

## Amend Regulation Section 1859.2

### Section 1859.2. Definitions.

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“Facility Hardship” means the repair, reconstruction, or replacement of School Buildings, components of School Buildings, or school site conditions authorized by Section 1859.82.1 or 1859.82.2. ~~means new or replacement facilities authorized by Section 1859.82 (a) or (b).~~

“Facility Hardship Square Footage Grant” means the grant per square foot provided for Facility Hardship replacement facilities funding pursuant to Sections 1859.82 (a) or (b) 1859.82.1(b)(4)(B) or 1859.82.2(b)(4)(B), excluding additional grants provided under Section 1859.82 (a) or (b) 1859.82.1 or 1859.82.2.

...

“Form SAB 50-04” means the *Application For Funding*, Form SAB 50-04 (Revised 04/18 05/20), which is incorporated by reference.

...

“Form SAB 58-01” means the *Facility Hardship Cost Estimate*, Form SAB 58-01 (New 05/20), which is incorporated by reference.

...

“Most Vulnerable Category 2 Buildings” means the building meets the criteria outlined in Section 1859.82(a)(1)(C) 1859.82.2(a) and is one of the following building types:

...

“Portable Classroom Replacement Grant” – means beginning August 31, 2020, Starting in 2020 is \$46.55 per Square Foot and will be adjusted in the manner prescribed in Section 1859.71.

“Portable Toilet Replacement Grant” – means beginning August 31, 2020, Starting in 2020 is \$118.62 per Square Foot and will be adjusted in the manner prescribed in Section 1859.71.

...

“Rehabilitation Cost” means the health and safety mitigation grant that is less than 50 percent of the Current Replacement Cost of the facility School Building. Rehabilitation Costs provided shall be 60 percent of the eligible costs in Form SAB 58-01 required in Section 1859.82.1(c)(3)(C) that has been reviewed and approved by OPSC and approved by the Board.

...

“Seismic Rehabilitation Grant” means a grant allowable under Education Code Section 17075.10(a) and (b)(2) and Section 1859.82(a)(1)(A)(1)b., 1859.82.2(c)(4) excluding additional grants.

...

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.75, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17073.25, 17074.10, 17074.30, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17078.72(k), 17079, 17079.10, 17280, 56026 and 101012(a)(8), Education Code; Section 53311, Government Code; and Sections 1771.3 in effect on January 1, 2012 through June 19, 2014 and 1771.5, Labor Code.

## Amend Regulation Section 1869.51

### Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

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The baseline eligibility for new construction determined on the Form SAB 50-03 will be adjusted as follows:

...

(h) Increased by the number of pupils eligible for grants pursuant to Section ~~1859.82(a)~~ 1859.82.1(b)(4)(A) or 1859.82.2(b)(4)(A).

...

(s) Increased by the capacity of classrooms that meet all of the following:

- (1) The classrooms are included in an Approved Application that have a qualifying health and safety threat pursuant to Sections 1859.82.1 or 1859.82.2 that were originally included in the district's baseline eligibility, except the district did not have the current enrollment to support the replacement and funding of those classrooms.
- (2) The classrooms are included in an Approved Application pursuant to Sections 1859.82.1 or 1859.82.2 and did not receive funding as part of that project and were demolished or removed from classroom use. Buildings removed from K-12 classroom use that remain on the school site will be identified on a list published on OPSC's website.
- (3) The Board shall approve the adjustment upon receiving the local school board resolution acknowledging that the buildings have been removed from K-12 classroom use.

...

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20, 17077.40, 17078.72, 17079.20, 42268, and 42270, Education Code.

## Amend Regulation Section 1859.61

### Section 1859.61. Adjustments to the Modernization Baseline Eligibility

...

- ~~(l) Adjusted upon Board receipt of the local school board resolution acknowledging that the buildings have been removed from K-12 classroom use, as follows: Adjusted as a result of classrooms demolished and replaced pursuant to Regulation Section 1859.82.~~
- (1) School Buildings and/or classrooms that receive replacement funding via the New Construction Grant or the Facility Hardship Square Footage Grant pursuant to Section 1859.82.1 or Section 1859.82.2.
- (2) School Buildings and/or classrooms that were originally included in the district's baseline eligibility and were later demolished or removed from classroom use due to health and/or safety concerns that meet the requirements of Regulation Sections 1859.82.1 or 1859.82.2 as verified by OPSC, except the district did not have the current enrollment to support the replacement and funding of those School Buildings and/or classrooms. School Buildings and/or classrooms removed from K-12 classroom use that remain on the school site will be identified on a list published on OPSC's website.

For (l)(1) the building age shall be reset to the date of the Apportionment for the corresponding project. For (l)(2) the building shall be removed from the classroom inventory used to establish modernization eligibility at the site.

...

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51, 17071.25, 17072.15, 17072.20, 17073.15, 17074.10, 17075.10 and 17079.30, Education Code.

#### Amend Regulation Section 1859.76

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

In addition to any other funding authorized by these Regulations, the Board shall provide funding equal to 50 percent of the following approved site development and applicable design costs: (a) Service site development cost, within school property lines for:

...

- (a)(12) Removal and relocation of portable classrooms on a site eligible for replacement funding pursuant to Sections ~~1859.82(a)~~ 1859.82.1 or 1859.82.2 that are available for housing pupils pursuant to Section 1859.35(a).

