter Schools that will relocate from a School District property that is not a school,

(B) Charter Schools serving students in the same grade level as the constructed classrooms in the Facility,

(C) Charter Schools whose use of the Facility will resolve a current health and/or safety issue at its current location on School District property, and

(D) Charter Schools that serve a certain threshold of in-district students or will serve School District unhoused students.

(3) The School District, with approval from the OPSC and CSFA, must identify, in ranking order if applicable, a successor Charter School.

(4) If multiple Charter Schools apply jointly to be a successor Charter School, they will be treated as one applicant for purposes of assigning preference points and ranking. Preference points will be assigned based on the school with the enrollment majority as documented in the approved charter petition(s) for the grade levels that will use the Facility.

(b) If after the steps in subsection (a) are complete, no qualifying successor Charter School is identified or chooses to occupy the Facility, the School District in which the project is physically located that serves that same grade level as the pupils housed in the project, may elect to take possession of the Facility and pay the balance of the local matching share. The School District may qualify for a waiver of repayment if it can meet all the following:

(1) Demonstrate that at the time the Form SAB 50-04 was submitted for Final Charter School Apportionment, the School District would have qualified for financial hardship, pursuant to Section 1859.81; and,

(2) Certify to the Board that it will comply with the requirements of Education Code Section 17078.62(b)(4)(B).

(c) If the School District chooses not to take possession of the Facility, it shall dispose of the Facilities in the manner applicable to the disposal of surplus school sites pursuant to Education Code Sections 17455 through 17484. The proceeds from the sale shall be used to pay off the remaining loan balance, if any.
(d) Pursuant to Education Code Section 17078.62(b)(5)(B), if the School District declines to dispose of the Facility it shall provide written notice of its rejection to the Board in the form of written action taken by the governing board of the School District and the Board shall dispose of the property.

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

Reference: Section 17078.62, Education Code.

Section 1859.172. Title to Project Facilities.

(a) Prior to the release of funds for site acquisition or new construction Final Charter School Apportionments, an applicant that has received a Preliminary Charter School Apportionment must provide one of the following:
(1) Documentary evidence that the school district in which the project is physically located holds title to the project facilities,
(2) Documentary evidence that a local governmental entity holds title pursuant to all of the requirements set forth in Education Code Section 17078.63(a)(2), or
(3) A written request that the Charter School be authorized to hold fee simple title to the subject property signed by an authorized Charter School representative pursuant to all of requirements set forth in Education Code Section 17078.63(a)(3). The written request must include a statement justifying the reasons why ownership will not be vested with an entity described in (a)(1) and why ownership will not be vested with an entity described in (a)(2). The written request must also include the statement:
(b) I certify, as the Charter School representative, that the information reported in this document is true and correct.
(c) A Charter School may request that a school district transfer title to project facilities to a local governmental entity or the Charter School itself if prior to January 1, 2010 the school district entered into an agreement to hold title to the project facilities. The transfer of title shall only take place if the school district and Charter School mutually agree to a title transfer. Prior to the transfer of title, the Charter School must notify the OPSC in writing that a title transfer request is being made, enter into new Charter School Agreements with the State and a local governmental entity if applicable, and demonstrate that all of the necessary conditions for holding title pursuant to Education Code Section 17078.63 will be complied with. For purposes of title transfer pursuant to Education Code Section 17078.63(b)(1) the Charter School shall not be required to provide the written request outlined in section (a)(3) above.

Note: Authority cited: Sections 17070.35 and 17078.63, Education Code.

Reference: Sections 17078.62 and 17078.63, Education Code.

Article 15. Overcrowding Relief Grant

Section 1859.180. General.

A School District seeking an Apportionment pursuant to the provisions of Education Code Section 17079 through 17079.30 for new construction shall complete and file a Form SAB 50-04.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17079.20, Education Code.

Section 1859.181. Eligible Schools.

