

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:

“Act” means the Leroy F. Greene School Facilities Act of 1998.

“Adjacent” means the HSAs that will make up the Super HSA 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.

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

“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, *Enrollment Certification/Projection*, (Revised 07/01); SAB 50-02, *Existing School Building Capacity*, (Revised 07/01); SAB 50-03, *Eligibility Determination*, (Revised 07/01); and SAB 50-04, *Application for Funding*, (Revised 09/01), as appropriate, and the Office of Public School Construction has completed and accepted a preliminary approval review pursuant to Education Code Section 17072.25(a).

“Attendance Area” shall have the meaning set forth in Education Code Section 17070.15(b).

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

“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.

“Certification” means the act of affirmatively representing, asserting or verifying circumstances, data or information as required by the Act or this subgroup.

“Class B Construction Cost Index” is a construction factor index that is provided monthly by Marshall and Swift, for the Western area, 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 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(e).

“County Fund” shall have the meaning set forth in Education Code Section 17070.15(j).

“Current Replacement Cost” means \$300 per square foot for Toilet Facilities and \$150 per square foot for all other spaces. The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

“Department” shall have the meaning set forth in Education Code Section 17070.15(d).

“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 Kindergarten through sixth grade, or any combination of 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.

“Environmental Hardship” means the State funding for site acquisition as authorized by Section 1859.75.1.

“Excessive Cost Hardship Grant” means the funding provided pursuant to Education Code Sections 17075.10 and 17075.15.

“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.

“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 new or replacement facilities authorized by Section 1859.82(a) or (b).

“Field Act Facility” means a school building meeting the requirements contained in Education Code Section 17280, et seq.

“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.

“Fund” shall have the meaning set forth in Education Code Section 17070.15(i).

“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.

“High School Attendance Area (HSAA)” means Attendance Area.

“High School Pupil” means a student in a school serving ninth through twelfth grade or any combination of ninth through twelfth grade.

“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.

“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 or 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.

“Interim Housing” means the rental or lease of classrooms used to house pupils temporarily displaced as a result of the modernization of classroom facilities.

“Joint-Use Project” means a project approved by the Board pursuant to Education Code Sections 17050 and 17051.

“Lease-Purchase Program (LPP)” means the Leroy F. Greene State School Building Lease-Purchase Law of 1976, commencing with Education Code Section 17000.

“Major Maintenance” shall have the meaning set forth in Education Code Section 17070.77(b).

“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.

“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.

“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 Additional Grant” means the funding provided pursuant to Education Code Section 17074.10(c) and (e).

“Modernization Adjusted Grant” means the Modernization Grants, plus any Excessive Cost Hardship Grants.

“Modernization Grant” means the funding provided pursuant to Education Code Section 17074.10(a).

“Modernization Grants” means the Modernization Grant plus any Modernization Additional Grant.

“Modernization Eligibility” means the result of the calculation contained in either Option A or B of the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01).

“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.

“New Construction Additional Grant” means funding provided pursuant to Education Code Sections 17072.10(c), (d) and (e); Education Code Section 17072.12, Education Code Section 17072.13 and Education Code Section 17072.18.

“New Construction Adjusted Grant” means the New Construction Grants, plus any Excessive Cost Hardship Grant.

“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).

“New Construction Grants” means the New Construction Grant plus any New Construction Additional Grant.

“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.

“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.

“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.

“Portable Classroom” shall have the meaning set forth in Education Code Section 17070.15(k).

“Preliminary Endangerment Assessment (PEA)” shall have the meaning set forth in Education Code Section 17210(h).

“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).

“Property” shall have the meaning set forth in Education Code Section 17070.15(g).

“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 election, or a statewide special election.

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

“Rehabilitation Cost” means health and safety mitigation cost that is less than 50 percent of the current replacement cost of the facility.

“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.

“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.

“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 Section 17070.15(h).

“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.

“Severely Disabled Individual with Exceptional Needs” means an individual with exceptional needs as defined in Education Code Section 56030.5.

“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 *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), 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.

“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).

“Super High School Attendance Area (Super HSAA)” means two or more HSAA’s that are adjacent to each other.

“Unfunded List” means an information list of unfunded projects.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17074.10, 17075.10, 17075.15, 17280 and 56026, Education Code. Section 53311, Government 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 1859.20. SFP Application for Determination of Eligibility.

A 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 or HSAA, or for modernization projects, an application for *Eligibility Determination*, Form SAB 50-03 (Revised 07/01), which is incorporated by reference.
- (b) For new construction projects, either districtwide or HSAA, an *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), which is incorporated by reference.
- (c) For new construction projects, an *Existing School Building Capacity*, Form SAB 50-02 (Revised 07/01), which is incorporated by reference.

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 district seeking funding for a modernization or new construction project shall complete and file with the OPSC, the *Application for Funding*, Form SAB 50-04 (Revised 09/01), which is incorporated by reference.

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, a district may received SFP New Construction or Modernization Grants 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.

### 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 *Existing School Building Capacity*, Form SAB 50-02 (Revised 07/01). 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 district shall prepare a gross inventory consisting of all classrooms owned or leased in the 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 for a modernization project;
- (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 and 17071.30, 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.

Note: Authority cited: Section 17070.35, Education Code.

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

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

The district shall identify by grade level, based on its most typical use for grades K-6, 7-8 or 9-12, 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 *Existing School Building Capacity*, Form SAB 50-02 (Revised 07/01).

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 district's existing school building capacity shall be determined by totaling the amount calculated in (a) with the amount determined in (b) or (c), whichever is greater:

- (a) Multiply the number of available classrooms in the district or the HSAA by the following: 25 for each K-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 K-6 pupil capacity of the elementary district, the unified district or the 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. For a high school district filing on a district-wide basis, multiply the pupil capacity of the district as determined by the results of the calculations in (a) at the time of initial determination of eligibility by six percent or, as an alternative, by eight percent of the K-12 pupil capacity within the boundaries of the district. For a high school district filing on a HSAA, multiply the K-12 pupil capacity within the boundaries of the HSAA by eight percent. When the 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.
- (c) A number equal to the number of pupils provided operational grants as indicated in the current report of operational grants made by the CDE pursuant to Education Code Section 42268, less the number of pupils at a school on the MTYRE calendar that has a density of at least 200 or more pupils per acre when the district has at least 40 percent of its enrollment on MTYRE as of the date of determination of the existing school building capacity of the district.

