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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 1859.106 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.
"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).
"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 Education Data System by school districts to the CDE.
"CDE" means the California Department of Education and 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).
"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 space 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.
"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).
"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.
"Independent Audit" means an examination and report of the district's accounts by a certified public accounting firm.
"Interim Housing" means the rental or lease of classrooms used to house pupils temporarily displaced as a result of the modernization of classroom facilities.
"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 Regulation Part 300.5.
"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.
"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).
"Modernization Adjusted Grant" means the total of the modernization grant, plus any additional and excessive grants.
"Modernization Grant" means the funding provided pursuant to Education Code Section 17074.10(a).

"Modernization Eligibility" means the result of the calculation contained in either Option A or B of the *Eligibility Determination* Form SAB 50-03 (Revised 8/99).
"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) and (d) and Education Code Section 17072.12.
"New Construction Adjusted Grant" means the amount of funding provided by a new construction grant, plus any additional and excessive cost grant funds.
"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).
"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 300.5.
"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 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).
"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).
"Pupil" means a student enrolled in any grade Kindergarten through grade 12.
"Rehabilitation Cost" means health and safety mitigation cost that is less than 50 percent of the current replacement cost of the facility.
"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.
"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 153000 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.
"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).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17072.10, 17072.12, 17074.10, 17075.10, 17975.15, 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 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.

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 1859.16. 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.

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 modernization projects, an application for *Eligibility Determination*, Form SAB 50-03 (Revised 8/99), which is incorporated by reference.
(b) For new construction projects, either districtwide or HSAA, an *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 8/99), which is incorporated by reference.
(c) For new construction projects, an *Existing School Building Capacity*, Form SAB 50-02 (Revised 8/99), 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 and 17073.10, 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 8/99), which is incorporated by reference.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.63, 17072.30 and 17074.15, 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 8/99). 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 or 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 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.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 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 8/99).

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 amounts calculated in (a) with the amount determined in (b) or (c), whichever is the 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 8/99). The information provided on this Form shall serve as the basis for determining a district's eligibility for New Construction Grants.

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.

If a district reports enrollment on the basis of one or more HSAA, eligibility for future grants, with the exception of community school pupil grants for a county superintendent, in that HSAA or HSAAs must be filed on the same basis. When only a portion of the enrollment at a feeder school actually contributes to the HSAA or combined HSAAs, 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 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.

Combining two or more HSAAs to determine eligibility is allowed if all the HSAA are adjacent and the facilities constructed will serve pupils in each of those HSAA.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17071.75, 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 8/99), shall be used to calculate the district's projected enrollment other than Special Day Class enrollment. The OPSC shall use the following methodology to determine the districts 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 8/99), 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 8/99), 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 8/99).
(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 8/99), 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 8/99).

(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 increase, 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 8/99), 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 8/99).

The calculated eligibility on the *Eligibility Determination,* Form SAB 50-03 (Revised 8/99), is the initial eligibility of the district or HSAA and shall be referenced as the baseline eligibility for future SFP grants. The baseline eligibility is the basis for filing an *Application For Funding*, Form SAB 50-04 (Revised 8/99), for a new construction SFP grant.

A district affected by reorganization may not file an application for funding for new construction grants after the reorganization has become effective until a new calculation of the district's eligibility has been determined on the *Eligibility Determination,* Form SAB 50-03 (Revised 8/99), or the district certifies that no change has occurred in the district's enrollment or existing school building capacity as a result of the reorganization.

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 8/99), 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), 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), in a modernization SFP project.
(d) Adjusted as a result of the audit findings made pursuant to Section 1859.105.
(e) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years.
(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 effect the eligibility.
(h) Increased by the number of pupils eligible for grants pursuant to Section 1859.82 (a).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.25, 17071.75 and 17071.76, 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 8/99). 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 8/99), 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.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.25, 17073.15 and 17073.20, Education Code.

Article 8. New Construction and Modernization Grant Determinations.

Section 1859.70. General.

A district seeking New Construction or Modernization Grants shall complete and file an *Application for Funding*, Form SAB 50-04 (Revised 8/99), after completing the applicable requirements in Section 1859.20.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 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 1859.72. Additional Grant for an Individual with Exceptional Needs.

