

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 5.8. Regulations Relating to the Full-Day Kindergarten Facilities Grant Program

Article 1. Full-Day Kindergarten Facilities Grant Program

Section 1860. Purpose.

These regulations implement the Full-Day Kindergarten Facilities Grant Program (Program), which establishes a State program to provide one-time grant funding of one hundred million dollars (\$100,000,000), to School Districts to construct new school facilities or retrofit existing school facilities, for the purpose of providing full-day kindergarten classrooms as specified in Education Code (EC) Section 8973.

Note: Authority cited: Section 17375, Education Code

Reference: Sections 8973 and 17375, Education Code.

Section 1860.1. General Services Director.

Pursuant to Government Code Section 15490(c), the Director of General Services shall provide assistance to the State Allocation Board (Board) as the Board requires.

The General Services Director, or his or her legal designee, shall perform all acts necessary to carry out the provisions of the Program except such functions as are reserved to the Board and to other agencies by applicable statute or by regulations.

Note: Authority cited: Section 17375(a), Education Code.

Reference: Sections 17375(a), Education Code; 14608 and 15490(c), Government Code.

Section 1860.2. Definitions.

For the purpose of these regulations, the terms set forth below shall have the following meanings, subject to the provisions of the Program:

"Application" means a request pursuant to the Program to apply for grant funding for a school project.

"Apportionment" means a reservation of funds by the Board for the purpose of funding Approved Applications for New Construction or Retrofit to an applicant school district.

"Approved Application" means a School District has submitted a Form SAB 70-01 and all documents to the Office of Public School Construction (OPSC) that are required to be submitted with the Form SAB 70-01 as identified in the Specific Instructions Section of Form SAB 70-01.

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

"CBEDS Report" means the enrollment information provided through the California Basic Educational Data System (CBEDS) by school districts to the California Department of Education.

"California Department of Education (CDE)" means the offices within that department that have responsibility for school facilities matters.

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

"Class B Construction Cost Index" is a construction factor index for structures made of reinforced concrete or steel frames, concrete floors, and roofs, and accepted and used by the Board.

"Classroom" means a teaching station that was constructed or reconstructed to serve as an area in which to provide pupil instruction but shall not include portable buildings unless it is an existing classroom that is being retrofitted but not replaced.

"Classroom Provided" means a classroom acquired by lease, lease-purchase, or purchase for which a contract has been signed for the construction or acquisition of the classroom.

"County Fund" means the fund established in the county treasury within each county for each school district in the county.

"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 a 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.

"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.

"Facility" means all or a portion of any real property, site improvements, utilities and/or buildings or other improvements contained in the project.

"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 1860.11 and 1860.13.

"Form SAB 70-01" means the *Application for Funding*, Form SAB 70-01 (New 10/18), which is incorporated by reference.

"Form SAB 70-02" means the *Fund Release Authorization*, Form SAB 70-02 (New 10/18), which is incorporated by reference.

"Form SAB 70-03" means the *Expenditure Report*, Form SAB 70-03 (New 10/18), which is incorporated by reference.

"Full-Day Kindergarten Classroom" means a teaching station that meets the design requirements required for new kindergarten classrooms as specified in paragraph (2) of subdivision (h) of Section 14030 of Title 5 of the California Code of Regulations.

"Fund" means the Full-Day Kindergarten Facilities Grant Program Account established pursuant to Education Code Section 17375(a).

"Governmental Agency" shall include but is not limited to a public entity as defined in Government Code Section 7260(a) including California federally recognized or historically established tribal governments.

"Grant Agreement" means *Grant Agreement* (New 10/18), which is incorporated by reference.

"In Escrow, Governmental Entities" means the approval and signature of instrument(s) that will convey a specified school parcel or site from the public/government entity including the federal government for a determinable sum, and for a determinable date of acquisition which may be based on the School District's receipt of funding from the State.

"In Escrow, Non-Governmental Entities" means the deposit of signed instrument(s) and/or funds with instructions with a title company or escrow agent to carry out the provisions of an agreement or contract to acquire a specified school parcel or site for a determinable sum, and for a determinable date of acquisition which may be based on the School District's receipt of funding from the State.

"Instrument" means a written, legally enforceable agreement, approved and signed by all parties to the escrow, for the conveyance to the district of real estate for a specified parcel or site, that includes a compensation clause and either a purchase option agreement, a purchase agreement, promissory note, lease agreement, installment sales contract, gift, or other real estate conveyance valid in the State of California for property conveyed from a public/government entity, including the federal government.