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 *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01). The information provided on this Form shall serve as the basis for determining a district's eligibility for New Construction funding.

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 New Construction Grants 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 New Construction Grants 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 Grants eligibility determination for the HSAA or Super HSAA is based on the capacity and projected enrollment of the HSAA or Super HSAA as shown on the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01).
  - (3) The eligibility determination for the HSAA or Super HSAA includes a high school that serves any combination of grades nine through twelve and the high school is not a continuation high school.
- (b) If a district meets the criteria in subsection (a) and requests its eligibility determination to be based on an HSAA or Super HSAA, eligibility for future grants, 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. 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. 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 future grants 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 1859.42. Projecting Non-Special Day Class Enrollment.

The district enrollment, as reported on the *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), shall be used to calculate the district's projected enrollment other than Special Day Class enrollment. The OPSC shall use either (a) or (b) to determine the district's projected enrollment:

- (a) All 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, 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 kindergarten enrollment on the second previous and third previous year 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 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) Progress the latest reported enrollment 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) The enrollment projection will be augmented based on the number of pupils as reported by the district on *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), that will reside in dwelling units included in an approved subdivision map or valid tentative subdivision map that exceed the number of pupils projected as a result of the cohort survival method for that subdivision map. The augmentation shall be as follows:
  - (1) Progress the current enrollment as reported on *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), for one year for each grade level. For kindergarten, the progressed current enrollment shall be the same as the reported current enrollment.
  - (2) Subtract the current enrollment progressed one year for each grade level from the one-year projection of enrollment for each grade level as determined in (a). If the computation results in a negative number, the number shall be deemed 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 subdivision by the pupil yield factor provided on the *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01).
  - (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 deemed zero.
  - (7) Add the value in (6) to the fifth year of projected enrollment as computed in (a) to establish the augmented projection of enrollment.
- (c) The projected enrollment of a 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 rather than the entire district. Augmentation as provided in (b) of this Section may include only dwelling units located in the HSAA.

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 *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), 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) The projected enrollment of each classification of Special Day Class students served by a school district shall be computed by multiplying the reported enrollment of Special Day Class students by the five-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 *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01).
- (b) The projected enrollment of each classification of Special Day Class students served by a county office of education shall be computed as follows:
  - (1) Determine the percentage change in total Special Day Class enrollment from the current year to the previous year; determine the percentage change in total Special Day Class enrollment in the previous year to the second previous year; determine the percentage change in total Special Day Class enrollment in the second previous year to the third previous year. To determine the average annual change, add the three percentage changes and divide by three.
  - (2) The current Special Day Class enrollment provided by the county office of education as reported on *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), shall be adjusted by the average annual percentage change in (1) for each year until the five-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 *Eligibility Determination*, Form SAB 50-03 (Revised 07/01). Eligibility determination for New Construction Grants may be requested on either a district-wide basis or on 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 HAS 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 *Eligibility Determination*, Form SAB 50-03 (Revised 07/01), 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 an *Application for Funding*, Form SAB 50-04 (Revised 09/01), for a new construction SFP grant.

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 *Eligibility Determination*, Form SAB 50-03 (Revised 07/01), will be adjusted as follows:

- (a) Reduced by the number of pupils provided grants in a new construction SFP project.
- (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 and 1859.105.
- (e) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years for all districts except decreases as provided in (j) below:
- (f) Adjusted as a result of errors or omissions by the district or by the OPSC.
- (g) Adjusted as a result of amendments to these Regulations that affect the eligibility.
- (h) Increased by the number of pupils eligible for grants pursuant to Section 1859.82(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) Excluded pursuant to Education Code Section 17071.30.
  - (4) Where the contract for the lease, lease-purchase, purchase, or construction of the classroom was made prior to January 1, 2000.
  - (5) Where the contract for the lease, lease-purchase, purchase, or construction of the classroom was made no more than 180 days before the Approved Application date for funding of the classrooms included in the contract.
  - (6) That is included in a SFP project where the 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.
- (j) For Small School Districts, decreased:
  - (1) By any reduction in projected enrollment beginning in the enrollment-reporting year that follows a three-year period beginning when the district's baseline eligibility was determined by the Board. The reduction shall be determined by any decreases between the current projected enrollment and the projected enrollment used when the district's baseline eligibility was determined by the Board pursuant to Section 1859.50 or adjusted by a subsequent operational grant report after that date.
  - (2) By any increase in the number of pupils included in the latest operational grant report made by the CDE pursuant to Education Code Section 42268 beginning three years after the district's baseline eligibility was determined by the Board pursuant to Section 1859.50. The reduction in eligibility shall be determined by the number of pupils included in the latest operational grant report that exceed the number of pupils included in the operational grant report in effect when the district's baseline eligibility was determined by the Board pursuant to Section 1859.50 or adjusted by a subsequent operational grant report after that date.
- (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.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51, 17071.25, 17071.75, 17071.76 and 17072.20, Education Code.

## Article 7. Modernization Eligibility Determination

### Section 1859.60. Calculation to Determine Modernization Baseline Eligibility.

The district shall calculate its eligibility by completion of the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01). 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 and not previously modernized with State funds.
  - (2) Portable and at least 20 years old and not previously modernized with State funds.
  - (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 and not previously modernized with State funds.
  - (2) Portable classroom area and at least 20 years old and not previously modernized with State funds.
  - (3) The remaining square footage on the site not reported in (1) or (2) above.

The age of the classroom or square footage shall be based on the date the district submitted the application for an eligibility determination to the OPSC. 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.

Enrollment at the school shall be the latest CBEDS report for K-6, 7-8 and 9-12 pupils. If the school is closed at the time of application for eligibility determination for modernization, and the 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 *Eligibility Determination*, Form SAB 50-03 (Revised 07/01), 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 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 Section 1859.105.
- (e) Adjusted as a result of errors or omissions by the district or by the OPSC.
- (f) Adjusted as a result of amendments to these Subgroup 5.5 Regulations that affect the eligibility.
- (g) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
- (h) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51, 17071.25, 17072.15 and 17072.20, Education Code.

## Article 8. New Construction and Modernization Grant Determinations

### Section 1859.70. General.

A district seeking New Construction or Modernization funding shall complete and file an *Application for Funding*, Form SAB 50-04 (Revised 09/01), after completing the applicable requirements in Section 1859.20.