The New Construction Grant will be increased for all Individuals With Exceptional Needs to be housed in the project as follows:

(a) By ten percent for a pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) By 100 percent for a pupil that is a Severely Disabled Individual with Exceptional Needs.
(c) If the project will include therapy room area for use by pupils that are Severely Disabled Individuals with Exceptional Needs, the district may request an increase in the new construction grant in the amount of $75 per square foot of 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 $75 amount shall be adjusted annually in the manner prescribed in Section 1859.71.

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

Reference: Sections 17072.10 and 56026, Education Code

Section 1859.73. 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 1859.74. Additional Grant for Site Acquisition Cost.

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 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/approval and Phase One and Phase Two site environmental assessment costs.

(3) Increased by the actual cost of preparing an action plan for toxic contamination and the cost of implementing that plan provided all the following are met:

(A) The CDE certifies that there are no other available alternative sites that meet the standards adopted by the CDE pursuant to Education Code Section 17251 (b) or (c).

(B) The action plan for toxic contamination was developed in accordance with the minimum standards required by the Department of Toxic Substance Control.

(C) The cost for implementation of the action plan was made in accordance with all state and federal laws.

(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/approval and Phase One and Phase Two site environmental assessments costs.

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 8/99), 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% 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) thorough (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 1859.75. Alternative District-Owned Site.

In order to receive a 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 1859.76. 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.
(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 and 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 8/99).

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

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

Note: Authority cited: Section 17070.35, Education Code.

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

Section 1859.77.1. New Construction District Matching Share Requirement.

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.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.30, 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.

The Modernization Grant will be increased for all Individuals With Exceptional Needs to be housed in the project as follows:

(a) By ten percent for a pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) By 100 percent for a pupil that is a Severely Disabled Individual with Exceptional Needs.

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

Reference: Sections 17071.25, 17074.10 and 56026, 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.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.15, Education Code.

Section 1859.79.1. Modernization Reimbursement.

The Board will not provide Modernization Grants 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 American 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.

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 developer fees, 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 obligated by a contractual agreement or encumbered for a specific capital outlay purpose shall be deemed available as a matching contribution, unless the district can present satisfactory evidence to the contrary. The analysis is subject to approval by the Board.

    If the district's available funds, as determined by the OPSC analysis, 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 application submittal for funding, is at least 30 percent of the district's total bonding capacity or within $900,000 of 30 percent of its total bonding capacity. Outstanding bonded indebtedness includes that part of general obligation bonds, Mello-Roos 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 registered voter bond election such as a general obligation bond, Mello-Roos Bond or a School Facility Improvement District, within the previous four years, that received at least a 50 percent plus one vote, for an amount that is equal to or greater than the amount needed to fund the district's matching share requirement for that project (not to exceed the bonding capacity of the district) and any other SFP project to date.
(3) It is a County Superintendent of Schools.
(4) The project for which the district is requesting financial hardship meets all the following:
(A) It has been approved as a health and safety facility hardship pursuant to Section 1859.82 (a) (1) or the project was approved as a hardship under the provisions of the LPP.
(B) The district's contribution for the project is less than $500,000, exclusive of allowable site acquisition cost pursuant to Section 1859.74.
(5) Other evidence of reasonable effort as approved by the SAB.

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 funds deemed available in (a).

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 a separate apportionment for the following:
(a) For new construction projects, an amount not to exceed 100 percent of the lesser of the actual or appraised value of the site as provided in Sections 1859.74, 1859.74.1 and 1859.75.
(b) For new construction or modernization projects, an amount not to exceed 20 percent of the new construction or modernization grant amount 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 allowed in (a) and (b) may not exceed the amount of financial hardship funding the district is otherwise eligible for. The amount provided as a separate apportionment shall be offset from the New Construction or Modernization Grant amount the district would otherwise be eligible for pursuant to 1859.70. A district seeking a separate apportionment for site acquisition or design costs shall submit an *Application for Funding,* Form SAB 50-04 (Revised 8/99).

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

Reference: Sections 17072.20 and 17072.33, Education Code.

Section 1859.82. Facility Hardship Grant.