...

- (d)(3) 6 percent of the State and district share for Elementary School Pupils and Middle School Pupils and 3.75 percent of the State and district share for High School Pupils of the funding provided by Sections 1859.71.2, 1859.72, 1859.73, 1859.73.2, ~~1859.82~~, 1859.82.1(b)(4)(A)1., 1859.82.1(b)(4)(B), 1859.82.1(b)(4)(C), 1859.82.2(b)(4)(A), 1859.82.2(b)(4)(B), 1859.83(a), (b) and (c) and 1859.125(a)(1) through (a)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17072.12 and 17072.35, Education Code.

#### Amend Regulation Section 1859.77.3

##### Section 1859.77.3. Use of New Construction Grant Funds for Projects Accepted by the DSA After January 22, 2003.

...

- (a)(6) For purposes of this section to determine if an existing facility is inadequate, the existing square footage is less than 60 percent of the square footage necessary for the current CBEDS for the site plus the Net School Building Capacity of the proposed project as calculated pursuant to Sections ~~1859.82(b)~~, 1859.82.1(b)(4)(B)2., except for Alternative Education Schools. For Alternative Education Schools, refer to the following:

...

- (7)(A)2. For a multipurpose room, gymnasium, and/or library, refer to the chart in Section ~~1859.82(b)~~ 1859.82.1(b)(4)(B)2.

...

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

Reference: Sections 17072.13 and 17072.35, Education Code.

#### Amend Regulation Section 1859.80

Section 1859.80. General.

A district shall qualify for hardship assistance by demonstrating one or more of the following:

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- (b) ~~A facility Hardship Grant as provided in Section 1859.82.~~ Qualification for facility hardship as provided in Sections 1859.82.1 or 1859.82.2.

...

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10 and 17070.15, Education Code.

Amend Regulation Section 1859.81

Section 1859.81. Financial Hardship.

...

- (a)(8) Funding to pay for obtaining a structural report pursuant to Section 1859.82.2 ~~1859.82~~ for an approvable and funded seismic mitigation project.

...

- (b) From the funds deemed available as a matching contribution, the district may retain \$19,776 per classroom in each enrollment reporting period for the cost to provide interim housing for the currently unhoused pupils of the district. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of classrooms needed for interim housing for the currently unhoused pupils shall be the sum of the positive numbers determined in (b)(7) as follows:

- (1) Determine the current enrollment of the district by grade level as shown on the latest Form SAB 50-01.
- (2) Determine the New Construction Grants apportioned by grade level for all SFP projects and LPP funded under the provisions of Sections 1859.12 or 1859.13 where the district has submitted Form SAB 50-06 indicating that the project is 100 percent complete.
- (3) Subtract (b)(2) from (b)(1).
- (4) Determine the number of classrooms by grade level reported in Part 1, Line 8 on Form SAB 50-02.
- (5) Multiply the classrooms determined in (b)(4) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe.
- (6) Subtract the product determined in (b)(5) from the difference determined in (b)(3) by grade level.
- (7) Divide the difference by grade level determined in (b)(6) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

...

From the funds deemed available as a matching contribution, the district may also retain \$19,776 per classroom in each reporting period for the cost to provide necessary interim housing for the currently unhoused pupils displaced as a result of a SAB approved seismic mitigation project pursuant to Section 1859.82.2 ~~1859.82~~. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of classrooms needed for interim housing shall be the quotient of the displaced pupils by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

...

Note: Authority cited: Sections 17070.35, 17075.15, 17078.72 and 17592.73, Education Code.

## Repeal Regulation Section 1859.82

### ~~Section 1859.82. Facility Hardship.~~

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

~~(a) Repair of facilities, new classrooms and/or subsidiary facilities (corridors, toilets, kitchens and other non-classroom space), or replacement facilities if either (1) or (2) are met:~~

~~(1) The facilities are needed to ensure the health and safety of the pupils if the district can demonstrate to the satisfaction of the Board that the health and safety of the pupils is at risk. Factors to be considered by the Board shall include the close proximity to a major freeway, airport, electrical facility, high power transmission lines, dam, pipeline, industrial facility, adverse air quality emission or other health and safety risks, including structural deficiencies required by the DSA to be repaired, seismic mitigation of the Most Vulnerable Category 2 Buildings as verified by the DSA, traffic safety or because the pupils reside in remote areas of the district and transportation to existing facilities is not possible or poses a health and safety risk. Funding for seismic mitigation related and ancillary costs for the Most Vulnerable Category 2 Buildings shall only be provided from the SFP New Construction Account.~~

~~(A) The district shall prepare and submit to the OPSC an Application which includes a cost/benefit analysis which will be used to compare the total costs to remain in the classroom or related facility and mitigate the problem to the Current Replacement Cost of the classroom or related facility. The cost/benefit analysis may include applicable site development costs as outlined in Section 1859.76. The cost/benefit analysis shall not include increased costs associated with high performance related costs or components, with the exception of those high performance components that were pre-existing in the classroom or related facility.~~

~~1. If the total cost to remain in the classroom or related facility is 50 percent or less than the Current Replacement Cost, the district may qualify for either grant below, as applicable:~~

~~a. Modernization Excessive Cost Hardship Grant for Rehabilitation Costs pursuant to Section 1859.83(e), or~~