An eligible school is a school for which the school site pupil population density is equal to or greater than 175 percent of the school site pupil population density recommended by the Superintendent, based on the CBEDS Report for the 2005/2006 enrollment year, adjusted by the CDE by the following factors:
(a) Reduced to take into account the additional pupil capacity created by multistory construction.

(b) Reduced to take into account approved new construction projects, including projects approved pursuant to the Critically Overcrowded School Facilities Program, Education Code Sections 17078.10 through 17078.30, unless the School District can demonstrate that those projects are not impacting density at the eligible school site.

In order to determine the school site pupil population density, the School District shall complete and submit to the CDE the Overcrowding Relief Grant Eligibility Determination form.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17079, Education Code.

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.

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 Portable Classrooms with Permanent Classrooms. Those portables that are replaced with Overcrowding Relief Grants must be removed from the eligible school site and from TK - 12 grade Classroom use, pursuant to Education Code Section 17079.30, within

six months of the date of Occupancy of the replaced Permanent Classrooms. 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 Portable Classrooms. 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.

Section 1859.184. Overcrowding Relief Grant Application Submittals and Apportionments.

(a) The Board shall accept approved applications for Overcrowding Relief Grants as follows:
(1) For the funding made available for this purpose for the first funding cycle, the School District shall submit an approved application by January 31, 2008.
(2) The Board shall accept approved applications on a semi-annual basis thereafter.

The Board shall apportion Overcrowding Relief Grants based upon the highest density of the eligible schools that have submitted an approved application. Any School District that does not receive an Overcrowding Relief Grant due to low school density and insufficient funds may request that its application remain with the OPSC for consideration in the following semi-annual funding cycle.

(b) The Board shall apportion the Overcrowding Relief Grants as follows:
(1) For the first funding cycle, up to a maximum of $500 million for all approved applications that are received by January 31, 2008.
(2) For the second funding cycle, up to a maximum of $300 million for all approved applications that are received by July 31, 2008, plus any remaining funds not apportioned during the previous funding cycle.
(3) Approved applications that are received by January 30, 2009 shall be apportioned any remaining funds not allocated at the previous funding cycles, plus an additional $200 million.
(4) Approved applications that are received by July 31, 2009 shall be apportioned any remaining funds not allocated at the previous funding cycles.
(5) Approved applications that are received by January 29, 2010 shall be apportioned any remaining funds not allocated at the previous funding cycles.
(6) Approved applications that are received by July 30, 2010 shall be apportioned any remaining funds not allocated at the previous funding cycles.
(7) The Board may accept applications every six months that are received by the last business day of January and July until the Overcrowding Relief Grant funds are exhausted.

The approved applications for Overcrowding Relief Grants filed after July 31, 2008 must provide a narrative that demonstrates that the project will relieve overcrowding at the eligible school, by increasing useable outdoor space for uses such as play areas, green space, or outdoor lunch areas.

A School District may submit an approved application to request an Overcrowding Relief Grant from the funding provided under Proposition 1D for a project that has been occupied, if the construction contract for the project was signed after Board approval of these regulations. The School District must have obtained all project approvals required for a new construction funding application prior to the construction contract date.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17079.20, Education Code.

Section 1859.184.1. Application Process for Districts with Financial Hardship Approval.

An approved application for districts that have received Financial Hardship approval shall be substantially identical to that of non-financial hardship districts, with the exception of those districts proposing projects that require the use

of condemnation proceedings to acquire all or a portion of the site on which the project will be located. In this instance, the following conditions shall apply:

(a) A complete application shall include:

(1) Documentation of Financial Hardship approval pursuant to Section 1859.81.

(2) All project related approvals and requirements that would otherwise apply to SFP projects with the exception of ownership pursuant to Section 1859.23 for those parcels being acquired through condemnation proceedings. A CDE site approval letter is required for all components of the site, including the area to be acquired through condemnation. The CDE Final Plan Approval letter must include the acreage to be acquired through condemnation. This subsection includes the submittal of DSA approved construction plans and related documents.

