

Amend Regulation Section 1859.90.2

Section 1859.90.2. Priority Funding Process.

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

- (a) In order to be considered for an Apportionment, approved advance release of design funds from a Preliminary Charter School Apportionment, or approved advance release of environmental hardship site acquisition funds from a Preliminary Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative that includes each of the project Application numbers, and the type of Apportionment request (e.g., Apportionment, separate Apportionment for design or site acquisition), within the 30-calendar day filing period, and shall contain the following:
 - (1) Statement that the request is to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and
 - (2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 90 calendar days of Apportionment or approved advance release of funds request, except for a Career Technical Education Facilities Project in (a)(5), and that failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and
 - (3) Acknowledgement that a Grant Agreement must be submitted pursuant to Section 1859.90.4 and physically received by the OPSC prior to, or concurrently with, the Form SAB 50-05 referenced in (a)(2); and
 - (4) Acknowledgement that, if the district submits the Form SAB 50-05 on or after July 1, 2013 and is required to submit an LCP third party report, pursuant to Section 1859.97(b), the report will be submitted to the OPSC and the DIR at least 60 days prior to submitting the Form SAB 50-05; and
 - (5) For those receiving an Apportionment, acknowledgement that by participating in the priority funding process, the district or charter school is waiving its right to the 18 month timeline for fund release submittal described in Section 1859.90.
 - (6) For a Career Technical Education Facilities Project that was granted an unfunded approval without the required CDE plan approval and/or required DSA-approved plans and specifications, the applicant's request must include:
 - (A) Acknowledgement that the applicant must submit the required approval(s) to the OPSC within 12 months from the date of the Apportionment. If the required submittal(s) is not received within 12 months, the Apportionment shall be rescinded without further Board action pursuant to Section 1859.197(c)(1); and

- (B) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 90 calendar days of the submittal described in (6)(A) and that failure to do so will result in the rescission of the Apportionment without further Board action; and
- (C) Acknowledgement that a Grant Agreement must be submitted pursuant to Section 1859.90.4 and physically received by the OPSC prior to, or concurrently with, the Form SAB 50-05 referenced in (a)(6)(B).
- (b) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Charter School Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative within the 30-calendar day filing period, and shall contain all of the following:
 - (1) Statement that the request is to convert the advance release of funds to an approved advance release of funds request; and,
 - (2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 180 calendar days of the approved advance release of funds request and that failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and
 - (3) Acknowledgement that a Grant Agreement must be submitted pursuant to Section 1859.90.4 and physically received by the OPSC prior to, or concurrently with, the Form SAB 50-05 referenced in (b)(2); and
 - (4) Acknowledgement that it must provide evidence that it has entered into the Charter School Agreements within 90 calendar days of approval of the advance release of funds request and that failure to do so will result in the rescission of the approval without further Board action.
- (c) If a district or charter school receives an Apportionment or approved advance release of funds request through the priority funding process, the OPSC must receive a valid, original signature copy of the Form SAB 50-05 within the specified time period, pursuant to (a)(2), (a)(6) or (b)(2), as applicable, and a Grant Agreement, pursuant to (a)(3), (a)(6)(C), or (b)(3), as applicable. Upon submittal of the original signature copy of the Form SAB 50-05, if OPSC determines that the Form SAB 50-05 is not valid, the district will have ten business days to amend the Form SAB 50-05 in order to make the Form SAB 50-05 valid. If the OPSC does not receive a valid, original signature copy of the Form SAB 50-05 within the time period:
 - (1) The priority funding Apportionment or approved advance release of funds request shall be rescinded without further Board action, and
 - (2) If the Application is not subject to rescission pursuant to Section 1859.90.3(c) as defined in Section 1859.90.3(d), the Application shall return to the Unfunded List (Lack of AB 55 Loans) with a new unfunded approval date that is 90 calendar days from the date of Apportionment or approval of the advance release of funds request.
- (d) In the event that the amount of requests received during a specific 30-calendar day filing period exceeds the funds available, the Board shall apportion based on the unfunded approval date and the Application received date up to the available cash from each bond source. Projects that have requested to participate in the priority funding process for which an Apportionment cannot be provided shall retain their date order position on the Unfunded List (Lack of AB 55 Loans). Requests not converted to Apportionments will not be returned to the district or kept by the OPSC.
- (e) In the event that unexpected cash proceeds from sources other than bond funds become available for use for priority funding Apportionments, at a public meeting the Board may waive the 30-calendar day filing provision specified in this section for impacted school districts to provide funds more rapidly.
- (1) OPSC shall identify and invite impacted school districts to submit a priority funding request that meets all other criteria in (a) above.

- (2) Requests submitted under this provision shall be valid from the date the priority funding request is submitted until the end of the regularly scheduled filing round specified above.
- (3) Requests submitted under this provision must comply with all other requirements of the priority funding process in this Section and Section 1859.90.3.
- (4) District's may decline to submit a request outside the normal 30-day filing period without consequence. If the option to submit a request is declined, the requirements to participate in the standard 30-day filing periods specified in (a) above remain in effect.
- (5) Unexpected proceeds from sources other than bond funds include, but are not limited to, the \$250 million in General Fund monies provided to the 2016 School Facilities Account as a result of the 2021-2022 Budget Act.
- ~~(e)~~(f) For purposes of this section "rescinded" or "rescission" shall mean that the Apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date, except for (a)(5)(A). The new unfunded approval date will be 90 calendar days from the Apportionment date. The district or charter school will not be required to re-submit the Application and no further Application review will be required.

Note: Authority cited: Section 17070.35, Education Code.

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