

Amend Regulation Section 1860

Section 1860. Purpose.

These Subgroup 5.8 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)~~ funding 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.

Amend Regulation Section 1860.2

Section 1860.2. Definitions.

For the purposes of these Subgroup 5.8 regulations, the terms set forth below shall have the following meanings:

“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, which is incorporated by reference.

“Form SAB 70-02” means the *Fund Release Authorization*, Form SAB 70-02, which is incorporated by reference.

“Form SAB 70-03” means the *Expenditure Report*, Form SAB 70-03, 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.

“Full-Day Kindergarten Program” means an early primary program that exceeds four hours, exclusive of recesses, and meets the conditions of EC Section 8973.

“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*, 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, prior to application submittal, 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.

“Part-Day Kindergarten Program” means an early primary program that does not exceed four hours, exclusive of recesses, pursuant to EC Section 46111.

“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 One 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 One 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 One Environmental Site Assessment unless and until the Department of Toxic Substances Control adopts final regulations that establish guidelines for a Phase One Environmental Site 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.

“Project” means the purposes for which the Grantee has applied for the Grants detailed in these Subgroup 5.8 regulations.

“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 these Subgroup 5.8 regulations.

“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” shall have the meaning set forth in Education Code Sections 81 through 87, inclusive.

“School District” shall not include county offices of education, charter schools, joint powers authorities, or 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.

Amend Regulation Section 1860.3

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.~~

- (a) Assembly Bill 1808 created the Program, effective June 27, 2018, and allocated \$100 million to provide one-time grants as specified in EC Section 17375 and Program regulations. 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.
- (b) The Program is revised through Senate Bill 75, effective June 27, 2019, and allocated \$300 million to provide one-time grants as specified in EC Section 17375 and Program regulations. New Construction and Retrofit Grant funding may be provided for a project if the district entered into a construction contract for the project on or after June 27, 2018.

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

Reference: Section 17375(g), Education Code.

Amend Regulation Section 1860.4

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.~~
- (a) For the funding provided pursuant to Section 1860.3(a), funds available for the Program from the 2018-2019 Budget Act 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:
 - (1) 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.
 - (2) Any funds that return, or remain unencumbered by the Board, on or after June 30, 2021, shall be returned to the General Fund.
 - (b) For the funding provided pursuant to Section 1860.3(b), funds available for the Program from the 2019-2020 Budget Act must be encumbered by the Board by June 30, 2022. Funds that are not completely encumbered or that return to the Program through project rescissions may be applied as follows:
 - (1) Any funds that return on or before June 30, 2022, shall be returned to the Full-Day Kindergarten

Facilities Grant Program Account and may be used to provide additional Apportionments.

- (2) Any funds that return or remain unencumbered by the Board, on or after June 30, 2022, shall be returned to the General Fund.
- (c) New school facilities built in accordance with the Program shall not be included in the eligibility determination used for the purposes of the School Facilities Program pursuant to EC Section 17071.25.

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

Reference: Section 17375, Education Code.

Amend Regulation Section 1860.5

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.~~

(a) For Program funds provided pursuant to Sections 1860.3(a) and Apportioned in the 2018-2019 fiscal year or for Program funds provided pursuant to 1860.3(b) and Apportioned during the 2021-2022 fiscal year, 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:

- (1) 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.
- (2) 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 current kindergarten enrollment exceeds the existing kindergarten classroom capacity prior to the construction of the project. Classrooms constructed as kindergarten classrooms or altered to

house kindergarten students, regardless of current use, will be included when determining the existing kindergarten classroom capacity, as determined by CDE. For purposes of determining classroom capacity, a loading standard of 25 kindergarten pupils per classroom will be used and all 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.