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. The grant amount provided shall be $150 per square foot for toilet facilities and $75 per square foot for all other facilities approved for replacement. 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 annually 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 grant 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 annually 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 minimum 3,500 sq. ft.	5.3 sq. ft. per pupil minimum 4,500 sq. ft.	6.3 sq. ft. per pupil minimum 7,500 sq. ft.
Mech./Elect.	0.3 sq. ft. per pupil minimum 100 sq. ft.	0.3 sq. ft. per pupil minimum 100 sq. ft.	0.3 sq. ft. per pupil minimum 100 sq. ft.
Food Service	2 sq. ft. per pupil minimum 400 sq. ft. maximum 1,480 sq. ft.	2 sq. ft. per pupil minimum 400 sq. ft. maximum 1,880 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft. maximum 3,975 sq. ft.
Toilet	3 sq. ft. per pupil minimum 300 sq. ft.	4 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
Gymnasium	N/A	7 sq. ft. per pupil minimum 5828 sq. ft.	8 sq. ft. per pupil minimum 7280 sq. ft.
Shower/Locker	N/A	4 sq. ft. per pupil minimum 400 sq. ft.	5 sq. ft. per pupil 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 minimum 500 sq. ft.	0.5 sq. ft. per pupil minimum 500 sq. ft.
Bleachers	N/A	0.9 sq. ft. per pupil maximum 1820 sq. ft.	1.3 sq. ft. per pupil maximum 2600 sq. ft.
Mech/Elect	N/A	0.3 sq. ft. per pupil minimum 100 sq. ft.	0.3 sq. ft. per pupil minimum 100 sq. ft.
School Administration	3 sq. ft. per pupil minimum 600 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft.	4 sq. ft. per pupil minimum 800 sq. ft.
Library/Media Center	2.3 sq. ft. per pupil + 600 sq. ft.	3.3 sq. ft. per pupil + 600 sq. ft.	4.3 sq. ft. per pupil + 600 sq. ft.

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

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 grant as a result of unusual circumstances that created excessive project costs beyond the control of the district. The excessive cost 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	% FACTOR	DESCRIPTION
Alpine	5	The entire county.
Amador, Eastern Part	5	All of Amador County except the portion lying west of a line drawn five miles east of, and paralleling State Highway 49.
Butte, Eastern Part	5	All of Butte County except that portion lying west of a line drawn ten miles east of, and paralleling State Highway 99.
Calaveras, Eastern Part	5	All of Calaveras County except that portion lying west of State Highway 49.
Del Norte	5	The entire county.
El Dorado, Eastern Part	15	That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to State Highway 88.
El Dorado	5	El Dorado County except the eastern part and the following areas: • West of a line drawn six miles east of and paralleling State Highway 49. • Within five miles of either side of U.S. highway 50 from the western county line to a point on the eastern limit of the community of Pollock Pines. • West of a line drawn three miles easterly from and paralleling a certain county road described as the Pleasant Valley Road which connects the community of Aukum with Diamond Springs and with the city of Plymouth.
Fresno, Eastern Part	5	All of Fresno County lying east of a line drawn ten miles east of, and paralleling the west boundary of the Sierra National Forest.
Glenn, Western Part	5	All of Glenn County except that portion lying east of a line drawn ten miles west of, and paralleling Interstate Highway 5.
Humboldt, Redwood Highway	5	That portion of Humboldt County situated within five miles of the Redwood Highway (U.S. 101) except for that portion situated within ten miles of the Redwood Highway from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell.
Humboldt, State Highway 299 and Vicinity	5	That portion of Humboldt County situated within five miles of State Highway 299 and State route 96, except for those portions situated within ten miles of the Redwood Highway (U.S. 101) from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell.
Humboldt, Southeastern Part	15	That portion of Humboldt county adjacent to or east of, the road between Harris to Blocksburg to a point ten miles north of Blocksburg.
Humboldt, Residual Area	10	All areas of Humboldt County not classified in other cost groups except for that portion situated within ten miles of the Redwood Highway from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell.
Imperial	5	The entire county.
Inyo, Southeastern Part	20	That portion of Inyo County situated east of the western boundary of the Death Valley National Monument from the northern boundary of said national monument to the southern boundary of the county.
Inyo, Residual Area	5	All of Inyo County except the southeastern part described above.
Kern, Eastern Part	5	That portion of Kern County lying east of a north-south line drawn through the eastern boundary of the town of Tehachapi.
Lake	5	The entire county.