(3) A copy of the Resolution of Necessity for the initiation of condemnation proceedings.

(4) For any additional parcels that are being acquired without condemnation, documentation that demonstrates that the district has opened escrow, has ownership, or holds a lease meeting the requirements of Section 1859.22.

(5) An appraisal for the value of all properties being acquired as part of the application.

(b) Site Acquisition Funding for Financial Hardship Overcrowding Relief Grant applications using condemnation shall be equal to the sum of:

(1) The lesser of the actual or appraised value for all parcels acquired through means other than condemnation, pursuant to Section 1859.74.

(2) The appraised value of the parcels being acquired though condemnation, multiplied by 1.15.

(3) Amounts for hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and/or 1859.74.4.

(c) The Overcrowding Relief Grant projects meeting the criteria in subsection (a) above shall be able to request an advance fund release for site acquisition when condemnation proceedings are required for the acquisition of the site. The advance fund release shall be equal to the State share plus the Financial Hardship grant of only the amount determined in subsection (b).

(d) Funds provided in subsection (b) above are for site acquisition purposes only and cannot be transferred over to eligible construction related costs.

When making an apportionment for an Overcrowding Relief Grant project meeting the criteria in this section, the Board shall make a Final Apportionment for the total project cost. However, the fund release for the non-site acquisition project costs will not be accepted or processed until the district is able to produce the court order for prejudgment possession verifying the initial amount to be paid through condemnation proceedings. The project timelines for the project as a whole, as specified in law and outlined in Section 1859.90 or 1859.90.2, as applicable, remain in effect. The advance fund release for site acquisition can be requested at any time after the Final Apportionment is granted by the Board. The advance fund release for site acquisition is not subject to the requirements of Section 1859.81.1.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17079.20, Education Code.

Article 16. Career Technical Education Facilities Program

Section 1859.190. General.

An applicant seeking Career Technical Education Facilities Project funding pursuant to the provisions of Education Code Section 17078.72, shall complete and file Form SAB 50-10.

An applicant may submit multiple Career Technical Education Facilities applications for different career technical education projects located at a single school site, pursuant to Education Code Section 17078.72(e), (f), and (i).

Modernization of facilities under Article 16 shall not affect the Modernization Eligibility of the facility pursuant to Section 1859.60.

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

Reference: Sections 17078.72, 101012(a)(4) and 101122(a)(4), Education Code.

Section 1859.191. Career Technical Education Facilities Project Application Submittal.

(a) The Board shall accept Approved Applications for Career Technical Education Facilities Project Funding and make apportionments as follows:
(1) All applications received in a six month cycle will be processed and prioritized for career technical education funding in the manner described in Section 1859.194.
(2) The funding cycles are established as follows:
(A) Approved Applications for Career Technical Education Facilities Project Funding for the first funding cycle must be submitted to the OPSC by October 31, 2007.
(B) Approved Applications for Career Technical Education Facilities Project Funding for the second funding cycle must be submitted to the OPSC by April 30, 2008.
(C) At the discretion of the Board, subsequent funding cycles may continue every six months thereafter until the Career Technical Education Facilities Program funds are exhausted or other funds become available.
(3) The Career Technical Education Facilities funds will be apportioned at the next available Board meeting after the end of each application cycle.

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

Reference: Section 17078.72, Education Code.

Section 1859.192. Career Technical Education Facilities Program Eligibility.

An applicant requesting funding for a Career Technical Education Facilities Project may submit Form SAB 50-10 to the OPSC if all the following criteria are met:
(a) For a new construction project, the applicant:
(1) Is a local educational agency operating a comprehensive high school pursuant to Education Code Sections 51224, 51225.3 and 51228.
(2) Has an active career technical advisory committee pursuant to Education Code Section 8070.
(b) For a modernization project, the applicant:
(1) Is a local educational agency operating a comprehensive high school pursuant to Education Code Sections 51224, 51225.3 and 51228; or,
(2) Is a joint powers authority operating career technical education programs as of May 20, 2006.
(3) Has an active career technical advisory committee pursuant to Education Code Section 8070.
(c) The applicant's Career Technical Education Facilities Program application has met all the requirements in Education Code Section 17078.72(i) and scored at least 105 points.