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

"Low Income" shall be the percentage of pupils deemed eligible for Free and Reduced Price School Meals as identified in the most recent Free and Reduced Price School Meals data on file at the CDE. The data on file with CDE shall be determined to be the information collected for the month of October, and any errors and omissions amendments to that information for that time period that have been received and approved by the CDE.

"New Construction" means a construction project to adequately house kindergarten pupils in an approved project, which may include the costs of design, engineering, testing, inspections, plan checking, construction management, site acquisition and development, evaluation and response action costs relating to hazardous substances at a new or existing schoolsite, demolition, construction, landscaping, necessary utility costs, utility connections and other related fees, equipment including telecommunication equipment to increase school security, furnishings, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.

"New Construction Grant" means the funding provided pursuant to EC Section 17375(f)(1) and Sections 1860.9 through 1860.10.3.

"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 Program on behalf of the Director.

"Phase One Environmental Site Assessment (POESA)" means a preliminary assessment of a property to determine whether there has been or may have been a release of a hazardous material, or whether a naturally occurring hazardous material is present, based on reasonably available information about the property and the area in its vicinity. A phase I environmental assessment shall meet the most current requirements adopted by the American Society for Testing and Materials (ASTM) for Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process or meet the requirements of Part 312 (commencing with Section 312.1) of Title 40 of the Code of Federal Regulations. That ASTM Standard Practice for Environmental Site Assessments or the requirements of Part 312 (commencing with Section 312.1) of Title 40 of the Code of Federal Regulations shall satisfy the requirements of this article for conducting a phase I environmental assessment unless and until the Department of Toxic Substances Control adopts final regulations that establish guidelines for a phase I environmental assessment for purposes of school sites that impose different requirements.

"Piggyback Contract" means a contract for acquisition of personal property, without advertising for bids, as authorized by Public Contract Code Section 20118.

"Portable Classroom" means a classroom building of one or more stories that is designed and constructed to be relocatable and transportable over public streets, and with respect to a single story portable classroom, is designed and constructed for relocation without the separation of the roof or floor from the building and when measured at the most exterior walls, has a floor area not in excess of 2,000 square feet.

"Program" means the Full-Day Kindergarten Facilities Grant Program.

"Property" includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of this chapter.

"Pupil" means a student enrolled in any grade Kindergarten through grade twelve.

"Ready for Apportionment" means a final review of an Approved Application has been completed by OPSC and it has been determined that it meets all requirements of law for an Apportionment and OPSC will recommend approval to the Board.

"Remedial Action Plan (RAP)" means a plan approved by the Department of Toxic Substances Control (DTSC) pursuant to Health and Safety Code Section 25356.1.

"Response Action (RA)" means the removal of hazardous materials and solid waste, the removal of hazardous substances, and other remedial actions in connection with hazardous substances at the site.

"Retrofit" means a construction project to retrofit an existing school facility to adequately house kindergarten pupils, which may only include the costs of design, engineering, testing, inspection, plan checking, construction management, demolition, construction, necessary utility costs, utility connection and other related fees, the purchase and installation of air-conditioning equipment and insulation materials and related costs, furniture and equipment, including telecommunication equipment to increase school security, fire safety improvements, playground safety improvements, the identification, assessment, or abatement of hazardous asbestos, seismic safety improvements, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.

"Retrofit Grant" means the funding provided pursuant to Education Code Section 17375(f)(2) and Section 1860.12.

"School District" means a school district exclusive of county offices of education, charter schools, joint powers of authority, Local Education Agencies, and the State Department of Education.

"Small School District" means a School District with current districtwide enrollment, including pupils enrolled in grades K-12, continuation high pupils and special day class pupils, that is 2,500 or less.

"Useable Acres" means the gross acreage of a school site less any portion of the site publicly dedicated for off-site street improvements and any portion of the site not available for school purposes as determined by the CDE because of topological impediments or because of other unique circumstances.

Note: Authority cited: Sections 17280 and 17375, Education Code.

Reference: Sections 17280 and 17375, Education Code; 1771.5, Labor Code.

Section 1860.3. General.

A School District seeking funding for a new construction or retrofit project pursuant to the provisions of Education Code Section 17375 shall complete and file with OPSC, the Form SAB 70-01 and all necessary documents, as defined by Approved Applications.

This Program takes effect June 27, 2018. New Construction Grant and Retrofit Grant funding may be provided for a project if the district entered into a construction contract for that project on or after June 27, 2018.