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

Riverside, Eastern Part	20	That portion lying east of a north-south line drawn 50 miles west of the Arizona State Line and north to the county line and south to the county line.
Riverside, Central Part	5	That portion of Riverside County lying east of a north-south line drawn through the intersection of Interstate 10 and Fields Road extending from the southern county line of Riverside County, north to the southern county line of San Bernardino County to the Eastern Part of the County.
San Benito, Southern Part	5	All of San Benito County except that portion lying north of an east-west line drawn across the county from a point two miles south of the community of Paicines.
San Bernardino, Northeastern	5	That portion of San Bernardino County lying north and east of an east-west line drawn two miles north of Oro Grande, extending from the western boundary of the county to its intersection with the northerly extension of, and thence along a line drawn through the following points: A point five miles east of Victorville, the eastern edge of the communities of Running Springs and Camp Angelus then due south to the San Bernardino County line.
San Bernardino, Eastern Part	20	That portion lying east of a north-south line drawn 150 miles west of the Arizona State Line and north to the county line and south to the county line.
San Diego, Northeastern Part	10	That portion of San Diego County lying east of a north-south line drawn ten miles east of the community of Julian, said line extending from the northern boundary of the county to its intersection with an east-west line extending from the eastern boundary of the county to its intersection with the aforesaid north-south line, said east-west line being at its closest point, three miles due north of the community of Mount Laguna.
San Mateo, Southwestern Part	5	That portion of San Mateo County lying more than two miles westerly from the nearest point on Skyline Boulevard and south of an east-west line drawn through a point two miles north of the community of Montara.
Santa Cruz, Northwestern Part	5	That portion of the Santa Cruz County lying northerly and westerly from a line drawn from a point one mile north of Swanton on the coast through a point one mile north of Brookdale and situated more than two miles from the nearest point on the eastern boundary of the county.
Shasta, except Valley Area	5	All of Shasta County except that portion lying south of Shasta Lake and situated within ten miles of Interstate Highway 5.
Sierra	5	The entire county.
Siskiyou, Central Part	15	That portion of Siskiyou County situated within ten miles of U.S. Highway 97 from Grass Lake to the Oregon State Line.
Siskiyou, Salmon River	25	All of the drainage area of the Salmon River (including the North and South Forks) except that portion situated within the Somes Bar Area described below.
Siskiyou, Somes Bar Area	20	Those portions of the drainage areas of the Salmon and Klamath Rivers located within the boundaries of the Junction Elementary School District.
Siskiyou, Western Part	15	That portion of Siskiyou County lying westerly from a line drawn ten miles west of and parallel to Interstate 5, except the Somes Bar and Salmon River areas described above.
Siskiyou, Yreka and Residual Area	5	All of Siskiyou County except the Salmon River, Somes Bar and Western areas described above.

Sonoma, Northwestern Part	5	That portion of Sonoma County enclosed by a line following the northern boundary of the county from the Pacific Ocean to a point 15 miles inland, thence southerly to a point two miles west of the community of Los Lomas, thence southerly to a point on the coast two miles south of the community of Fort Ross, thence northerly along the coast line to the northern boundary of the county.
Tehama, Residual Area	5	All of Tehama County except those portions situated within ten miles west of Interstate Highway 5 from the north county line to the southern county line; within ten miles east of Interstate Highway 5 from the north county line southward to a point east of Red Bluff, thence within ten miles east of and paralleling State Highway 99 southward to the county line.
Trinity, Residual Area	15	All of Trinity County except the State Highway 299 area described below.
Trinity, State Highway 299	10	That portion of Trinity County situated within five miles of State Highway 299.
Tulare, Eastern Part	5	That portion of Tulare County lying east of a north-south line drawn through the western limits of the community of Silver City.
Tuolumne, Eastern Part	5	All of Tuolumne County except that portion lying west of State Highway 49.
Yuba, Northeastern Part	5	All of Yuba County except that portion lying west of a line drawn ten miles east of, and paralleling State Highway 65 and that portion lying south of a line drawn three miles north of, and paralleling State Highway 20.

* 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 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 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.

(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 Division of the State Architect (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.

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 8/99), which is incorporated by reference. A district must submit the *Fund Release Authorization,* Form SAB 50-05 (Revised 8/99), 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 re-file a new application for the project subject to district eligibility and priority funding at the time of re-submittal.