~~b. A grant not to exceed 50 percent of the cost estimate that has been reviewed and approved by the OPSC and approved by the Board for seismic repair.~~

~~2. If the total cost to remain in the classroom or related facility is greater than 50 percent of the Current Replacement Cost and the Application is for replacement facilities, the district may qualify for a grant for a new or replacement school or replacement facilities as a new construction project.~~

~~3. If the total cost to remain in the classroom or related facility is greater than 50 percent of the Current Replacement Cost and the Application is for the repair, not the replacement, of a Qualified Historical School Building, the district may qualify for funding as a new construction project. The district must demonstrate that the facility meets the definition of a Qualified Historical School Building. Qualified Historical School Building status must be determined by an appropriate local, state, or federal governmental agency or by a person(s) who meets the Professional Qualification Standards set forth by the Secretary of the Interior's Standard and Guidelines for Archeology and Historical Preservation.~~

~~(B) If the request is for facilities that include structural and/or seismic deficiencies, the cost/benefit analysis must also include a report from a licensed design professional identifying the minimum work necessary to obtain DSA approval. The report must contain a detailed cost estimate of the repairs. The cost/benefit analysis shall not include increased costs associated with high performance related costs or components, with the exception of those high performance components that were pre-existing in the classroom or related facility. The report and cost estimate shall be subject to review by the OPSC for conformance with the Current~~

Construction Cost Publication by the Sierra West Group and, at the OPSC's discretion, the DSA. For seismic deficiencies of the Most Vulnerable Category 2 Buildings, the report and the cost estimate for the minimum work necessary must be reviewed by the DSA.

(C) The seismic mitigation projects must meet all of the following requirements:

1. The construction contract was executed on or after May 20, 2006;
2. The project funding provided shall be for the minimum work necessary to obtain DSA approval;
3. The building is designed for occupancy by students and staff; and
4. The DSA concurs with a report by a structural engineer, which identifies structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event. If the unacceptable risk of injury is due to the presence of faulting, liquefaction or landslide, these hazards must be documented by a geologic hazards report prepared by an engineering geologist in accordance with California Building Code, Part 2, Chapter 18, section 1803A and with the concurrence of the California Geological Survey.

The structural engineer's report shall conform to the guidelines prepared by the DSA, in accordance with Education Code Section 17310.

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

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

If the district qualifies for repair of a Qualified Historical School Building pursuant to (a)(1)(A)3. or replacement facilities on the same site pursuant to either (a)(1)(A)2. or (a)(2) above, the district is eligible for funding as a new construction project. Replacement facilities and square footage amounts used to determine funding for a Qualified Historical School Building shall be allowed in accordance with the square footage amounts provided in the chart in Section (b) below. If the facility eligible for replacement is not shown in the chart in Section (b) below, the replacement facility shall be limited to the square footage replaced. If the Qualified Historical School Building is a facility type not shown in the chart in Section (b) below, the square footage amounts used to determine funding shall be limited to the existing square footage of the Qualified Historical School Building. The grant amount provided shall be \$173.30 per square foot for Toilet Facilities and \$96.30 per square foot for all other facilities. Additional funding may be provided for applicable site development costs pursuant to Section 1859.76, New Construction Excessive Cost Hardship Grant(s) pursuant to Section 1859.83(a), (b) or (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section 1859.73, project assistance pursuant to Section 1859.73.1, and high performance incentive pursuant to Section 1859.77.4 provided that the high performance points attained are related to the scope of the Facility Hardship project. The amounts shown will be adjusted in the manner prescribed in Section 1859.71. For any project funded in whole or in part from any State bond funds for which the construction contract is awarded prior to January 1, 2012, the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4(a). For any project for which the construction contract is awarded on January 1, 2012 through June 19, 2014, the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations established in Section 1859.71.4(d).

Any grants provided pursuant to either (a)(1) or (a)(2) above will be reduced for any space deemed available by the Board in the district, the HSAA or Super HSAA that could be used to house some or all of the displaced pupils, fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities. If the district qualifies for rehabilitation of facilities on the same site pursuant to subsection (a)(1)(A)(1)b., the district is eligible for a Seismic

~~Rehabilitation Grant. The grant provided is pursuant to subsection (a)(1)(A)(1)b. and Education Code Section 17075.10(b)(2). Additional funding may be provided for a high performance incentive grant pursuant to Section 1859.77.4. For any project for which the construction contract is awarded on January 1, 2012 through June 19, 2014, the seismic rehabilitation grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations established in Section 1859.71.4(d).~~

~~(b) A multi-purpose room, toilet, gymnasium, school administration or library/media center, facility that meets all the following:~~

~~(1) The facility was lost or destroyed as a result of a disaster, including but not limited to fire, flood or earthquake.~~

~~(2) The facility is no longer useable for school purposes as recommended by the California Department of Education and approved by the Board.~~

~~(3) The district has demonstrated satisfactorily to the Board that the facility was uninsurable or the cost of insurance was prohibitive.~~