An applicant need not demonstrate New Construction Eligibility or Modernization Eligibility in order to participate in the Career Technical Education Facilities Program.

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

Reference: Sections 8070, 17078.72, 51224, 51225.3 and 51228, Education Code.

Section 1859.193. Career Technical Education Facilities Grant Determination.

A Career Technical Education Facilities Project may construct a new facility or modernize or Reconfigure an existing school building. The Application for Career Technical Education Facility funding may accompany an Application for new construction funding pursuant to Section 1859.70 or may be submitted independently.

The applicant must identify square footage of the Career Technical Education Facility being constructed, modernized, reconfigured or equipped, on the funding Application. Equipment purchased under the Career Technical Education Facilities Program must have an average useful life expectancy of at least ten years pursuant to Education Code 17078.72(a). An Application for a Career Technical Education Facilities Project may consist entirely of equipment.

All equipment must be purchased on or after May 20, 2006, unless the Career Technical Education Facilities Project is combined with a qualifying SFP new construction project pursuant to Section 1859.193.1.

(a) For new construction of a Career Technical Education Facilities Project included in a qualifying New Construction Grant, the Career Technical Education Facilities grant amount shall be the lesser of either (1) or (2):
(1) The sum of the costs uniquely related to facilities required to provide Career Technical Education as determined below:
(A) 50 percent of the cost of construction of the Career Technical Education Facilities Project, as determined by the project architect, subject to OPSC review and approval.
(B) 50 percent of the cost to equip the Career Technical Education Facilities Project with necessary equipment.
(C) For public works projects awarded on January 1, 2012 through June 19, 2014, the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code.
(D) Minus an allowance for New Construction Grants provided for Career Technical Education classrooms, determined by:
1. Multiplying 960 square feet by the number of classrooms in the Career Technical Education Facilities Project that were included in the New Construction project.
2. Multiplying the amount determined in (a)(1)(D)1 by 50 percent of the Current Replacement Cost for non-Toilet Facilities.
(2) $3 million per Career Technical Education Facilities Project.
(3) Site development work is not allowed as part of a Career Technical Education Facilities Project included in a New Construction Grant. Site development work necessary pursuant to Section 1859.76, may be requested by the district under the qualifying SFP New Construction.
(4) 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.
(5) Any school district failing to meet the requirements of (a)(4) 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 school district until the date of the Board's finding.
(6) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3 in effect on January 1, 2012 through June 19, 2014, the school district shall return to the State any State funding received for the project, including interest, as calculated in subsection (a)(5) above, for any construction projects for which the violations occurred.
(b) For stand-alone new construction of a Career Technical Education Facilities Project, the grant amount shall be the lesser of either (1) or (2):
(1) The sum of the costs uniquely related to facilities required to provide Career Technical Education as determined below:
(A) 50 percent of the cost of construction of the Career Technical Education Facilities Project, as determined by the project architect, subject to OPSC review and approval.
(B) 50 percent of the cost to equip the Career Technical Education Facilities Project with necessary equipment.
(C) 50 percent of site development work that meets the following criteria:
1. It is necessary and applicable to the Career Technical Education Facilities Project.
2. It meets the requirements for site development costs as outlined in Section 1859.76.
(D) For public works projects awarded on January 1, 2012 through June 19, 2014, the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code.
(2) $3 million per Career Technical Education Facilities Project.