A district affected by a reorganization election on or after November 4, 1998 may not file an application for New Construction funding after the notification of the reorganization election until a new calculation of the district's baseline eligibility has been determined on the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01), or the district certifies that the reorganization election will not result in a loss of eligibility for the project for which the district is requesting new construction grants.

A 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, 17072.10 and 17074.10, Education Code.

#### Section 1859.71. Adjustment to the New Construction Grant.

The new construction 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.

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: Section 17072.10, Education Code.

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

The Board shall provide the following amounts for each pupil 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 additional 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 1859.72. New Construction Additional Grant for an Individual with Exceptional Needs.

The New Construction Grant will be increased for the area of therapy rooms used by pupils that are Severely Disabled Individuals with Exceptional Needs. The district may request an increase in the New Construction Grant 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 grant amount will be increased by \$150 per square foot for toilet facilities and \$75 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 and 56026, Education Code.

#### Section 1859.73. New Construction Additional Grant for Multilevel Construction.

The New Construction Grant will be increased for the additional costs resulting from the need to build multilevel facilities 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.

The New Construction Grant will be increased by \$3,750 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.

This allowance shall only apply to any acceptable *Application for Funding*, Form SAB 50-04 (Revised 09/01) submitted to the OPSC no later than January 1, 2003.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

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

- (a) The New Construction Grant will be increased by the amount(s) in (b) below for the replacement cost of one-story buildings that are demolished at a school in order to increase pupil capacity of that school if all the following conditions are met:
  - (1) The school must be on MYTRE at the time the Approved Application is accepted.
  - (2) 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.
  - (3) 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 pupil capacity (before replacement) of the school. Existing pupil capacity shall be determined by multiplying classrooms intended for grades 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.
  - (4) The sum of (A) and (B) below is less than the amount determined in (E) below:
    - (A) Determine the estimated cost of demolition of the one-story buildings to be replaced. The cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Cost Publication.
    - (B) Multiply the square footage of the buildings to be replaced by the Current Replacement Cost.
    - (C) Multiply the New Construction Grants requested in box 2 of the *Application for Funding*, Form SAB 50-04 (Revised 09/01), by .01775 for K-6, .021 for 7-89 and .02472 for 9-12.
    - (D) Determine the average appraised value of land per acre, including relocation costs, within the attendance boundaries of the school. The appraisal must be consistent with Section 1859.74.1.
    - (E) Multiply the sums of the products determined in (C) above by the average appraised value of land per acre determined in (D) above.
- (5) The CDE has determined that the replacement of the one-story buildings on the existing site with multilevel 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.
- (6) The one-story buildings to be replaced on the existing site may not be leased facilities.
- (7) With the exception of portables acquired with Class Size Reduction funds, the one-story buildings to be replaced on the site may not have been funded for either new construction or modernization funds from Proposition 1A funds within the past five years from the date the Approved Application is accepted.
- (b) If the criteria in (a) are met, the New Construction Grant will be increased by \$150 per square foot for toilet facilities and by \$75 per square foot for all other facilities included in the one-story buildings to be replaced adjusted for the following:
  - (1) The amounts shall be adjusted annually in the manner prescribed in Section 1859.71.
  - (2) The amounts shall be increased by the percentage authorized in Section 1859.73 if the replacement area will be

multilevel building(s).

- (3) The amounts shall be increased for excessive cost grants as provided pursuant to Section 1859.83(a) and (d).

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

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17071.46, 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, the New Construction Grant will be increased 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 17072.12 and 17251, Education Code.

#### Section 1859.74.1. Site Acquisition Guidelines.

To receive a New Construction Additional Grant for site acquisition costs, the district must certify on the *Application for Funding*, Form SAB 50-04 (Revised 09/01), 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 district or its legal counsel has contracted for appraisal services.
- (d) The appraiser has certified to the 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 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. Additional Grant for Hazardous Waste Removal.

With the exception of projects that received site acquisition funds under the LPP, the New Construction Grant will be increased for a site acquired for the allowable costs of hazardous materials/waste removal and/or remediation costs. The allowable costs shall be the lesser of one half of (a) or (b) below:

- (a) 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 costs for preparation of the RA.
  - (2) The costs may include the DTSC costs for review and oversight of the preparation and implementation of the RA.
  - (3) The costs may not include continuous operational and maintenance costs associated with the RA.
- (b) The difference in the amounts determined pursuant to Section 1859.74(a) and (b).

In no event can the amount provided in this Section and Section 1859.74 exceed 50 percent of the appraised value of the site as determined in Section 1859.74(b).

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

Reference: Sections 17072.12 and 17251, Education Code.

#### Section 1859.74.3. 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, the New Construction Grant will be increased for the lesser of one half of the amounts allowed in (a) or (b) below:

- (a) The sum of all the following:
  - (1) 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.
  - (2) \$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) The DTSC costs for review, approval, and oversight of the POESA and the PEA.
  - (4) 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 costs for preparation of the RA.

- (B) The costs may include the DTSC costs for review and oversight of the preparation and implementation of the RA.
- (C) The costs may not include continuous operational and maintenance costs associated with the RA.
- (b) Appraised value of the site determined by an appraisal made or updated no more than six month prior to application submittal to the OPSC for funding pursuant to Section 1859.74.1. The appraisal may be reviewed by the OPSC for conformance with Section 1859.74.1.

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 17072.12, 17251 and 17070.71, Education Code.

#### Section 1859.74.4. 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 New Construction Grant may be increased 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 1849.74.2.
  - (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.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.18, Education Code.

#### Section 1859.75. Alternative District-Owned Site.

In order to receive New Construction Additional Grant for site acquisition as provided in Section 1859.74, 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 the lesser of:
  - (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) one-half of the actual cost or the appraised value of the site purchased for the project as determined in Section 1859.74, whichever is the lesser.

Note: Authority cited: Section 17070.35, 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, 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 for one-half of the following:
  - (1) The lesser of the appraised value of the site as determined in Section 1859.74.1 or the amount the district reasonable expects to pay for the site including any hazardous materials/waste removal and/or remediation costs for the site.
  - (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 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 \$50,000.
  - (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 an *Application for Funding*, Form SAB 50-04 (Revised 09/01).

Note: Authority cited: Section 17072.13, Education Code.

Reference: Sections 17072.13 and 17076.10, Education Code.