~~If the district qualifies, the district is eligible for funding as a new construction project. The funding amount provided shall be \$96.30 per square foot for library/media center, school administration, gymnasium and multi-purpose facilities, and/or \$173.30 per square foot for Toilet Facilities. A New Construction Additional Grant may be provided for applicable site development costs pursuant to Section 1859.76, New Construction Excessive Cost Hardship Grant(s) pursuant to Section 1859.83(a) and (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section 1859.73, project assistance pursuant to Section 1859.73.1, and high performance incentive pursuant to Section 1859.77.4 provided that the high performance points attained are related to the scope of the Facility Hardship project. The amounts shown will be adjusted in the manner prescribed in Section 1859.71. For any project funded in whole or in part from any State bond funds for which the construction contract is awarded prior to January 1, 2012, the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4(a). For any project for which the construction contract is awarded on January 1, 2012 through June 19, 2014, the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations established in Section 1859.71.4(d).~~

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

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

<i>Facility</i>	<i>Elementary School Pupils</i>	<i>Middle School Pupils</i>	<i>High School Pupils</i>
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum 4,000 sq. ft.	5.3 sq. ft. per pupil minimum 5,000 sq. ft.	6.3 sq. ft. per pupil minimum 8,200 sq. ft.
Toilet	3 sq. ft. per pupil minimum 300 sq. ft.	4 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
Gymnasium (includes shower/locker)	N/A	12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.	15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.
School Administration	3 sq. ft. per pupil minimum 600 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft.	4 sq. ft. per pupil minimum 800 sq. ft.
Library/Media Center	2.3 sq. ft. per pupil plus 600 sq. ft.	3.3 sq. ft. per pupil plus 600 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft.

Any facilities eligible for facility hardship not shown in the above chart or for Alternative Education facilities not shown in the table in Section 1859.77.3(a)(5) shall be eligible for replacement square footage equal to the facilities replaced. For an Alternative Education school eligible for a facility hardship, utilize the square footage provided in Section 1859.77.3(a)(5), with the exception of toilet and administration where the chart above shall be utilized.

The modernization baseline eligibility provided in Section 1859.60 will be adjusted as a result of funding provided as a new construction project pursuant to (a) or (b) above.

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

(c) A district seeking replaced facilities as a result of either (a) or (b) above must submit Form SAB 50-04 for the replaced facilities:

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

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

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

Note: Authority cited: Sections 17070.35, 17075.10 and 17075.15, Education Code.

Reference: Sections 17074.66, 17075.10, 17075.15, 17250.30 and 101012(a)(1), Education Code; and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

Adopt Regulation Section 1859.82

Section 1859.82. Facility Hardship Program and Seismic Mitigation Program.

A school district may apply for Facility Hardship, including Seismic Mitigation, Program assistance in cases of extraordinary circumstances that have caused an imminent health and safety threat.



Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10, 17075.15, 100420, 100620, 100820, 101012(a)(1) and 101122, Education Code.

## Adopt Regulation Section 1859.82.1

### Section 1859.82.1. Facility Hardship Program.

“School Building” for the purposes of this Section shall have the same definition as Education Code Section 17283 and shall also exclude any districtwide administrative facilities.

A district is eligible for Facility Hardship funding to repair, replace, or construct School Buildings or related required components that are currently causing a health and safety threat to the students and/or staff. Projects solely to replace components that have reached the end of their useful life, perform routine maintenance or repair, issues resulting from the deferment of routine maintenance or repair, lack of current code compliance, or the addition of components that were not previously existing, do not meet the qualifying criteria of the program. However, this work may be incorporated into a qualifying Facility Hardship application if it is required to be completed to gain DSA approval.

Beginning 90 days after the effective date of these regulations this Section [November 29, 2020], Approved Applications requesting Facility Hardship Program funding shall be submitted to OPSC within 12 months of DSA approval for the scope of work mitigating the identified health and safety threat. If the project does not require DSA approval, then the Approved Application for funding must be received within the 6 months following project completion, as demonstrated by the earliest of the following: the date that the notice of completion of the project has been filed; occupancy of any portion of the project Facility; or when the School Buildings or components of the School Buildings in the project are currently in use by the district. If a district demonstrates that extreme or unusual circumstances prevented the submission of an eligible application within the applicable timeline outlined above, OPSC may allow up to an additional 6 months for submittal.

- (a) Districts may qualify for funding to replace or construct new School Buildings. Factors to be considered by the Board to determine eligibility for Facility Hardship program replacement funding may include, but are not limited to:
  - (1) Damage or loss as a result of a natural disaster such as a fire, flood, or earthquake.
  - (2) Proximity to a major freeway, airport, electrical facility, high power transmission lines, dam, pipeline, or industrial facility.
  - (3) Adverse air quality.
  - (4) Structural deficiency to the School Building, and
  - (5) Site conditions such as faulting, toxic soil, or liquefaction.
- (b) To qualify for replacement funding for School Buildings, the district must submit an Approved Application for funding and either (1) or (2) below:
  - (1) For School Buildings that are lost, destroyed, or unable to be repaired, the district must submit:
    - (A) A report from an industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) that states that the only way to mitigate the health and safety threat is to replace the School Building(s).
    - (B) Documentation which demonstrates that the facilities in the project must be reconstructed in order to house the current enrollment of the district.