(3) If the district is requesting funding for site development work applicable to the Career Technical Education Facilities Project, the district must submit a detailed cost estimate and appropriate DSA approved plans with the Form SAB 50-10. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Career Technical Education Facilities Project and conform to the requirements in Section 1859.76.
(4) Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Career Technical Education Facilities Project.
(5) 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.
(6) Any school district failing to meet the requirements of (b)(5) 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 school district until the date of the Board's finding.
(7) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3 in effect on January 1, 2012 through June 19, 2014, the school district shall return to the State any State funding received for the project, including interest, as calculated in subsection (b)(6) above, for any construction projects for which the violations occurred.
(c) For Modernization of a Career Technical Education Facilities Project, the grant amount shall be the lesser of either (1) or (2):
(1) The sum of the costs uniquely related to facilities required to provide Career Technical Education Facilities Project as determined below:
(A) 50 percent of the cost to modernize or Reconfigure the Career Technical Education Facilities, as determined by the project architect, subject to OPSC review and approval.
(B) 50 percent of the cost to equip the Career Technical Education Facilities with necessary equipment.
(C) For public works projects awarded on or after January 1, 2012, the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code.
(2) $1.5 million per Career Technical Education Facilities Project.
(3) Reconfiguring an existing school building must not displace a minimum essential facility. In any case involving the replacement of a minimum essential facility due to the reconfiguration of an existing building, the replacement must be part of the plans submitted in support of the Career Technical Education Facilities Application, must occur concurrently, and cannot be part of a SFP Application for new construction.
(4) Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Career Technical Education Facilities Project.
(5) 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.
(6) Any school district failing to meet the requirements of subsection (c)(5) above, 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 school district until the date of the Board's finding.
(7) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3 in effect on

January 1, 2012 through June 19, 2014, the school district shall return to the State any State funding received for the project, including interest, as calculated in subsection (c)(6) above, for any construction projects for which the violations occurred.

(d) If an applicant meets the eligibility criteria in Section 1859.192, but does not have the necessary approvals from the DSA and/or the CDE at the time of Apportionment, the Board may apportion funds for the Career Technical Education Facilities Project and reserve them for a period of up to 12 months. The grant amount to be reserved for the project will be the maximum funding as determined above in (a), (b), or (c).

(e) Funding provided as prescribed in Section 1859.71.6 and Section 1859.77.4 shall not be affected by the maximum funding determinations listed above.

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

Reference: Sections 17078.72 and 17250.30, Education Code, and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

Section 1859.193.1. Qualifying SFP Project.

For purposes of meeting the requirements in Sections 1859.193(a) or (c), the district may combine a Career Technical Education Facilities Project with any of the following applications in (a) or (b):

(a) A new construction or modernization funding application that is submitted at the same time as the Career Technical Education Facilities Project application.

(b) An Approved Application for new construction or modernization funding that has been approved, but has not received a full apportionment (i.e., currently on the workload list) or has been fully funded, if the following criteria are met:

(1) For new construction:

(A) The plans and specifications for the Career Technical Education Facilities Project were included in the original DSA approved plans and specifications for the Approved Application for new construction funding.

(B) The classrooms constructed for the Career Technical Education Facilities Project were not occupied prior to May 20, 2006.

(2) For modernization:

(A) The plans and specifications for the Career Technical Education Facilities Project were included in the original DSA approved plans and specifications for the Approved Application for modernization funding.

(B) The construction contracts for the Career Technical Education Facilities Project were executed on or after May 20, 2006.

(c) If the Career Technical Education Facilities Project application is submitted separately, there is no requirement that the Approved Application for new construction or modernization be withdrawn.

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

Reference: Section 17078.72, Education Code.

Section 1859.194. Career Technical Education Facilities Program Matching Share Requirement.

Any funding provided by these regulations, including funding as prescribed in Sections 1859.71.6 and 1859.77.4, shall require an applicant matching share contribution on a dollar-for-dollar basis. The applicant matching share may come from any source including, but not limited to, private industry groups, school districts, county offices of education, and joint powers authorities. Notwithstanding local fund sources previously identified in this paragraph, a grant recipient's local match shall not include funding from any state or federal sources that provide funding for Career Technical Education including, but not limited to the Career Technical Education Incentive Grant Program, the Career Technical Education Pathways Trust Program, the Career Technical Education Initiative and the Perkins Federal Career and Technical Education Grant Program.