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

The New Construction Grant will be increased by 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.
- (12) Removal and relocation of portable classrooms on a site eligible for replacement pursuant to Section 1859.82(a) 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.

The district must submit a detailed cost estimate for all requests for site development work, and any justification documents that will support the work with the *Application for Funding*, Form SAB 50-04 (Revised 09/01).

The Board will approve reasonable and appropriate site development work which meet common engineering practices and industry standards that are consistent with the specific site conditions if the site development costs are consistent with the Saylor Current Construction Costs. 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.

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 Grant and New Construction Additional Grant pursuant to Sections 1859.72, 1859.73, 1859.74 and 1859.76, plus Excessive Cost Hardship Grants pursuant to Section 1859.83 and financial hardship funding 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.

Except in the case of financial hardship provided by Section 1859.81, any increase to the New Construction Grant for New Construction Additional Grants, facility hardship grants as provided in Section 1859.82 or Excessive Cost Hardship Grants as provided in Section 1859.83, shall require a district matching share contribution on a dollar-for-dollar basis.

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

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.30 and 17077.10, Education Code.

#### Section 1859.77.2. Use of New Construction Grant Funds.

New Construction Grant funds shall be expended as set forth in Education Code Section 17072.35 and may also be utilized for the cost incurred by the 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 may be requested as follows:

- (a) A 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 district has adopted a school board resolution that includes the following:
  - (1) A plan that identifies how the 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 district has received financial hardship approval pursuant to Section 1859.81.
  - (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 district may utilize new construction grant eligibility determined at a different grade level than the proposed project that do 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 district has adopted a school board resolution that includes the following:
  - (A) A plan that identifies how the 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 district has received financial hardship approval pursuant to Section 1859.81.
  - (B) An acknowledgement that funds for the purposes of housing 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) The district must use its New Construction Grant eligibility, pursuant to subsections (b) and (d), 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) When the priority point mechanism described in Section 1859.91 has not been implemented, a district may request New Construction Grants that 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 provided all the conditions in subsections (a)(1), (a)(2) and (a)(3) are met.
- (d) When the priority point mechanism described in Section 1859.91 has not been implemented, a district may utilize new construction grants eligibility determined at a different grade level than the proposed project that 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 provided all the conditions in subsections (b)(1) and (b)(2) are met.

The New Construction Grant amount provided shall be determined based on the grant amount provided in Education Code 17072.10 for the grade level that generated the eligibility and any New Construction Additional Grant or Excessive Cost Hardship Grant the 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 1859.78. Adjustment to the Modernization Grant.

The Modernization 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. Additional Grant for an Individual with Exceptional Needs.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.15, Education Code

#### Section 1859.78.2. Modernization Additional Grant for Project Assistance.

The Modernization Grant will be increased by \$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.

This allowance shall only apply to any acceptable *Application for Funding*, Form SAB 50-04 (Revised 09/01) submitted to the OPSC no later than January 1, 2003.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.10, Education Code.

### Section 1859.78.3. Modernization Additional Grant for Individuals With Exceptional Needs.

The Board shall provide the following amounts for each pupil included in an approved project for modernization funding:

(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.

The amounts shown shall be adjusted in the manner prescribed in Section 1859.71. The additional 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 and 17074.10, Education Code.

### Section 1859.79. Modernization Matching Share Requirement.

Except in the case of financial hardship as provided in Section 1859.81, any increase to the Modernization Grant for additional grants for facility hardships as provided in Section 1859.82 or Excessive Cost Hardship Grants as provided in Section 1859.83 shall require a district matching share equal to at least 20 percent of the total project cost which, combined with the State's adjusted grant shall represent 100 percent of the total project cost.

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

The district's modernization matching share shall not be expended on costs included in a Reconfiguration project pursuant to Section 1859.78.9.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.15 and 17077.10, 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.

Modernization grant funds shall be expended as set forth in Education Code Sections 17074.25 and 17070.15(f) and may also be utilized for other purposes as set forth in Education Code Section 100420(c). 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 district.

- (2) Building area required by the federal Americans with Disabilities Act (ADA) or by the Division of the State Architect's (DSA) handicapped access requirements.
- (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 handicapped access requirements.
- (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 district or a county superintendent.

Modernization Grant funds shall be expended as set forth in Education Code Section 17074.25 and may also be utilized for other purposes as set forth in Education Code Section 100420(c).

Modernization Grant funds may be used on any school facilities on the site. 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, 17074.25 and 100420(c), Education Code.

### Section 1859.79.3. Minimal Requests for Modernization Grant Funds.

Districts seeking modernization grants must submit an *Application for Funding*, Form SAB 50-04 (Revised 09/01) for at least 101 grants, or the remaining modernization eligibility at the school site if less than 101 grants.

*Application for Funding*, Form SAB 50-04 (Revised 09/01) requesting Modernization Grant Funds that do not meet the above criteria will not be accepted by the SAB.

Note: Authority cited: 17070.35, Education Code.

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

## Article 9. Hardship Assistance

### Section 1859.80. General.

A 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 district from funding all or a portion of the matching share requirement for a SFP grant.
- (b) A facility hardship grant as provided in Section 1859.82.
- (c) An Excessive Cost Hardship Grant as a result of added construction costs due to unusual circumstances as provided in Section 1859.83.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10 and 17070.15, Education Code.

### Section 1859.81. Financial Hardship.

A district is eligible for financial hardship to fund all or a portion of its matching share requirement after demonstrating both of the following:

- (a) The district is financially unable to provide all necessary matching funds for an eligible project. To determine this, an analysis shall be made of the 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 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. The analysis is subject to approval by the Board.

From the funds deemed available as a matching contribution, the 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 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 (a)(7) as follows:

- (1) Determine the current enrollment of the district by grade level as shown on the latest *Enrollment Certification/Projection*, Form SAB 50-01 (Rev. 07/01).
- (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 district has submitted an *Expenditure Report*, Form SAB 50-06 (Rev. 01/00) indicating that the project is 100 percent complete.
- (3) Subtract (a)(2) from (a)(1).
- (4) Determine the number of classrooms by grade level reported in Part I, Line 8 on the latest *Existing School Building Capacity*, Form SAB 50-02 (Rev. 07/01).
- (5) Multiply the classrooms determined in (a)(4) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe.
- (6) Subtract the product determined in (a)(5) from the difference determined in (a)(3) by grade level.
- (7) Divide the difference by grade level determined in (a)(6) by 25 for K-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 district may also retain \$19,776 per portable toilet unit in each reporting period in each reporting period for the cost to provide necessary interim toilet facilities for the currently unhoused pupils of the 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 (a)(7) divided by eight rounded up to the nearest whole number.