Note: Authority cited: Section 17375(g), Education Code.

Reference: Section 17375(g), Education Code.

Section 1860.4. Funding Guidelines

Funds available for the Full-Day Kindergarten Facilities Grant Program must be encumbered by the Board by June 30, 2021. Funds that are not completely encumbered or that return to the program through project rescissions may be applied as follows:

- (a) Any funds that return on or before June 30, 2021, shall be returned to the Full-Day Kindergarten Facilities Grant Program Account and may be used to provide additional Apportionments.
- (b) Any funds that return, or remain unencumbered by the Board, on or after June 30, 2021, shall be returned to the General Fund.

Note: Authority cited: Sections 17375, Education Code; 16304 and 16304.1, Government Code

Reference: Section 17375, Education Code.

Section 1860.5. Program Eligibility Criteria.

A School District may apply for funding made available pursuant to EC Section 17375 by submittal of a Form SAB 70-01, if all of the following requirements are met:

- (a) The School District has a school board resolution providing approval to provide full-day kindergarten instruction at the project school site or will have approval to provide full-day kindergarten instruction at the completion of the project.
- (b) The School District lacks the facilities to provide full-day kindergarten instruction at the project school site.

A project school site will be considered lacking full-day kindergarten facilities if the kindergarten enrollment, based on the most current CBEDS Report or School District documents such as registration for the school or classroom attendance rosters, exceeds the existing kindergarten classroom capacity prior to the construction of the project. For purposes of determining classroom capacity, a loading standard of 25 kindergarten pupils per classroom will be used and all kindergarten classrooms will be loaded for full-day instruction unless the School District indicates that an existing classroom(s) will continue to be used for non-full-day instruction at the completion of the project.

- (c) The Approved Application shall include a description of the proposed project including, but not limited to, the following information:
 - (1) The total number of kindergarten classrooms on the site prior to the Program project.
 - (2) The kindergarten enrollment at the site, based on the CBEDS report or district documents such as registration for the school or classroom attendance rosters, as of the earlier of:
 - (A) The date the Approved Application is received by OPSC, or
 - (B) The date the contract for the project was awarded.
 - (3) The total number of kindergarten classrooms on the site after the completion of the Program project.
 - (4) The total number of kindergarten classrooms that will be used for full-day kindergarten instruction after the completion of the Program project.

Note: Authority cited: Sections 17375(a) and 17375(b), Education Code.

Reference: Sections 17375(a), 17375(b), and 17375(g), Education Code.

Section 1860.6. Application Submittals.

The Board shall accept Approved Applications for Full-Day Kindergarten Facilities Grant Program funding during specified funding rounds:

- (a) Approved Applications for Full-Day Kindergarten Facilities Grant Program funding for the first funding round must be received by OPSC on or after January 2, 2019, and on or before January 31, 2019. Applications that do not receive an Apportionment during this round will be returned to the School District.

- (b) Approved Applications for Full-Day Kindergarten Facilities Grant Program funding for the second funding round must be received by OPSC on or after May 1, 2019, and on or before May 30, 2019. Applications that do not receive an Apportionment during this round will be returned to the School District.

Note: Authority cited: Section 17375(g), Education Code.

Reference: Section 17375(g), Education Code.

Section 1860.7. Application Types.

The following Application types may be requested with the submittal of a Form SAB 70-01. To become an Approved Application, the School District must also submit all necessary documents, as defined by Approved Applications:

- (a) A New Construction Grant may be requested if the following conditions exist:
 - (1) The School District has received final plan approval by DSA and CDE for the project.
 - (2) The School District has received final site approval by the CDE if the project includes site acquisition.
 - (3) The School District has a final appraisal, if the project includes site acquisition.
 - (4) The School District has entered into escrow, if the project includes site acquisition.
- (b) A New Construction Grant with an advance fund release(s) for design and/or site acquisition may be requested with the submittal of the Form SAB 70-01, and preliminary appraisal if purchasing a site.
- (c) A Retrofit Grant may be requested if the School District has received final plan approval by the DSA and CDE for the project.
- (d) A Retrofit Grant with an advance fund release for design may be requested with the submittal of the Form SAB 70-01.

Note: Authority cited: Section 17375(g), Education Code.

Reference: Section 17375(g), Education Code

Section 1860.8. Application for Funding on School District-Owned Land.

Prior to the School District requesting Program funds for facilities, the School District must hold title to the real property where the facilities will be located.