If the applicant's available matching share does not equal the grant amount or the matching share is not immediately available, a loan may be made to the applicant. The amount of the loan shall be determined by compliance with (a) below. If the need for a loan is substantiated, it shall be paid over time through loan payments authorized by the Board.

(a) Require the applicant declare any local funds available for applicant contribution from any of the following sources:
(1) Developer Fees
(2) Certificates of Participation
(3) Local General Obligation Bonds, Mello-Roos Bonds and School Facility Improvement District Bonds
(4) Contribution from private industry groups or joint powers authority
(5) Any other Capital Facility funding

Upon apportionment, the OPSC will prepare a loan agreement on behalf of the Board for the applicant.
(b) The loan agreement shall stipulate the following:
(1) The loan term shall be set at ten years with a one-time extension of five years if the applicant is in a severe hardship condition as evidenced by at least one of the following criteria:
(A) For a school district or county office of education, the district or county office of education is listed on the current CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education.
(B) For a school district or county office of education, the amount due to the State for one or more projects would cause the district or county office of education to be listed on the CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education report. Where the financial condition of a school district is involved, the county office of education must submit a letter to the OPSC on behalf of its representative school districts for consideration substantiating that the repayment will place the district on the CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education. Where the financial condition of a county office of education is involved, the CDE must submit a letter to the OPSC on behalf of the county office of education for consideration substantiating that the repayment will place the county office of education on the CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education.
(C) For a joint powers authority, the amount due to the State for one or more projects would cause the joint powers authority severe financial hardship. The joint powers authority's authorizing agencies must submit a letter to the OPSC on behalf of the joint powers authority for consideration substantiating that the repayment may result in the joint powers authority being unable to meet its financial obligations for the current or subsequent two fiscal years.
(2) The loan agreement shall include interest on the unpaid principal balance at the same rate as that charged by the Pooled Money Investment Board. The interest rate will be set on the date that the project funding apportionment is approved by the Board.
(3) Interest starts accruing on the fund release date.
(4) The first payment is due no later than two years from the fund release date.
(5) Should the district default on the loan payments, the OPSC will initiate collection procedures from the School Fund Apportionment pursuant to Education Code Section 17076.10(c).

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

Reference: Sections 17076.10 and 17078.72, Education Code.

Section 1859.195. Career Technical Education Facilities Project Apportionment.

The Board shall apportion Career Technical Education Facilities Funds in the following manner:

(a) The Board may apportion up to a maximum of $350 million for applications received in the first Career Technical Education Facilities funding cycle ending October 31, 2007.
(1) The amount of $250 million shall be distributed proportionally to the Service Regions based on the high school enrollment within each Service Region. The proportional distribution of funds shall be determined by the current year CBEDS enrollment.
(2) If funding requested on qualifying applications exceeds the funds allotted to any Service Region, the amount of $100 million shall be available for apportionment to the highest ranked projects regardless of Service Region.
(b) The Board may apportion up to the sum of $150 million plus any funds not apportioned in the first cycle for applications received in the second Career Technical Education Facilities funding cycle ending April 30, 2008.

(1) The amount of $150 million plus any funds remaining from (a)(2) shall be distributed proportionally to each of the Service Regions based on the high school enrollment within each Service Region.
(2) Any unused funds distributed under (a)(1) shall be added to the amount determined for each Service Region in (b)(1).
(3) The cumulative apportionments in each Service Region may not exceed the amount determined in (1) and (2) except as described in Section 1859.196(b).

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

Reference: Section 17078.72, Education Code.

Section 1859.196. Career Technical Education Facilities Program Funding Order.