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

- (b) The 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 district meets at least one of the following:
  - (1) The current outstanding bonded indebtedness of the district, at the time of request for financial hardship status, is at least 60 percent of the 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 district is paying a debt service that was issued for capital outlay school facility purposes.
  - (2) The 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 district's matching share requirement for SFP project(s).
  - (3) It is a County Superintendent of Schools.
  - (4) The district's total bonding capacity at the time of the request for financial hardship status is \$3 million or less.
  - (5) Other evidence of reasonable effort as approved by the SAB.

If the district's request for financial hardship status is denied by the Board, the district shall 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. The number of classrooms eligible for the \$2,000 rental payments shall be the sum of the of the numbers determined in (b)(5)(B) as follows:

- (A) Determine the number of pupils by grade level that the district requested a New Construction Grant on the *Application for Funding*, form SAB 50-04 (Rev. 09/01) that were denied financial hardship status.
- (B) Divide the number by grade level determined in (b)(5)(A) by 25 for K-5, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

If the district meets the financial hardship requirements in this Section, the amount of financial hardship is equal to the district's matching share less than funds deemed available in (a).

Once a district has been notified by the OPSC that it meets the requirements of financial hardship in this Section, the district may file an *Application for Funding*, Form SAB 50-04 (Revised 09/01) under the provisions of financial hardship anytime within a period of 180 calendar days from the date of the OPSC notification.

If the district does not submit an *Application for Funding*, Form SAB 50-04 (Rev. 09/01) under the provisions of financial hardship within 180 calendar days of the OPSC notification of approval of financial hardship status, the district must re-qualify for financial hardship status under the provisions of this Section by submittal of a new request for financial hardship status.

If the district submits an *Application for Funding*, Form SAB 50-04 (Rev. 09/01) within 180 calendar days of the OPSC notification of approval of financial hardship and the project(s) has been included on an unfunded list for more than 180 calendar days, a review of the district's funds pursuant to (a) will be made to determine if additional district funds are available to fund the 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).

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

Reference: Section 17075.10, 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 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 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, the Board will apportion all 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 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) For new construction projects, 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). For modernization projects, the Board will apportion an amount not to exceed 20 percent of the modernization grant less any district funds available for the project pursuant to Section 1859.81(a). The amount apportioned is an estimate of the funds needed for design, engineering, and other pre-construction project costs.

Qualifying districts may request a separate apportionment for the design and for site acquisition for the same new construction project.

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 and 1859.81 when the district submits an *Application For Funding*, Form SAB 50-04 (Revised 09/01). A district seeking a separate apportionment for site acquisition or design costs shall submit an *Application for Funding*, Form SAB 50-04 (Revised 09/01). 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 *Application For Funding*, Form SAB 50-04 (Revised 09/01) must be for at least 50 percent of the New Construction Grants or at least 80 percent of the Modernization Grants the district requested as a separate design apportionment.

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 [see *Application for Funding*, Form SAB 50-04 (Rev. 09/01)] 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 and 17075.15, Education Code.

Reference: Sections 17072.20 and 17072.33, Education Code.

#### Section 1859.82. Facility Hardship.

A district is eligible for facility hardship grant funding to replace or construct new classrooms and related facilities if the district demonstrates there is an unmet need for pupil housing or the condition of the facilities, or the lack of facilities, is a threat to the health and safety of the pupils. A facility hardship is available for:

- (a) New classrooms and/or subsidiary facilities (corridors, toilets, kitchens and other non-classroom space) or replacement facilities if either (1) or (2) are met:
- (1) The facilities are needed to ensure the health and safety of the pupils if the district can demonstrate to the satisfaction of the Board that the health and safety of the pupils is at risk. Factors to be considered by the Board shall include the close proximity to a major freeway, airport, electrical facility, high power transmission lines, dam, pipeline, industrial facility, adverse air quality emission or other health and safety risks, including structural deficiencies required by the DSA to be repaired, traffic safety or because the pupils reside in remote areas of the district and transportation to existing facilities is not possible or poses a health and safety risk.

If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to the OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the Current Replacement Cost of the classroom or related facility. The cost/benefit analysis may include applicable site development costs as outlined in Section 1859.76. If the cost to remain in the classroom or related facility is less than 50 percent of the Current Replacement Cost, the district may qualify for an excessive cost modernization grant for rehabilitation costs pursuant to Section 1859.83(e).

If the request is for replacement facilities that included structural deficiencies, the cost/benefit analysis must also include a report from a licensed design professional identifying the minimum work necessary to obtain DSA approval. The report must contain a detailed cost estimate of the repairs. The report and cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Construction Cost Publication and, at the OPSC's discretion, the DSA.

- (2) The classroom or related facility was lost or destroyed as a result of a disaster such as fire, flood or earthquake and the district has demonstrated satisfactorily to the Board that the classroom or related facility was uninsurable or the cost for insurance was prohibitive.

If the district qualifies for a new or replacement school pursuant to either (1) or (2) above, the district is eligible for New Construction Grants as a new construction project for the lesser of the pupils housed in the replaced facility based on loading standards pursuant to Education Code Section 17071.25(a)(2) or the latest CBEDS enrollment at the site.

If the district qualifies for replacement facilities on the same site pursuant to either (1) or (2) above, the district is eligible for funding as a new construction project. Replacement facilities shall be allowed in accordance with the square footage amounts provided in the chart in Section (b) below. If the facility eligible for replacement is not shown in the chart in Section (b) below, the replacement facility shall be limited to the square footage replaced. The grant amount provided shall be \$150 per square foot for toilet facilities and \$75 per square foot for all other facilities. Additional grants may be provided for applicable site development costs pursuant to Section 1859.76 and excessive cost grants pursuant to Section 1859.83. The amounts shown will be adjusted in the manner prescribed in Section 1859.71.

Any grants provided pursuant to either (1) or (2) above will be reduced for any space deemed available by the Board in the district or the HSAA that could be used to house some or all of the displaced pupils, fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

- (b) A multi-purpose room, toilet, gymnasium, school administration or library/media center, facility that meets all the following:
- (1) The facility was lost or destroyed as a result of a disaster, including but not limited to fire, flood or earthquake.
  - (2) The facility is no longer useable for school purposes as recommended by the California Department of Education and approved by the Board.
  - (3) The district has demonstrated satisfactorily to the Board that the facility was uninsurable or the cost of insurance was prohibitive.