Note: Authority cited: Sections 17375(f) and 17375(g), Education Code.

Reference: Sections 17375(f) and 17375(g), Education Code.

Section 1860.9. New Construction Apportionment Determination.

The New Construction Apportionment shall be equal to the sum of (a) through (f) below:

- (a) For applications funded with 2018 grant amounts, \$11,567 for each elementary school pupil.
- (b) For applications funded with 2018 grant amounts, \$14 for each elementary school pupil if the project includes an automatic fire detection and alarm system and is requested by the School District on the Form SAB 70-01.
- (c) For applications funded with 2018 grant amounts, \$194 for each elementary school pupil if the project includes an automatic sprinkler system and is requested by the School District on the Form SAB 70-01.
- (d) An amount equal to 35 percent of the amount determined in (a) for costs associated with site development, demolition, landscaping and other costs incurred when adding a kindergarten classroom(s) to a site, utility costs, utility connections and other related fees necessary for the Program project, if requested by the applicant on the Form SAB 70-01.
- (e) An amount equal to 12 percent of the amount determined in (a) for each pupil housed in a multilevel building that will house pupils in all levels of the building if the usable site acreage is less than 75 percent of the site size recommended by CDE for the master-planned project capacity, if requested by the School District on the Form SAB 70-01.
- (f) For applications funded with 2018 grant amounts, \$7,074 for Small School Districts for the cost necessary for project assistance.

The grant amounts shown in (a), (b), (c) and (f) above shall be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January, pursuant to Education Code Section 17072.10.

Note: Authority cited: Section 17375, Education Code.

Reference: Sections 17072.10(b), 17072.10(d), 17072.10(e), and 17375(d), 17375(f) and 17375(g), Education Code.

Section 1860.10. New Construction Additional Grant for Site Acquisition Cost.

The Board shall provide funding, in addition to any other funding authorized by these Regulations, for the lesser of one half of the actual cost of the site or one-half of the appraised value of the site acquired adjacent to an existing Schoolsites 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) Site Other - Increased by four percent of the actual amount determined in (a) above, but not less than \$50,000. This amount shall provide an allowance for any appraisal, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
- (3) Increased by DTSC costs for review, approval, and oversight of the POESA and the PEA.

(b) Appraised Value of the Site

The value determined by an appraisal made or updated no more than six months prior to application submittal to OPSC for funding. The appraisal may be reviewed by OPSC for conformance with Section 1860.10.1. The approved appraised value shall be adjusted for the following:

- (1) Increased by the approved relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
- (2) Increased by four percent of the appraised value determined in (b) above, but not less than \$50,000. This amount shall provide an allowance for appraisals, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
- (3) Increased by DTSC costs for review, approval, and oversight of the POESA and the PEA.

If actual DTSC, hazardous waste removal, and relocation costs are not available at the time of Apportionment, an amount equal to 15 percent of the amount determined in 1860.9(a) will be provided for DTSC and the School District may provide an estimated amount for Hazardous waste removal and relocation expenses. These costs will be reviewed by OPSC prior to the final fund release and an adjustment shall be made, if necessary.

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 eligible acreage shown below for a kindergarten classroom project, or as approved by CDE, pursuant to Title 5, California Code of Regulations Section 14010(a):

<u>1 Classroom</u>	<u>2 Classrooms</u>	<u>3 Classrooms</u>	<u>4 Classrooms</u>
<u>.3 acres</u>	<u>.5 acres</u>	<u>.9 acres</u>	<u>1.6 acres</u>

Note: Authority cited: Sections 17375(f) and 17375(g), Education Code.

Reference: Sections 17375(f), and 17375(g), Education Code.

Section 1860.10.1. Site Acquisition Guidelines.

To receive the funding authorized by Section 1860.10, the School District must certify on the Form SAB 70-01, that the appraisal of the property was made utilizing the following criteria:

- (a) The land improvements and appurtenances, excluding fixtures, equipment, and personal property, were appraised in an as is condition with the following exceptions:
 - (1) The site shall be appraised as if it were a clean site, safe of all toxic contaminants in accordance with CDE guidelines and pursuant to Title 5, California Code of Regulations commencing with Section 14001.
 - (2) The site valuation included only proposed site improvements associated with grading the site to a mass graded or super pad condition, defined as a site graded to construction readiness without foundation or paving and proposed utilities

stubbled to the site. Any proposed site improvements or utilities not covered by a performance bond equal to 100 percent of the estimated cost of the site improvements and utilities must be completed prior to the close of escrow and detailed separately in the report.