(a) In the first funding cycle, the Board shall fund eligible Career Technical Education Facilities Projects as follows:
(1) Approved Applications for Career Technical Education Facilities Project Funding shall be sorted by Service Region.
(2) Within each Service Region, approved applications will be ranked from highest to lowest according to the numerical score for the applicant's Career Technical Education Facilities Program application pursuant to Education Code Section 17078.72(i).
(3) The locale of each project shall be identified as Urban, Suburban or Rural.
(4) The Board shall apportion funds within each Service Region to the highest ranked project in each locale. In order to continue this funding process, one project from each locale must be apportioned. If there are no applications in a given locale(s), projects will be apportioned in the remaining locale(s).
(5) The process will continue until the applications or funds are exhausted within each Service Region as prorated pursuant to Section 1859.195. If an application cannot be fully apportioned because insufficient funding remains within the Service Region, the application shall be considered for funding pursuant to Section 1859.195(a)(2). If there is insufficient funding under Section 1859.195(a)(2), the applicant may either accept the available funding within the Service Region as the full and final apportionment for the project or refuse funding entirely. If funding is refused, the Board shall consider funding the next project eligible for an apportionment pursuant to this Section.
(6) In the event two or more applications within a Service Region have the same career technical education plan score and are in the same locale, the applicant with the highest total points in all weighted areas identified in Education Code Section 17078.72(j) will be funded first.
(b) In the second funding cycle, the Board shall fund eligible Career Technical Education Facilities Projects as described in (a) until the applications or funds are exhausted within each Service Region or until the conditions in (1) and (2) are met:
(1) Funds remain after all applications in a given Service Region have been apportioned.
(2) Approved Applications remain in other Service Regions because the requests exceed the funds allotted to the Service Region(s) in Section 1859.195(b). If an application cannot be fully apportioned because insufficient funding remains within the Service Region, the application shall be considered for funding pursuant to (c). If there is insufficient funding under (c), the applicant may either accept the available funding within the Service Region as the full and final apportionment for the project or refuse funding entirely. If funding is refused, the Board shall consider funding the next project eligible for an apportionment pursuant to this Section.
(c) If (b)(1) and (b)(2) are met in the second funding cycle, the remaining available career technical education facilities funds shall be pooled and apportioned to the highest ranked project in each locale regardless of Service Region. One of each locale must be accounted for before a locale is repeated.
(d) For the third and any subsequent cycles, the Board shall apportion funds regardless of Service Region.
(1) Funds shall be apportioned to the highest ranked project in each locale. In order to continue this funding process, one project from each locale must be apportioned. If there are no applications in a given locale(s), projects will be apportioned in the remaining locale(s).
(2) The process will continue until the applications or funds are exhausted, whichever comes first.
(3) In the event two or more applications have the same career technical education plan score, the Board shall approve the applications in the following order:
(A) The application with the highest total score in all weighted areas of the career technical education plan score identified in Education Code Section 17078.72(j).

(B) The applicant without a Career Technical Education Facilities Project in the immediate prior funding cycle or without an Approved Application for Career Technical Education Facilities Project Funding that will receive funding in the current cycle.
(C) After the above criteria have been applied, a lottery system may be used to determine the final funding order.

(e) If an Approved Application for Career Technical Education Facilities Project Funding within any funding cycle cannot be fully apportioned because insufficient funding is available, the applicant may either accept the available funding as the full and final apportionment for the project or refuse funding entirely. If funding is refused, the Board shall consider funding the next project eligible for an apportionment pursuant to this Section.

(f) For any Approved Application for Career Technical Education Facilities Project Funding not apportioned pursuant to this Section, the application shall be returned to the applicant. An Approved Application for Career Technical Education Facilities Project Funding returned to the applicant may be resubmitted during a subsequent application acceptance period identified in Section 1859.191, provided the application meets the eligibility criteria in Section 1859.192.

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

Reference: Section 17078.72, Education Code.

Section 1859.197. Fund Release Process.