- (2) For permanent School Buildings where the cost to rehabilitate the School Building(s) exceeds 50 percent of the Current Replacement Cost, or for Portable Classrooms where the cost to rehabilitate exceeds the Portable Classroom Replacement Grant or Portable Toilet Replacement Grant, the district must submit:
- (A) A report by an industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) that outlines the minimum work to mitigate the health and safety threat and remain in the existing School Building. If the threat is due to the presence of mold, OPSC must conduct a site visit to discuss the scope of the project prior to remediation. If the remediation is done prior to a site visit, the application will be ineligible for funding. Requests for asbestos mitigation must include lab test results indicating the asbestos is currently friable, and provides the location, material, and testing methods used.
  - (B) A letter of concurrence from a governmental agency that has jurisdiction or expertise over the field in which the health and safety threat originates. The letter must concur with the industry specialist report on both 1. and 2. below:
    - 1. An imminent health and safety threat to student and/or staff exists.
    - 2. The mitigation measures outlined in the industry specialist's report are the minimum measures required to mitigate the threat and allow the continued use of the School Building(s).
  - (C) Applications must include a detailed Form SAB 58-01 that meets the following requirements:
    - 1. The Form SAB 58-01 must use the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed in the most current edition of the Current Construction Remodeling and Repair Cost publication, amounts entered on the Form SAB 58-01 must use the provided unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the district must provide supporting documentation for OPSC to review the requested unit cost.
    - 2. All requested line items shall include Construction Specifications Institute reference number (CSI #), description, F3 total unit cost amount, and quantity. Any line items that include amounts in lump-sum formats will not be reviewed or approved.
    - 3. The work in the Form SAB 58-01 shall match the work outlined in the report provided by the licensed design professional industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) for the minimum work required to mitigate the health and safety threat.
    - 4. The estimate submitted to OPSC shall be for the same scope of work reviewed and concurred to by DSA, and that is referenced in the governmental concurrence letter for the project.
    - 5. The Form SAB 58-01 may also include any work required by DSA to obtain plan approval.
  - (D) A cost/benefit analysis that demonstrates the minimum work required to mitigate the health and safety threat and remain in the School Building exceeds 50 percent of the Current Replacement Cost of the existing Square Footage of the School Building. The minimum work required may include work required by DSA to gain approval for the mitigation project.
  - (E) All other documents required to complete an Approved Application for funding. This includes:
    - 1. A completed *Application for Funding* (Form SAB 50-04).
    - 2. The DSA Plan Approval letter for the project or documentation from DSA verifying that the project is exempt from their approval process.
    - 3. CDE Plan Approval letter for the project or documentation from CDE verifying that the project is exempt from their approval process.
    - 4. If the project is for a high school site, a letter or meeting minutes from the district's Career and Technical Education Advisory Committee (CTEAC) certifying that the district is in compliance with all career technical facility needs and assessments as outlined in Education Code, Section 17070.955.

- (3) Applications for Facility Hardship replacement funding that do not submit all documents required as part of (1) or (2) above shall be returned without review.
- (4) If the district qualifies for funding to replace its School Buildings, the district is eligible to receive funding for the project as follows:
  - (A) If the district is required to replace all School Buildings on site, the district is eligible to receive funding as follows:
    1. A New Construction Grant will be provided for the lesser of 2. or 3. below.
    2. The classroom capacity determined by multiplying the number of classrooms on the project site being replaced by:
      - a. 25 pupils for each K-6 classroom.
      - b. 27 pupils for each 7-12 classroom.
      - c. 13 pupils for each Non-Severely Disabled Individuals with Exceptional Needs classroom.
      - d. 9 pupils for each Severely Disabled Individuals with Exceptional Needs classroom.
    3. The higher of a., b., or c. below:
      - a. The CBEDS Report of the current enrollment reporting year at the existing project site.
      - b. The average CBEDS Report of the current enrollment reporting year and two immediately preceding enrollment reporting years at the existing project site.
      - c. If the site is closed, use the CBEDS Report of the last enrollment reporting year in which the site was open.
    4. Additional funding may be provided, as applicable, for:
      - a. Fire Code Requirements pursuant to Section 1859.71.2,
      - b. therapy room pursuant to Section 1859.72,
      - c. multilevel construction pursuant to Section 1859.73,
      - d. project assistance pursuant to Section 1859.73.1,
      - e. replacement with multistory construction pursuant to Section 1859.73.2,
      - f. site acquisition pursuant to Sections 1859.74, 1859.74.5, and 1859.75,
      - g. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3, and 1859.74.4,
      - h. Applicable site development costs pursuant to Section 1859.76, and
      - i. New Construction Excessive Cost Hardship Grant(s) for geographic location pursuant to Section 1859.83(a),
      - j. New Construction Excessive Cost Hardship Grant(s) for small size projects pursuant to Section 1859.83(b),
      - k. New Construction Excessive Cost Hardship Grant(s) for new school projects pursuant to Section 1859.83(c), and
      - l. New Construction Excessive Cost Hardship Grant(s) for urban location, security requirements and impacted site pursuant to Section 1859.83(d).
  - (B) If the district qualifies to replace some but not all School Buildings on the project site, funding will be based on the Square Footage of the School Buildings replaced and is capped by the lesser of the amount provided in accordance to the chart below and the Square Footage constructed for each category as justified by enrollment at the project site as follows:
    1. The enrollment at the project site, is determined by the higher of a. or b. below, or c.:
      - a. The CBEDS Report of the current enrollment reporting year at the existing project site.
      - b. The average CBEDS Report of the current enrollment reporting year and two immediately preceding enrollment reporting years at the existing project site.
      - c. If the site is closed, use the CBEDS Report of the last enrollment reporting year in which the site was open.
    2. Using the enrollment determined in 1. any permanent replacement Square Footage provided will be calculated in accordance to a., b., c., below and the chart below.
      - a. If the actual square footage being constructed in the replacement project is less than the amount allowable in the chart for each facility type, the replacement Square Footage shall be limited to the actual square footage constructed.