- (b) Consideration in the appraisal was made for net useable acreage and severance damages.
- (c) The School District or its legal counsel has contracted for appraisal services.
- (d) The appraiser has certified to the School District that the appraisal complies with the Uniform Standards of Professional Appraisal Practices as promulgated by the Appraisal Standards Board of the Appraisal Foundation.
- (e) The amount of a court award for a site acquired in condemnation may be used in lieu of the appraised value determined in (a) through (d) above, when specifically approved by the Board.

Note: Authority cited: Sections 17375(f) and 17375(g), Education Code.

Reference: Sections 17375(f) and 17375(g), Education Code.

Section 1860.10.2. New Construction Additional Grant for Hazardous Waste Removal on an Acquired Site.

The Board shall provide funding, in addition to any other funding authorized by these Regulations for the allowable costs of hazardous materials/waste removal and/or remediation costs. The allowable site costs shall not exceed 50 percent of one and one half times the value of an appraisal that conforms to Section 1860.10.1 for the costs in subsections (a), (a)(1) and (a)(2) plus the additional costs included in (b) and (c). The costs in (b) and (c) are in addition to 50 percent of one and one half times the appraisal value cap:

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

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 eligible acreage shown below for a kindergarten classroom project, or as approved by CDE, pursuant to Title 5, California Code of Regulations Section 14010(a):

<u>1 Classroom</u>	<u>2 Classrooms</u>	<u>3 Classrooms</u>	<u>4 Classrooms</u>
<u>.3 acres</u>	<u>.5 acres</u>	<u>.9 acres</u>	<u>1.6 acres</u>

Note: Authority cited: Sections 17375(f) and 17375(g), Education Code.

Reference: Sections 17375(f) and 17375(g), Education Code.

Section 1860.10.3. New Construction Additional Grant for Hazardous Waste Removal Required on an Existing School Site.

- (a) The Board shall provide funding, in addition to any other funding authorized by these Regulations for the necessary hazardous waste materials/waste removal and/or remediation costs on an existing school site where the New Construction funding will be used if all the following are met:
 - (1) The New Construction funding request is for additional school facilities on an existing school site.
 - (2) The New Construction Grant request does not include a funding request for initial site acquisition costs allowed pursuant to Sections 1860.10.

- (3) The existing school site where the New Construction Grant will be expended has a functioning school on the site or the site had a closed school that will again be used as a functioning school.
- (4) The hazardous material cleanup costs are required by DTSC.
- (b) If all the criteria in subsection (a) are met, the allowable hazardous waste removal cleanup costs shall be one half of all the following:
 - (1) The costs for preparation of the POESA, the PEA and the RA.
 - (2) The costs to implement the RA as determined necessary in the PEA that has been approved by DTSC subject to the following:
 - (A) The costs may include DTSC costs for review and oversight of the preparation and implementation of the RA.
 - (B) The costs may not include continuous operational and maintenance costs associated with the RA.
 - (c) In advance of the New Construction Adjusted Grant, districts performing a RA on additions to existing school sites shall be eligible for the costs associated with evaluation and RA required by DTSC.

Note: Authority cited: Sections 17375(f) and 17375(g), Education Code.

Reference: Sections 17375(f) and 17375(g), Education Code.

Section 1860.11. New Construction School District Matching Share Requirement.

Any funding provided by these Regulations shall require a School District matching share contribution on a dollar-for-dollar basis with the exception of School Districts that qualify for Financial Hardship provided by Section 1860.14.

Note: Authority cited: Section 17375(b)(3), Education Code.

Reference: Section 17375(b)(3), Education Code.

Section 1860.12. Retrofit Apportionment Determination.

The Retrofit Apportionment shall be equal to the sum of (a) through (e) below:

- (a) For applications funded with 2018 grant amounts, \$4,404 for each elementary school pupil.
- (b) For applications funded with 2018 grant amounts, \$143 for each elementary school pupil if the project includes an automatic fire detection and alarm system and is requested by the School District on the Form SAB 70-01.
- (c) An amount equal to 35 percent of the amount determined in (a) for costs associated with demolition, landscaping, playground safety improvements and other costs incurred when adding a kindergarten classroom(s) to a site, utility costs, utility connections and other related fees necessary for the project, if requested by the applicant on the Form SAB 70-01.
- (d) An amount equal to 15 percent of the amount determined in (a) for upgrading existing site development (utilities) work as necessary for the retrofit of 50 years or older permanent buildings, if requested by the School District on the Form SAB 70-01.
- (e) For applications funded with 2018 grant amounts, \$3,772 for Small School Districts for the cost necessary for project assistance.