The OPSC will release State funds that have been apportioned by the Board pursuant to Sections 1859.195 and 1859.196 after submittal by the applicant of the Form SAB 50-05.

(a) If an Apportionment was made for a Career Technical Education Facilities Project, the applicant must submit a Form SAB 50-05 within 18 months of the Apportionment as outlined in Education Code Section 17076.10 or the Apportionment shall be rescinded without further Board action.

(b) If Career Technical Education Facilities funds were reserved for the applicant pursuant to Section 1859.193(d) of these Regulations, the applicant:

(1) Has one year from the date of Apportionment to submit the CDE plan approval and DSA-approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the Apportionment shall be rescinded without further Board action.

(2) Has 18 months from the date the CDE plan approval and DSA-approved plans and specifications, as needed, are submitted to the OPSC to submit a completed Form SAB 50-05 or the Apportionment shall be rescinded without further Board action. If the district is requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2, the Board will require that this time limit be reduced to no more than 90 days from the date of the Apportionment.

(c) For an Apportionment received pursuant to Section 1859.90.2 where submittal of the necessary CDE plan approval and/or DSA-approved plans and specifications were not required at the time the Board granted an unfunded approval, then the applicant:

(1) Has up to 12 months to submit the required approvals from the date of Apportionment. If the required submittal(s) is not received within 12 months, the Apportionment shall be rescinded without further Board action and the Career Technical Education Facilities bond authority will return to the program for reallocation.

(2) The submittal date in (c)(1) shall start the 90-calendar-day fund release process in Section 1859.90.2.

(d) If the applicant requires a loan for the entire matching share requirement pursuant to Section 1859.194(b) of these Regulations:

(1) Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release ten percent of the Career Technical Education Facilities grant to the applicant within 30 calendar days of the Apportionment.

(2) The applicant has one year from the date of Apportionment to submit the CDE plan approval and DSA-approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the Apportionment shall be rescinded without further Board action.

(3) The applicant has 18 months from the date in (d)(2) to submit a completed Form SAB 50-05 or the Apportionment shall be rescinded without further Board action.

(e) If the district is requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2 and if the district is requesting funding as prescribed in Section 1859.71.6 or Section 1859.77.4, as applicable, then the district must submit the necessary approvals from the DSA and/or the CDE, as applicable, at least 90 days prior to requesting an Apportionment.
(f) If the district receives an Apportionment pursuant to (a) or (b) and if the district is requesting funding as prescribed in Section 1859.71.6 or Section 1859.77.4, as applicable, then the district must submit the necessary approvals from the DSA and/or the CDE, as applicable, at least 90 days prior to receiving an Apportionment.
(g) The applicant is subject to substantial progress time limit on the Apportionment as outlined in Education Code Section 17076.10(b).
(h) In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board may grant an extension not to exceed 12 months to the time limit prescribed in (b)(1) and (d)(2) above and Section 1859.193(d). Regulation Section 1859.197(h) shall become inoperative January 1, 2010.

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

Reference: Sections 17078.72 and 17076.10 Education Code.

Section 1859.198. Time Limit on Apportionment and Substantial Progress.

The district is subject to the time limit on the apportionment as outlined in Education Code Section 17076.10 and substantial progress requirements pursuant to Section 1859.105.

Any Career Technical Education Facilities Project funds returned due to projects being rescinded or reduced to cost incurred shall be made available for Apportionment in subsequent funding cycles.

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

Reference: Sections 17078.72, 101012(a)(4) and 101122(a)(4), Education Code.

Section 1859.199. Program Accountability.

A project shall be deemed complete when either of the following occurs, whichever occurs first:
(a) The final notice of completion is filed for the project; or,
(b) Four years have elapsed from the final fund release for the project.

Projects will be subject to a Program Accountability Expenditure Audit pursuant to Section 1859.106. Any repayments due back to the state as a result of these audits will be subject to the repayment provisions identified in Section 1859.106.1.

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

Reference: Section 17078.72, Education Code.