- b. Non-specialized classroom space provided is limited by the enrollment determined in 1. rounded up to the nearest whole classroom based on 1859.82.1(b)(4)(A)2., and then reduced for any classroom space available at the site to house the pupils at the site.
- c. Classrooms with specialized design such as auto shop, metal shop, music rooms, consumer home economic laboratories, industrial technology laboratories, or science laboratories will qualify for funding if used for its specialized purpose in the current enrollment reporting year or immediately preceding enrollment reporting year. Additionally, these spaces will not count as available capacity for purposes of providing funding in this section when calculating space available to house displaced pupils.
- d. Any space not in the chart below will be provided based on the Square Footage replaced. This may include, but is not limited to, janitor's closets, hallways, and vestibules.

<u>Facility</u>	<u>Elementary School Pupils</u>	<u>Middle School Pupils</u>	<u>High School Pupils</u>
<u>Multi-Purpose (includes food service)</u>	<u>5.3 sq. ft. per pupil minimum 4,000 sq. ft.</u>	<u>5.3 sq. ft. per pupil minimum 5,000 sq. ft.</u>	<u>6.3 sq. ft. per pupil minimum 8,200 sq. ft.</u>
<u>Toilet</u>	<u>3 sq. ft. per pupil minimum 300 sq. ft.</u>	<u>4 sq. ft. per pupil minimum 300 sq. ft.</u>	<u>5 sq. ft. per pupil minimum 300 sq. ft.</u>
<u>Gymnasium (includes shower/locker area)</u>	<u>N/A</u>	<u>12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.</u>	<u>15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.</u>
<u>School Administration</u>	<u>3 sq. ft. per pupil minimum 600 sq. ft.</u>	<u>3 sq. ft. per pupil minimum 600 sq. ft.</u>	<u>4 sq. ft. per pupil minimum 800 sq. ft.</u>
<u>Library/Media Center</u>	<u>2.3 sq. ft. per pupil plus 600 sq. ft., minimum 960 sq. ft.</u>	<u>3.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.</u>	<u>4.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.</u>
<u>Kindergarten Classrooms (including Transitional Kindergarten)</u>	<u>1,350 sq. ft. for each replacement classroom.</u>	<u>NA</u>	<u>NA</u>
<u>Classrooms (1<sup>st</sup>-12<sup>th</sup> grade)</u>	<u>960 sq. ft. for each replacement classroom</u>	<u>960 sq. ft. for each replacement classroom</u>	<u>960 sq. ft. for each replacement classroom</u>
<u>Computer instructional support area, Industrial and Technology/Education Laboratory</u>	<u>960 sq. ft. for each replacement classroom.</u>	<u>960 sq. ft. for each replacement classroom.</u>	<u>960 sq. ft. for each replacement classroom.</u>
<u>Laboratory Classrooms (including science and consumer home economics. (Does not include Industrial and Technology/Education Laboratory)</u>	<u>1,300 sq. ft. for each replacement classroom.</u>	<u>1,300 sq. ft. for each replacement classroom.</u>	<u>1,300 sq. ft. for each replacement classroom.</u>

- e. Beginning in 2020 August 31, 2020, the resulting Square Footage amount(s) shall be multiplied by \$204 per square foot for all non-Toilet Facilities and by \$366 per square foot for Toilet Facilities (includes shower/locker area and physical therapy area for Individuals with Exceptional Needs). The amounts shown will be adjusted in the manner prescribed in Section 1859.71.
3. Additional funding may be provided, as applicable, for:
- therapy room pursuant to Section 1859.72,
  - multilevel construction pursuant to Section 1859.73,
  - project assistance pursuant to Section 1859.73.1.
  - replacement with multistory construction pursuant to Section 1859.73.2,
  - site acquisition pursuant to Section 1859.74,
  - Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and 1859.74.4,
  - Applicable site development costs pursuant to Section 1859.76, and
  - New Construction Excessive Cost Hardship Grant(s) for geographic location pursuant to Section 1859.83(a).