(b) For Program funds provided pursuant to Section 1860.3(b) and Apportioned in the 2019-2020 and 2020-2021 fiscal years, a School District may apply for these Program funds by submittal of a Form SAB 70-01, if all of the following requirements are met:

- (1) The School District has a school board resolution providing approval to provide full-day kindergarten instruction on or after July 1, 2019, or will have approval to provide full-day kindergarten instruction at the completion of the project.
- (2) 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 current kindergarten enrollment exceeds the existing kindergarten classroom capacity prior to the construction of the project. Classrooms constructed as kindergarten classrooms or altered to house kindergarten students, regardless of current use, will be included when determining the existing kindergarten classroom capacity, as determined by CDE. For purposes of determining classroom capacity, a loading standard of 25 kindergarten pupils per classroom will be used and all 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.

- (3) The project school site did not offer a Full-Day Kindergarten Program as of July 1, 2019.
- (4) The School District will use Program funds to convert a Part-Day Kindergarten Program to a Full-Day Kindergarten Program.
- (c) OPSC will determine the project scope for the Approved Application based on the schoolsite's enrollment patterns and the usage of each facility at the schoolsite. OPSC shall consult with CDE prior to determination of the Approved Application's project scope.
- (d) The Approved Application shall include the following documentation:
 - (1) A description of the proposed project including, but not limited to, the following information:
 - (A) The total number of kindergarten classrooms on the site prior to the Program project.
 - (B) The current enrollment at the site, at the time of application submittal, including transitional kindergarten students pursuant to EC Section 48000. To determine the appropriate enrollment reporting year, refer to the following:

<u>OPSC Received Date of Form SAB 70-01</u>	<u>Enrollment Reporting Year</u>
<u>July 1 through October 31</u>	<u>Submit Prior Fiscal Year Enrollment Data</u>
<u>November 1 through June 30</u>	<u>Submit Current Fiscal Year Enrollment Data</u>

- (C) The enrollment at the site for the three years immediately preceding the enrollment reporting year determined in 1860.5(d)(1)(B).
- (D) The total number of kindergarten classrooms on the site after the completion of the Program project.
- (E) The total number of kindergarten classrooms that will be used for full-day kindergarten instruction after the completion of the Program project.
- (2) Site map that includes labelling of all facilities and their current use, identifies all classrooms constructed or previously retrofitted to house kindergarten students, and identifies any facilities that will be retrofitted in the project. If a School District is requesting a 50-year old utilities grant, identify the age of the building(s).

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

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

Amend Regulation Section 1860.6

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.
- (c) Approved Applications for Program funding for the third funding round must be received by OPSC on or after April 1, 2020 and on or before April 30, 2020. Applications that do not receive an Apportionment during this round will be returned to the School District.
- (d) If Program funds remain concluding the third funding round in (c), Approved Applications for Program funding for the fourth funding round must be received by OPSC on or after January 4, 2021 and on or before February 2, 2021. Applications that do not receive an Apportionment during this round will be returned to the School District.
- (e) If Program funds remain concluding the fourth funding round in (d), Approved Applications for Program funding for the fifth funding round must be received by OPSC on or after July 1, 2021 and on or before July 30, 2021. 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 1860.10. 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 Schoolsite 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~~ purchase of the site. 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.
- (c) 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 costs 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.
- (d) 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):

1 Classroom	2 Classrooms	3 Classrooms	4 Classrooms
.3 acres	.5 acres	.9 acres	1.6 acres

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

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

Amend Regulation Section 1860.11

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.~~

- (a) With the exception of School Districts receiving Financial Hardship funding provided by Section 1860.14, the School Districts' required matching share will be equal to the following:

<u>Converting From Part-Day to Full-Day Kindergarten Program</u>	<u>State Share</u>	<u>District Share</u>
<u>No</u>	<u>50%</u>	<u>50%</u>
<u>Yes</u>	<u>75%</u>	<u>25%</u>

- (b) School Districts that meet the requirements for Financial Hardship provided by Section 1860.14 may not be required to fund all or a portion of the matching share requirement for the Program grant.

Note: Authority cited: Sections 17375(b)(3) and 17375(b)(4), Education Code.