Note: Authority cited: Section 17070.35, Education Code.

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

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

The OPSC shall report to the Board on a monthly basis the status of funds available for New Construction Grants and the aggregate amount of SFP New Construction Grant requests that have been received but not yet funded. The Board shall declare that State funds are insufficient for New Construction Grants when the SFP grant requests that are ready for Apportionment exceed the funds available for that purpose. This declaration will implement the priority point system and the Board shall approve new construction projects and apportion funds based on the highest priority points assigned to projects. 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).

All New Construction Grant requests shall be funded in date order received until such time that the Board declares that the available funds for construction are insufficient to finance the grant requests ready for Apportionment. When this occurs, the Board shall fund those projects with the highest number of priority points first. When one or more projects have the same number of priority points assigned, the projects will then be funded by the date order the applications for funding were received by the OPSC.

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 project shall be based on the following computations rounded to the nearest whole number. The computation shall be on a districtwide or the HSAA basis utilizing CBEDS enrollment data reported on the *Enrollment Certification/Projection,* Form SAB 50-01 (Revised 8/99), in effect at the time the district's application for funding was submitted to the OPSC for the project. A project may receive a maximum of 220 points based on the total of (a), (b) and (c):

(a) A maximum of 100 points 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) A maximum of 100 points 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 20 points for the following:
(1) Six points if the district's CBEDS enrollment at the time of application submittal to the OPSC for funding is less than 2,501.
(2) Six points for a County Superintendent of Schools' project.
(3) Six points for a facility hardship project that meets the requirements of Sections 1859.82(a) and (b).
(4) Six points for a project that used "stock plans" pursuant to Education Code Section 17070.33(b)(6).
(5) Six points if the district's CBEDS enrollment at the time of application submittal to the OPSC for funding is less than 301.

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

Reference: Sections 17072.25 and 17070.33, Education Code.

Section 1859.93. Modernization Projects.

All modernization applications shall be funded in the order of receipt of an approvable 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 as a result of the reservation of funds made pursuant to (b), the district may elect to either:
(1) Accept funding for the project based on the New Construction or Modernization Adjusted Grant less any hardship funding grants that are not available pursuant to (b). When this option is made, the funds allocated shall be the full and final apportionment for the project.
(2) Suspend its application for funding until funding for the specific hardship grant is available to the Board. Applications of this nature will be retained by the OPSC and included on a list for future funding based on the date the district elected to suspend the application.

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 allocate to either New Construction or Modernization Grants, the Board will continue to accept, process and approve applications for eligibility determination. The Board will also accept and process applications for funding for purposes of developing an information list of projects based on the date an eligible application was received by the OPSC.

Note: Authority cited: Section 17070.35, 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 8/99), that a restricted account within the district's general fund has been established for the exclusive purpose of providing ongoing 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 8/99), 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 8/99), that it has developed an ongoing and major maintenance plan in accordance with Education Code Section 17070.75.

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 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.

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 8/99), 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) 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 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.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35 and 17076.10, Education Code.

Section 1859.105. Program Accountability Progress Audit.

The Board shall conduct a Progress Audit 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 any of the following:

(a) At least 75 percent of all site development work that is necessary prior to building construction activity is complete.
(b) 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.
(c) All construction activities are at least 50 percent complete.
(d) Other evidence satisfactory to the Board of circumstances beyond the control of the district that precludes substantial progress being made.

After the Board has received the progress report required in Section 1859.104(b), 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), the district must report the final expenditures on the project on the *Expenditure Report Form*, SAB 50-06 (Revised 8/99), to the OPSC within 30 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. The recommendation will be made at the next regularly scheduled Board meeting. If the expenditure report is not received within the 30 days, the OPSC will recommend that the apportionment be rescinded.

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 re-file a new application for the project subject to district eligibility and priority funding at the time of re-submittal.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35 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 and 1859.75.

An adjustment in the SFP grant will be made for the difference in the value of the site that was used to determine the New Construction Additional Grant provided for site acquisition and the actual amount paid by the district for the site as indicated in the escrow instructions.

When the OPSC receives the final expenditure report from the district on *Expenditure Report*, Form SAB 50-06 (Revised 8/99), 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.