If the district qualifies, the district is eligible for funding a new construction project. The funding amount provided shall be \$75 per square foot for library/media center, school administration, gymnasium and multi-purpose facilities, and/or \$150 per square foot for toilet facilities. Additional grants may be provided for applicable site development costs pursuant to Section 1859.76 and excessive cost grants pursuant to Section 1859.83. The amounts shown will be adjusted in the manner prescribed in Section 1859.71.

Any grants provided pursuant to (b) above, shall be reduced by fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

The square footage provided, after accounting for all useable facilities on the site, shall not exceed the following:

| Facility      | Elementary School Pupils                                            | Middle School Pupils                                                | High School Pupils                                                  |
|---------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|
| Multi-Purpose | 5.3 sq. ft. per pupil<br>minimum 3,500 sq. ft.                      | 5.3 sq. ft. per pupil<br>minimum 4,500 sq. ft.                      | 6.3 sq. ft. per pupil<br>minimum 7,500 sq. ft.                      |
| Mech./Elect.  | 0.3 sq. ft. per pupil<br>minimum 100 sq. ft.                        | 0.3 sq. ft. per pupil<br>minimum 100 sq. ft.                        | 0.3 sq. ft. per pupil<br>minimum 100 sq. ft.                        |
| Food Service  | 2 sq. ft. per pupil<br>minimum 400 sq. ft.<br>maximum 1,480 sq. ft. | 2 sq. ft. per pupil<br>minimum 400 sq. ft.<br>maximum 1,880 sq. ft. | 3 sq. ft. per pupil<br>minimum 600 sq. ft.<br>maximum 3,975 sq. ft. |
|               |                                                                     |                                                                     |                                                                     |
| Toilet        | 3 sq. ft. per pupil<br>minimum 300 sq. ft.                          | 4 sq. ft. per pupil<br>minimum 300 sq. ft.                          | 5 sq. ft. per pupil<br>minimum 300 sq. ft.                          |
|               |                                                                     |                                                                     |                                                                     |

|                       |                                            |                                                |                                                |
|-----------------------|--------------------------------------------|------------------------------------------------|------------------------------------------------|
| Gymnasium             | N/A                                        | 7 sq. ft. per pupil<br>minimum 5,828 sq. ft.   | 8 sq. ft. per pupil<br>minimum 7,280 sq. ft.   |
| Shower/Locker         | N/A                                        | 4 sq. ft. per pupil<br>minimum 400 sq. ft.     | 5 sq. ft. per pupil<br>minimum 500 sq. ft.     |
| P.E. Office           | N/A                                        | 50 sq. ft./coach                               | 50 sq. ft./coach                               |
| P.E. Storage          | N/A                                        | 0.5 sq. ft. per pupil<br>minimum 500 sq. ft.   | 0.5 sq. ft. per pupil<br>minimum 500 sq. ft.   |
| Bleachers             | N/A                                        | 0.9 sq. ft. per pupil<br>maximum 1,820 sq. ft. | 1.3 sq. ft. per pupil<br>maximum 2,600 sq. ft. |
| Mech/Elect            | N/A                                        | 0.3 sq. ft. per pupil<br>minimum 100 sq. ft.   | 0.3 sq. ft. per pupil<br>minimum 100 sq. ft.   |
| School Administration | 3 sq. ft. per pupil<br>minimum 600 sq. ft. | 3 sq. ft. per pupil<br>minimum 600 sq. ft.     | 4 sq. ft. per pupil<br>minimum 800 sq. ft.     |
| Library/Media Center  | 2.3 sq. ft. per pupil<br>plus 600 sq. ft.  | 3.3 sq. ft. per pupil<br>plus 600 sq. ft.      | 4.3 sq. ft. per pupil<br>plus 600 sq. ft.      |

A district may request a determination of eligibility for facility hardship funding in advance of project funding.

(c) A district seeking replaced facilities as a result of either (a) or (b) above must submit an *Application For Funding*, Form SAB 50-04 (Revised 09/01) for the replaced facilities:

- (1) Within 18 months if the replacement facilities will be located on the same site.
- (2) Within 24 months if the replacement facilities will be located on a replacement site.

If an Approved Application for the replaced facility is not accepted within the time periods identified in (c)(1) or (c)(2) above, the Board shall re-review the criteria submitted by the district for replacement of the facility prior to apportionment of the replaced facility.

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

Reference: Sections 17075.10 and 17075.15, Education Code.

#### Section 1859.83. Excessive Cost Hardship Grant.

In addition to the SFP New Construction and Modernization Grants, a district is eligible for an additional funding as a result of unusual circumstances that created excessive project costs beyond the control of the district. The excessive cost hardship grant shall be based on any of the following:

(a) Excessive Cost due to Geographic Location.

A district with a project that is located in a geographic area designated in the Geographic Percentage Chart below is eligible for and may request, as part of its application for a SFP new construction or modernization grant, to have the grant amount increased by the indicated percentage factor and funded as an excessive cost hardship.

#### GEOGRAPHIC PERCENTAGE CHART

| COUNTY                  | %<br>FACTOR | DESCRIPTION                                                                                                              |
|-------------------------|-------------|--------------------------------------------------------------------------------------------------------------------------|
| Alpine                  | 5           | The entire county.                                                                                                       |
| Amador,<br>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<br>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,              | 5           | All of Calaveras County except that portion lying west of State Highway 49.                                              |

| COUNTY                                            | %<br>FACTOR | DESCRIPTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Eastern Part                                      |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Del Norte                                         | 5           | The entire county.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| El Dorado,<br>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: <ul style="list-style-type: none"> <li>• West of a line drawn six miles east of and paralleling State Highway 49.</li> <li>• 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.</li> <li>• 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.</li> </ul> |
| Fresno,<br>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,<br>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,<br>Redwood<br>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,<br>State Highway<br>299 and<br>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,<br>Southeastern<br>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,<br>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,<br>Southeastern<br>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<br>Area                            | 5           | All of Inyo County except the southeastern part described above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Kern, Eastern<br>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,<br>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,<br>Northern Part                          | 15          | All of Lassen County except the southern part described above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Los Angeles,<br>Santa Catalina<br>Island only     | *           | The entire Santa Catalina Island.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Madera,<br>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,<br>Eastern Part                           | 5           | All of Madera County except the western part and the central part described above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Mariposa,                                         | 5           | All of Mariposa County except that portion lying west of:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