Reference: Sections 17375(b)(3) and 17375(b)(4), Education Code.

Amend Regulation Section 1860.13

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.

(a) With the exception of School Districts receiving Financial Hardship funding provided by Section 1860.14, the School Districts' required matching share will be equal to the following:

<u>Converting From Part-Day to Full-Day Kindergarten Program</u>	<u>State Share</u>	<u>District Share</u>
No	60%	40%
Yes	75%	25%

(b) School Districts that meet the requirements for Financial Hardship provided by Section 1860.14 may not be required to fund all or a portion of the matching share requirement for a Program grant.

Note: Authority cited: Sections 17375(b)(3) and 17375(b)(4), Education Code.

Reference: Sections 17375(b)(3) and 17375(b)(4), Education Code.

Amend Regulation Section 1860.15

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) 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:

Percentage Eligible for Free and Reduced Price School Meals	Preference Points Assigned
60-65%	4
66-70%	8
71-75%	15
76%	16
77%	17
78%	18
79%	19
80%	20
81%	21
82%	22
83%	23
84%	24
85%	25
86%	26
87%	27
88%	28
89%	29
90%	30
91%	31
92%	32
93%	33

Percentage Eligible for Free and Reduced Price School Meals	Preference Points Assigned
94%	34
95%	35
96%	36
97%	37
98%	38
99%	39
100%	40

- (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~~ funded in order of the higher Low Income percentage reported to one decimal place. The School District with the higher Low Income percentage will be funded first.
 - (C) If School Districts have the same total preference points and the same Low Income percentage reported to one decimal place, projects will then be placed into a lottery system to determine the 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.~~
 - (B) A tie breaker will be used for School Districts with the same total preference points by using the exact Low Income percentage to one decimal place, as identified in the most recent Free and Reduced Price School Meals data on file at the CDE. The School District with the higher Low Income percentage will be funded first.
 - (C) If School Districts with the same total preference points are still tied after the review of the Low Income percentages, projects 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.

Amend Regulation Section 1860.18

Section 1860.18. Program Reporting Requirements.

- (a) 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:
 - (1) 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.
 - (2) One year from the date of the final fund release.
- (b) 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), 17375(b)(4) and 17375(g), Education Code.

Amend Regulation Section 1860.19

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 on State funds for 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.~~
- (a) For the funding provided pursuant to Section 1860.3(a) School Districts must meet the following requirements for Project Savings and Unexpended Funds:
 - (1) Project Savings - With the exception of School Districts that receive Financial Hardship funding, a School District may expend or encumber the savings, and interest earned on State funds, on other high priority capital facility needs of the School District. Any savings not expended or encumbered after one year from the completion of the project, as specified in Section 1860.18, must be returned to the State.
 - (2) Unexpended Funds - For a project that receives a Financial Hardship grant, any funding not expended or encumbered on eligible project expenditures prior to completion of the project, as specified in Section 1860.18, must be returned to the State.
 - (A) Any interest earned on State funds for a project that received Financial Hardship grant funding, that is not expended or encumbered on eligible project expenditures prior to completion of the project, as specified in Section 1860.18, must be returned to the State.
 - (B) A School District is only required to return unexpended or unencumbered funds up to the amount of Financial Hardship grant funding provided by the Board.
- (b) For the funding provided pursuant to Section 1860.3(b) all School Districts may expend or encumber the savings, and interest earned on State funds, as follows:
 - (1) Professional development to build capacity for the implementation of a Full-Day Kindergarten

Program.

- (2) Instruction materials to build capacity for the implementation of a Full-Day Kindergarten Program.
- (3) Other high priority capital facility needs of the School District, that are allowable expenditures in accordance to the Grant Agreement.
- (4) Any savings, including interest, unexpended or unencumbered after one year from the completion of the project, as specified in Section 1860.18, must be returned to the State.

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

Reference: Sections 17375(b)(3), 17375(b)(4) and 17375(g), Education Code.