- i. New Construction Excessive Cost Hardship Grant(s) for small size Projects pursuant to Section 1859.83(b), and
- j. New Construction Excessive Cost Hardship Grant(s) urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (C) Using the enrollment determined in (b)(4)(B)1., any Portable Classroom replacement funding provided will be calculated using the Portable Replacement Grant. Any portable toilet facilities provided will be calculated using the Portable Toilet Replacement Grant.
  - 1. Additional funding may be provided, as applicable, for:
    - a. Fire Code Requirements pursuant to Section 1859.71.2,
    - b. therapy room pursuant to Section 1859.72,
    - c. project assistance pursuant to Section 1859.73.1.
    - d. site acquisition pursuant to Section 1859.74,
    - e. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and 1859.74.4,
    - f. Applicable site development costs pursuant to Section 1859.76, and
    - g. Excessive Cost Hardship Grant(s) for geographic location pursuant to Section 1859.83(a),
    - h. New Construction Excessive Cost Hardship Grant(s) for small size projects pursuant to Section 1859.83(b), and
    - i. Excessive Cost Hardship Grant(s) urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (D) If the district qualifies for replacement funding, the funding may be used to rehabilitate the facility as long as the qualifying health and safety threat is fully mitigated. If replacement funding is used for rehabilitation work, the district may request the following supplemental grants, as applicable, for:
  - 1. Fire code requirements pursuant to Section 1859.71.2 if the funding is based on a per-pupil basis pursuant to Section 1859.82.1(b)(4)(A),
  - 2. Therapy room pursuant to Section 1859.72,
  - 3. Project assistance pursuant to Section 1859.73.1,
  - 4. Excessive Cost Hardship Grant(s) for geographic location pursuant to Section 1859.83(a),
  - 5. New Construction Excessive Cost Hardship Grant(s) for small size projects pursuant to Section 1859.83(b), and
  - 6. Excessive Cost Hardship Grant for urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (c) Districts may qualify for funding to rehabilitate their School Buildings, components of School Buildings, or school site conditions. Factors to be considered by the Board may include (1) or (2) below:
  - (1) School Buildings where the minimum cost to mitigate the health and safety threat and remain in the School Building is 50 percent or less of the Current Replacement Cost.
  - (2) Components of the School Buildings or school sites conditions are causing a health and safety threat to students and/or staff. Health and safety threats that may qualify include, but are not limited to:
    - (A) School Building structural deficiency.
    - (B) Hazardous conditions such as methane, lead, or asbestos mitigation.
    - (C) Unsafe water supply.
    - (D) Site conditions such as faulting, toxic soil, landslide risk, or liquefaction.
- (3) To qualify for Facility Hardship rehabilitation funding for School Buildings or components of School Buildings, the district must submit an Approved Application for funding and all documents outlined below. Applications that do not meet the requirements below shall be returned without review.
  - (A) A report by an industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) that outlines the minimum work to mitigate the health and safety threat and remain in the existing School Building. If the threat is due to the presence of mold, OPSC must conduct a site visit to view the damage prior to

- remediation. If the remediation is done prior to a site visit, the application will be ineligible for funding. Requests for asbestos mitigation must include lab test results indicating the asbestos is currently friable, and provides the location, material, and testing methods used.
- (B) A letter of concurrence from a governmental agency that has jurisdiction or expertise over the field in which the health and safety threat originates. The letter must concur with the industry specialist's report on both 1. and 2. below:
1. An imminent health and safety threat to student and/or staff exists.
  2. The mitigation measures outlined in the industry specialist's report are the minimum measures required to mitigate the threat and allow the continued use of the School Building(s) or component.
- (C) Applications must include a detailed Form SAB 58-01 that meets the following requirements:
1. The Form SAB 58-01 must use the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed in the most current edition of the Current Construction Remodeling and Repair Cost publication, amounts entered on the Form SAB 58-01 must use the provided unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the district must provide supporting documentation for OPSC to review the requested unit cost.
  2. All requested line items shall include Construction Specifications Institute reference number (CSI #), description, F3 total unit cost amount, and quantity. Any line items that include amounts in lump-sum formats will not be reviewed and will be disallowed.
  3. The work in the Form SAB 58-01 shall match the work outlined in the report provided by the licensed design professional industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) for the minimum work required to mitigate the health and safety threat.
  4. If the project requires DSA plan approval, the Form SAB 58-01 submitted to OPSC shall be for the same scope of work reviewed and concurred to by DSA, and that is referenced in the governmental concurrence letter for the project.
  5. The Form SAB 58-01 may also include any associated work required by DSA as a result of the mitigation of the health and safety threat.
- (D) Facility Hardship applications for School Buildings must also include a cost/benefit analysis. The cost/benefit analysis shall be completed based on the type of the project as outlined below:
1. For permanent buildings, the district must demonstrate the minimum work required to mitigate the health and safety threat and remain in the School Building is less than 50 percent of the Current Replacement Cost of the School Building. The minimum work required may include work required by DSA to gain approval for the mitigation project.
  2. For Portable School Buildings, the district must demonstrate the minimum work required to mitigate the health and safety threat and remain in the portable building is less than the Portable Classroom Replacement Grant. The minimum work required may also include any associated work required by DSA as a result of the mitigation of the health and safety threat.
  3. Applications that are for necessary components of a site or School Building, such as hazardous water supply, methane mitigation, faulting, liquefaction, landslide potential, friable asbestos, do not require a Cost Benefit Analysis to be submitted.
- (E) All other documents required to complete an Approved Application for funding. This includes:
1. A completed *Application for Funding* (Form SAB 50-04).
  2. The DSA Plan Approval letter for the project or documentation from DSA verifying that the project is exempt from their approval process.
  3. CDE Plan Approval letter for the project or documentation from CDE verifying that the project is exempt from their approval process.