| COUNTY                                            | %<br>FACTOR | DESCRIPTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Eastern Part                                      |             | <ul style="list-style-type: none"> <li>A line drawn five miles east of, and paralleling State Highway 49 from the northern county line to Mormon's Bar; and</li> <li>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.</li> </ul>                                                                                                                                                                                                                                                                                                                           |
| Mendocino,<br>Fort Bragg<br>Area                  | 10          | Those portions of Mendocino County lying west of the Southern Redwood Highway Area, and south of the Ten Mile River.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Mendocino,<br>Northern<br>Redwood<br>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,<br>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,<br>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,<br>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<br>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,<br>Northeastern<br>Part                   | 5           | <p>All of Placer County except the Eastern Part and the following:</p> <ul style="list-style-type: none"> <li>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.</li> <li>Five miles either side of Interstate 80 from the southern boundary of the county and the northern limit of the community of Penryn.</li> <li>West of a line drawn five miles east of, and paralleling State Highway 49.</li> <li>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.</li> </ul> |
| Plumas                                            | 5           | The entire county.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Riverside,<br>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,<br>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.                                                                                                                                                                                                                                                                                                                                                                                    |
| San Benito,<br>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<br>Bernardino,<br>Northeastern<br>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                                               | 20          | That portion lying east of a north-south line drawn 150 miles west of the Arizona                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

| COUNTY                                  | %<br>FACTOR | DESCRIPTION                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Bernardino,<br>Eastern Part             |             | State Line and north to the county line and south to the county line.                                                                                                                                                                                                                                                                                                                                                                         |
| San Diego,<br>Northeastern<br>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,<br>Southwestern<br>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,<br>Northwestern<br>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<br>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,<br>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,<br>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,<br>Somes Bar<br>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,<br>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,<br>Yreka and<br>Residual Area | 5           | All of Siskiyou County except the Salmon River, Somes Bar and Western areas described above.                                                                                                                                                                                                                                                                                                                                                  |
| Sonoma,<br>Northwestern<br>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,<br>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 miles east of and paralleling State Highway 99 southward to the county line.                                                                     |
| Trinity,<br>Residual Area               | 15          | All of Trinity County except the State Highway 299 area described below.                                                                                                                                                                                                                                                                                                                                                                      |
| Trinity, State<br>Highway 299           | 10          | That portion of Trinity County situated within five miles of State Highway 299.                                                                                                                                                                                                                                                                                                                                                               |
| Tulare, Eastern<br>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,<br>Eastern Part               | 5           | All of Tuolumne County except that portion lying west of State Highway 49.                                                                                                                                                                                                                                                                                                                                                                    |
| Yuba,<br>Northeastern<br>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.                                                                                                                                                                                                                    |

\*As specifically approved by the Board.

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

A New Construction or Modernization Grant will be increased by 12 percent for a project that will house less than 101 pupils, or by four percent if the project will house no more than 200 pupils.

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

A New Construction Grant for a new elementary, middle or high school on a site with no existing school facilities shall be increased by the difference in the amount provided for the New Construction Grant and the amount shown below, based on the number of classrooms in the project:

| Class-rooms in project | Elementary School pupils | Middle School pupils | High School pupils |
|------------------------|--------------------------|----------------------|--------------------|
| 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 Grant funds provided under this subsection for a new high 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 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 Grant funds provided for that project.

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

A New Construction or Modernization Grant will be increased if site acreage for the project is:

- (1) 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 or Modernization Grant will be increased by eight percent.
- (2) 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 or Modernization Grant will be increased by 15 percent.
- (3) less than 30 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Grant will be increased by 50 percent.
- (4) less than 30 percent of the site size recommended by the CDE for the master planned project capacity. The Modernization Grant will be increased by 25 percent.

- (e) Excessive Cost for rehabilitation of facilities the Board has determined are a health and safety risk to the pupils pursuant to Section 1859.82(a)(1) and the cost/benefit analysis to mitigate the problem and remain in the facility is less than 50 percent of the Current Replacement Cost of the facility. If the district qualifies, the district is eligible for funding of rehabilitation costs as a modernization project. The grant amount provided is 80 percent of the amount of the cost estimate required in Section 1859.82(a)(1) that has been reviewed by the OPSC and approved by the Board.
- (f) Excessive cost due to handicapped access and fire code requirements:
  - (1) A modernization grant will be increased by three percent for handicapped access and fire code requirements.
  - (2) A modernization grant will be increased by \$80,000 for each new two-stop elevator required to be included in the project by the DSA. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71.
  - (3) A modernization grant will be increased by \$14,400 for each additional stop of the new elevator required in (2) above. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71.

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

Reference: Sections 17075.10 and 17075.15, Education Code.

## Article 10. Fund Release and Priority Points

### Section 1859.90. Fund Release Process.

With the exception of an apportionment made pursuant to Sections 1859.81.1(c), the OPSC will release State funds that have been apportioned by the Board to the district after submittal, by the district, of the *Fund Release Authorization*, Form SAB 50-05 (Revised 01/01), which is incorporated by reference. A district must submit the *Fund Release Authorization*, Form SAB 50-05 (Revised 01/01), within 18 months of the Apportionment of the SFP grant for the project or the entire New Construction or Modernization Adjusted Grant shall be rescinded without further Board action, and the pupils housed in the project 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 priority funding at the time of resubmittal.

The OPSC will release State funds that have been apportioned by the Board pursuant to Section 1859.81.1(c) to the district within 30 calendar days of the apportionment.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.30, 17074.15 and 17076.10, Education Code.

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

- (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 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) The Board shall declare that State funds are not available for new facility construction when the New Construction Grants requests Ready for Apportionment exceed the funds available for that purpose. This declaration shall serve as the mechanism for the Board to make the appropriate notifications as required, pursuant to Government Code Section 65995.7(a).
- (d) 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.
- (e) 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 and Section 65995.7, Government Code.

#### Section 1859.92. Priority Points For New Construction Projects.

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 *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), in effect at the time the district's application for funding was submitted to the OPSC for the project. The computation shall be made on a HSAA basis if the district utilized HSAA CBEDS enrollment data reported on the *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), 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 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) If 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 grant request.