The grant amounts shown in (a), (b) and (e) above shall be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January, pursuant to Education Code Section 17074.10(b).

Note: Authority cited: Section 17375(g), Education Code.

Reference: Sections 17074.10, 17375(d), 17375(f) and 17375(g), Education Code.

Section 1860.13. Retrofit School District Matching Share Requirement.

With the exception of Financial Hardship funding provided by Section 1860.14, any funding provided by these Regulations shall require a School District matching share equal to 40 percent of those amounts which, combined with the State's Retrofit Grant, shall represent 100 percent of the total project cost.

Note: Authority cited: Section 17375(b)(3), Education Code.

Reference: Section 17375(b)(3), Education Code.

Section 1860.14. Hardship Assistance and Financial Hardship

A School District shall qualify for hardship assistance by demonstrating a Financial Hardship, as provided in this Section, which prevents the School District from funding all or a portion of the matching share requirement for a Program grant.

A School District is eligible for a financial hardship grant to fund all or a portion of its matching share requirement after demonstrating the requirements of (a), (b), and (c) below:

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

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

- (1) Approved interim housing expenditures.
(2) Funding to pay for previously recognized multi-year encumbrances approved at the initial financial hardship approval.

The financial hardship analysis is subject to approval by the Board.

- (b) The School District has made all reasonable efforts to fund its matching share of the project by demonstrating it is levying the developer fee justified under law or an alternative revenue source equal to or greater than the developer fee otherwise justified under law at the time of request for hardship and the School District meets at least one of the following:
- (1) The current outstanding bonded indebtedness of the School District issued for the purpose of constructing school facilities at the time of request for financial hardship status, is at least 60 percent of the District's total bonding capacity. Outstanding bonded indebtedness includes that part of general obligation bonds, Mello-Roos Bonds, School Facility Improvement District Bonds and certificates of participation which the district is paying a debt service that was issued for capital outlay school facility purposes.
- (2) The School District had a successful registered voter bond election for at least the maximum amount allowed under Proposition 39 within the previous two years from the date of request for financial hardship status. The proceeds from the bond election that represent the maximum amount allowed under the provisions of Proposition 39 must be used to fund the School District's matching share requirement for the Program project(s).
- (3) The School District's total bonding capacity at the time of the request for financial hardship status is \$5 million or less
- (4) Other evidence of reasonable effort as approved by the SAB.
- (c) If the School District meets the financial hardship requirements in this Section, the amount of financial hardship is equal to the School District's matching share less funds deemed available in (a).
- (1) Once a School District has been notified that OPSC is scheduled to begin processing the School District's Form SAB 70-01, the School District must submit documentation to support the Financial Hardship request within 30 calendar days.
- (2) If the School District does not submit documentation within 30 calendar days, the School District will be ineligible to receive a Financial Hardship grant for their project(s) and preference points as provided in Section 1860.15.

Note: Authority cited: Section 17375(b)(2)(A), 17375(b), Education Code.

Reference: Sections 17075.10 and 17070.15, Education Code.

Section 1860.15. Application Funding Criteria.

If the estimated total Apportionments of all Approved Applications received within a funding round specified in Section 1860.6 exceed the funds available in that funding round, OPSC will calculate preference points for all Approved Applications. An Approved Application shall receive preference points based on the total of (a) and (b) up to a maximum of 80 points, as follows:

- (a) Financial Hardship: 40 points if a School District demonstrates it meets the requirements under Section 1860.14(b).
- (b) Low Income: Up to 40 points based on the percentage of pupils at the School District meeting the definition of Low Income. The following sliding scale shall be used to determine the number of preference points:

<u>Percentage Eligible for Free and Reduced Price School Meals</u>	<u>Preference Points Assigned</u>
<u>60-65%</u>	<u>4</u>
<u>66-70%</u>	<u>8</u>
<u>71-75%</u>	<u>15</u>
<u>76%</u>	<u>16</u>
<u>77%</u>	<u>17</u>
<u>78%</u>	<u>18</u>
<u>79%</u>	<u>19</u>
<u>80%</u>	<u>20</u>
<u>81%</u>	<u>21</u>
<u>82%</u>	<u>22</u>
<u>83%</u>	<u>23</u>
<u>84%</u>	<u>24</u>
<u>85%</u>	<u>25</u>
<u>86%</u>	<u>26</u>
<u>87%</u>	<u>27</u>
<u>88%</u>	<u>28</u>
<u>89%</u>	<u>29</u>
<u>90%</u>	<u>30</u>
<u>91%</u>	<u>31</u>
<u>92%</u>	<u>32</u>
<u>93%</u>	<u>33</u>
<u>94%</u>	<u>34</u>
<u>95%</u>	<u>35</u>
<u>96%</u>	<u>36</u>
<u>97%</u>	<u>37</u>
<u>98%</u>	<u>38</u>
<u>99%</u>	<u>39</u>
<u>100%</u>	<u>40</u>

- (c) The Board shall apportion projects in the following order:
- (1) School Districts will be funded based on the total preference points, determined by the sum of subdivisions (a) and (b) above. If School Districts submit multiple applications in the same funding round, OPSC will use the priority order assigned to each application by the School Districts on the Form SAB 70-01 and then fund Approved Applications in the following order:
- (A) School Districts shall have their first priority projects funded in order based on total preference points until all School Districts have had their first priority project funded, or until all funds are exhausted for that funding round, whichever comes first.
- (B) School Districts with the same total preference points with Approved Applications will be placed into a lottery system to determine School District funding order.
- (2) If sufficient funding remains after funding first priority projects pursuant to 1860.15(c)(1)(A), School Districts with multiple Approved Applications will be funded in the following order:
- (A) The School District with the highest total preference points shall have their remaining projects funded in priority order until all projects are funded, or until all funds are exhausted for that funding round, whichever comes first. Funding shall then be provided to the School District with the next highest total preference points.
- (B) School Districts with the same total preference points with Approved Applications will be placed into a lottery system to determine School District funding order. The highest remaining priority project for each School District participating in the lottery will be funded until all projects from each School District participating in the same lottery round have been funded, or until all funds are exhausted for that funding round, whichever comes first.

- (3) If the Board does not have sufficient funding to fully apportion a School District's Approved Application, that School District may elect to either:
 - (A) Accept partial funding for the project. If partial funding is accepted, the Apportionment shall become the full and final apportionment for the project.
 - (B) Decline to accept funding for the project. If partial funding is declined, the Board may offer partial funding to the next Approved Application, based on funding order determined in (c)(1) and (c)(2) above.

Note: Authority cited: Sections 17375(b)(2) and 17375(g), Education Code.

Reference: Sections 17075.10, 17075.15, 17375(b)(2), 17375(b)(2)(A), 17375(b)(2)(B), 17375(g), and 42238.01, Education Code.

Section 1860.16. Fund Release Process.

OPSC will release State funds that have been Apportioned by the Board pursuant to Sections 1860.9, 1860.10, 1860.10.2, 1860.10.3 and 1860.12 when the following requirements have been satisfied:

- (a) For an advance fund release for design costs, 40 percent of the grant determined in 1860.9(a) or 25 percent of the grant determined in 1860.12(a) will be released once an executed design, or design and site, Grant Agreement, as required by Section 1860.17, has been received by OPSC.
- (b) For an advance fund release for two percent site other costs, funds will be released once an executed site, or design and site, Grant Agreement, as required by Section 1860.17, has been received by OPSC.
- (c) For an advance fund release for site acquisition costs, other than two percent site other, funds will be released once an executed site, or design and site, Grant Agreement, as required by Section 1860.17, has been received by OPSC and the following requirements have been met:
 - (1) The School District has entered escrow for the site.
 - (2) There has been a final appraisal of the site.
 - (3) The School District received either contingent or final site approval from the California Department of Education.
 - (4) A valid Form SAB 70-02 has been received by OPSC.
- (d) For New Construction Grant or Retrofit Grant funding, all unreleased funds will be released once an executed full grant agreement, as required by Section 1860.17, has been received by OPSC and the following requirements have been met:
 - (1) The School District's applicable matching share has already been deposited or expended by the School District for the project, unless the School District meets the requirements for Financial Hardship pursuant to Section 1860.14.
 - (2) The School District has entered into a binding contract(s) for the completion of the project.
 - (3) The plans and specifications applicable to the state funded project have been approved by DSA.
 - (4) If the project includes site acquisition, there has been a final appraisal of the site, the site received written final approval by CDE and the School District has entered escrow for the site.
 - (5) A valid Form SAB 70-02 has been received by OPSC.
- (e) For New Construction Grant or Retrofit Grant funding, without a request for an advance release of funds pursuant to Sections 1860.7(a) and 1860.7(c), a valid *Fund Release Request* (Form SAB 70-02) with all required approvals must be submitted within 180 days of Apportionment. If a valid Form SAB 70-02 is not received within 180 days of Apportionment, the Apportionment shall be rescinded.
- (f) For an Apportionment received pursuant to Section 1860.7(b) and 1860.7(d), where submittal of the necessary CDE plan approval and/or DSA-approved plans and specifications were not required at the time the Board granted an Apportionment, then the School District has up to 12 months to submit the required approvals from the date of Apportionment. If the required submittals are not received within 12 months, the Apportionment shall be rescinded and the Full-Day Kindergarten Facilities Grant will return to the Program for reallocation.