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.

All modernization applications shall be funded in the order of receipt of an Approved Application for funding until all modernization funds available to the Board have been apportioned.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.15, 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.

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 1895.91 and 1859.92, the Board will continue to accept and process applications for eligibility determination. 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.

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: Section 17070.35, Education 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 *Application for Funding*, Form SAB 50-04 (Revised 09/01), 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: Section 17070.75, 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 *Application for Funding*, Form SAB 50-04, (Revised 09/01), that the district can maintain its facilities with a lesser annual deposit.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.75, Education Code.

#### Section 1859.102. Maintenance Plan.

A district shall certify on the *Application for Funding*, Form SAB 50-04 (Revised 09/01), 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. The certification shall be made on the Deferred Maintenance Five Year Plan, which shall be required annually from those districts receiving such funding.

Any maintenance plan developed in accordance with Education Code Section 17070.75(b)(3) shall be deemed to meet the requirements for an additional basic apportionment as provided under Education Code Section 17585.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.75 , 17070.77, 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. Savings may be declared by the district in writing to the OPSC any time after the release of all funds for the project.

The State's portion of any savings declared by the district or determined by the OPSC by audit must be used to reduce the SFP financial hardship grant of that project or other financial hardship projects within the district for a period of three years from the date the savings were declared by the district or determined by the OPSC audit. The State's portion of any savings from a new construction project may be used as a district matching share requirement, only on another new construction project, and the State's share of any savings from a modernization project may be used as a district matching share requirement, only on another modernization project.

Any interest earned on a financial hardship project will be treated as savings and will be used to reduce the SFP financial hardship grant for that project.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.63, Education Code.

#### Section 1859.104. Program Reporting Requirements.

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

- (a) An expenditure report from the district on the *Expenditure Report*, Form SAB 50-06 (Revised 01/00), which is incorporated by reference. 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 district for the project pursuant to Section 1859.90, 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 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 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 district, shall be due 18 months from the date any funds were released to the district for the project pursuant to Section 1859.90. The progress report shall include information regarding the progress the district has made towards substantial completion of the project. If the funds were received in accordance with Section 1859.81.1(c) or the notice of completion has been filed within 18 months of the release of funds pursuant to Section 1859.90, 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 district for the project pursuant to Section 1859.75.1. The progress report shall include information regarding the progress the 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).

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

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

#### Section 1859.104.1. Material Inaccuracy Penalties.

When the Board makes a finding that a Material Inaccuracy occurred for a New Construction or Modernization 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 New Construction or Modernization Project information for a period of up to five years from the date the Board make 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 New Construction and Modernization 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 New Construction or Modernization 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 New Construction and Modernization 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 New Construction or Modernization 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 New Construction and Modernization 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.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.51, 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 1859.104.2(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 B, and the special day class pupils report in Part C of the latest *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01). 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 pursuant to Section 1859.70, 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.
  - (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.
- (c) When the district has received funds pursuant to Section 1859.81.1(c), 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 submittal of an Approved Application.

After the Board has received the progress report required in Section 1859.104(b) for items (a) and (b) 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) or (b) 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 *Expenditure Report*, Form SAB 50-06 (Revised 01/00) 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 and 17076.10, 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 1859.106. Program Accountability Expenditure Audit.

The projects will be audited to assure that the expenditures incurred by the district were made in accordance with the provisions of Education Code Section 17072.35 for new construction projects and Education Code Section 17074.25 and Section 1859.79.2 for modernization projects. The audit will also assure that the district complied with all site acquisition guidelines as provided in Sections 1859.74, 1859.74.1, 1859.74.2, 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 and the hazardous waste removal costs that were used to determine the New Construction Additional Grant and the actual amount paid by the district for the site, the relocation cost, the DTSC fee, and the costs for hazardous waste materials removal.
- (b) For 50 percent of any insurance proceeds collectable by the district for displaced facilities and 50 percent of the net proceeds available from the disposition of displaced facilities pursuant to Section 1859.82(a) or (b).
- (c) The difference in the hazardous waste removal costs that was used to determine the New Construction Additional Grant for Hazardous Waste Removal on an Existing Site and the actual amount paid by the district for the allowable cost for hazardous waste removal.

When the OPSC receives the final expenditure report from the district on *Expenditure Report*, Form SAB 50-06 (Revised 01/00), an audit of the expenditures by the OPSC shall commence within two years of the report. If the 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 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.

Districts shall be required to maintain all appropriate records that support all district certifications and expenditures for all costs associated with SFP 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.

Should the OPSC conduct an audit of the 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 and Education Code Section 17074.25 and Section 1859.79.2 for modernization projects, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings. Upon adoption of the audit findings by the Board, the district must submit a warrant for any amount identified as being owed within 60 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures from the School Fund Apportionment as outlined in Education Code Section 17076.10(c).

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. Upon adoption of the finding by the Board, the district must submit a warrant for any amount identified as being owed within 60 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures from the School Fund Apportionment as outlined in Education Code Section 17076.10(c).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17072.35, 17074.25, 17076.10 and 17251, 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 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 or 1859.78 at the time the apportionment is made. 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 approved "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.

An 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.

A funding application 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. 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.

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 an *Application for Funding*, Form SAB 50-04 (Revised 09/01).

Any application for new construction eligibility determination that has not received an approval must be amended to conform to the *Existing School Building Capacity*, Form SAB 50-02 (Revised 07/01) and the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01) prior to submittal of an *Application for Funding*, Form SAB 50-04 (Revised 09/01).

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 an *Application for Funding*, Form SAB 50-04 (Revised 09/01).

Any application for modernization eligibility determination that has not received an approval must be amended to conform to the *Eligibility Determination*, Form SAB 50-03 (Revised 01/01) prior to submittal of an *Application for Funding*, Form SAB 50-04 (Revised 09/01).

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).

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 an *Application for Funding*, Form SAB 50-04 (Revised 09/01). The amended eligibility application shall retain its original OPSC processing date.

A district that has received an approval of its eligibility determination on a district-wide, HSAA or Super HSAA basis, but received no New Construction Grants, may re-file on another eligibility determination basis provided it withdraws all previously submitted *Application for Funding*, Form SAB 50-04 (Revised 09/01) requests for New Construction Grants, including those on the Unfunded List.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35 and 17070.63, Education Code.