Subject to available funds, site acquisition grants shall be adjusted based on actual costs prior to the release of funds.

Prior to fund release, OPSC will verify that the School District has included multilevel classrooms in the plans for the project, if multilevel funding was requested.

Financial hardship approval status by OPSC for a design and/or site advance will apply to any subsequent funding for the project(s) received by OPSC during the same application filing round, as established in Section 1860.6.

Note: Authority cited: Sections 17375(c) and 17375(g), Education Code.

Reference: Section 17375(c), Education Code.

Section 1860.17. Grant Agreement Submittal.

A Grant Agreement for the project with an original signature by an authorized District Representative must be submitted prior to the release of any funds.

Note: Authority cited: Section 17375(e), Education Code.

Reference: Section 17375(e), Education Code.

Section 1860.18. Program Reporting Requirements.

A School District receiving funds in accordance with the Program shall submit an expenditure report from the district on the Form SAB 70-03 at the completion of the project. 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, and change orders have been satisfied and the facility is currently in use by the School District.
- (b) One year from the date of the final fund release.
- (c) A final expenditure report to report expenditures of savings pursuant to 1860.19 shall be due one year after the earlier subdivision (a) or (b).

Note: Authority cited: Section 17375(g), Education Code.

Reference: Sections 17375(b)(3) and 17375(g), Education Code.

Section 1860.19. Project Savings and Unexpended Funds.

- (a) Project Savings - With the exception of School Districts that receive Financial Hardship funding, a School District may expend the savings, and interest earned on State funds not needed for a project on other high priority capital facility needs of the School District. Any savings remaining after one year from the completion of the project, as specified in Section 1860.18, must be returned to the State.
- (b) Unexpended Funds - For a project that receives a Financial Hardship grant, any funding not expended on eligible project expenditures prior to completion of the project, as specified in Section 1860.18, must be returned to the State.
- (1) Any interest earned State funds on a project that received Financial Hardship grant funding, that is not expended on eligible project expenditures, must be returned to the state to reduce the Financial Hardship grant for that project.
- (2) A School District is only required to return unexpended funds up to the amount of Financial Hardship grant funding provided by the Board.

Note: Authority cited: Section 17375(g), Education Code.

Reference: Sections 17375(b)(3) and 17375(g), Education Code.

Section 1860.20. Program Accountability Expenditure Audit.

Projects will be subject to audit conducted pursuant to Education Code Section 41024 to assure that the expenditures incurred by the district were made in accordance with the provisions of Education Code Section 17375. The audit will also assure that the district complied with all site acquisition guidelines as provided in Sections 1860.10, 1860.10.1, 1860.10.2, and 1860.10.3.

Districts shall retain all financial accounts, documents, and records necessary for an audit of completed projects pursuant to Education Code Section 41024(a)(4) and shall provide project documentation, if requested by the local auditor.

Pursuant to Education Code Section 41024(c)(5), should an audit of the School District certifications or the expenditures for the project make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17375 and Sections 1860.9 to 1860.13, CDE shall ensure that the School District has corrected the audit exception by implementing a required penalty payment of funds equal to the amount of funds disallowed in the audit exception. Subject to available funds, site acquisition grants shall be adjusted based on actual costs.

Note: Authority cited: Section 17375(h), Education Code.

Reference: Sections 17375(h) and 41024 Education Code; Section 1771.3, Labor Code.

Section 1860.21. On-going Routine Maintenance.

A School District, regardless of size, shall certify on the Form SAB 70-01 that a restricted account within the School District's general fund has been established for the exclusive purpose of providing on-going and major repair of its facilities.

Note: Authority cited: Section 17375(g), Education Code.

Reference: Section 17375(g), Education Code.