4. If the project is for a high school site, a letter or meeting minutes from the district's Career and Technical Education Advisory Committee (CTEAC) certifying that the district is in compliance with all career technical facility needs and assessments as outlined in Education Code Section 17070.955.
- (4) If the district qualifies for funding to rehabilitate or repair its School Buildings, the district is eligible to receive funding for the project as follows:
  - (A) Rehabilitation Costs provided shall be 60 percent of the eligible costs in the Form SAB 58-01 required in Section 1859.82.1(c)(3)(C) that has been reviewed and approved by the OPSC and approved by the Board.
  - (B) If the district qualifies for rehabilitation funding, the funding may be used towards the replacement of the facility as long as the qualifying health and safety threat is fully mitigated.
  - (C) Applicable supplemental grants may be provided for the following:
    1. project assistance pursuant to Section 1859.73.1.
    2. geographic percentage factor pursuant to 1859.83(a)
  - (d) Any grants provided in accordance to (b) or (c) above shall be adjusted as follows:
    - (1) For projects funded in accordance to (b) above:
      - (A) Reduced for any space deemed available by the Board in the district, HSAA, or Super HSAA that could be used to house some or all of the displaced pupils in the project.
      - (B) Reduced by 50 percent of any insurance proceeds collectable by the district for the project. Any insurance proceeds collected after Apportionment shall be reported to OPSC and the Apportionment will be amended accordingly.
      - (C) Reduced by 50 percent of the net proceeds available from the disposition of the property and/or facilities in the project.
    - (2) For projects funded in accordance to (c) above:
      - (A) 60 percent of any insurance proceeds collectable by the district for the project.
      - (B) 60 percent of the net proceeds available from the disposition of any displaced facilities in the project.
  - (e) Adjustments to School Facility Program per-pupil grants.
    - (1) The district's New Construction Eligibility will be adjusted for any net increase in classroom capacity in the project pursuant to Section 1859.51(i).
    - (2) The baseline eligibility for modernization as provided in Section 1859.60 will be adjusted for any funding received in accordance to (b) above. The age of the classroom and square footage in the project shall be reset to the date of the Apportionment for the project.
  - (f) Districts that qualify for Financial Hardship assistance may file an application for design funding, site funding, and determination of program eligibility in advance of construction funding.
    - (1) To request advanced funding for design for eligible projects, the district must submit an *Application for Funding* (Form SAB 50-04) indicating the request for design funding and all documents listed in Section 1859.82.1(c)(3)(A) through Section 1859.82.1(c)(3)(D)3.
    - (2) Advanced funding for design shall be provided based on the eligible project type as follows:
      - (A) For projects receiving funding for advanced design for the replacement of all School Buildings on the project site pursuant to Section 1859.82.1(b)(4)(A), the Board will apportion an amount not to exceed 40 percent of the New Construction Grant less any district funds available for the project pursuant to Section 1859.81(a).
      - (B) For projects receiving funding for advanced design for at least one but not all School Buildings on the project site pursuant to Section 1859.82.1(b)(4)(B), the Board will apportion an amount not to exceed 40 percent of the Facility Hardship Square Footage Grant less any district funds available for the project pursuant to Section 1859.81(a).
      - (C) For projects receiving funding for advanced design for Rehabilitation Costs pursuant to Section 1859.82.1(c)(4)(A), the Board will apportion an amount not to exceed 25 percent of the Rehabilitation Costs determined pursuant to Section 1859.82.1(c)(4)(A) less any district funds available for the project pursuant to Section 1859.81(a).



- (3) Advanced funding for site shall be provided pursuant to 1859.82.1(b)(4)(A)4. The district is eligible for advanced funding for site acquisition as calculated pursuant to 1859.81.1.
- (4) The amount apportioned for advanced design is an estimate of the funds needed for design, engineering, and other pre-construction project costs. Qualifying districts may request a separate Apportionment for the design and for site acquisition for the same facility hardship project.
- (5) The district is required to submit an Approved Application for funding and an updated Form SAB 58-01 for projects funded in accordance to 1859.82.1(c) or site development worksheet for projects funded in accordance to 1859.82.1(b), that reflects the final approved drawings for the project within:
  - (A) 18 months from the date of Apportionment if the project scope will be for repair or replacement on the same site.
  - (B) 24 months from the date of Apportionment if the project scope is for the replacement of School Building(s) which will be located on a replacement site.
- (6) If the district does not submit the Approved Application for funding within the timelines required by Section (2) above, the application will be reduced to eligible costs incurred.
- (7) Upon receipt of the Approved Application, the application will be reviewed for conformance with all program laws and regulations.
- (8) Any funding provided in Section 1859.82.1 shall be offset by any funding previously provided for the project.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10, 17075.15, 100420, 100620, 100820, 101012 and 101122, Education Code.

## Adopt Regulation Section 1859.82.2

### Section 1859.82.2. Seismic Mitigation Program.

“School Building” for the purposes of this Section shall have the same definition as Education Code Section 17283 and shall also exclude any districtwide administrative facilities.

A school district is eligible for funding to repair, reconstruct, or replace the Most Vulnerable Category 2 Buildings which were originally constructed to be used as School Facilities and pose an unacceptable risk of injury to its occupants in the event of seismic activity. Program eligibility is determined by the DSA while determination of grant funding is determined by the Board based on the following criteria.

Notwithstanding Sections 1859.93 and 1859.93.1, all applications for the seismic mitigation of the Most Vulnerable Category 2 Buildings shall be funded in the order of receipt of an Approved Application for funding. Any grants provided for the purpose of this section shall be provided as a new construction project and allocated on a 50 percent state share basis.

- (a) Seismic mitigation projects must meet all of the following requirements:
  - (1) The construction contract was executed on or after May 20, 2006;
  - (2) The project funding provided shall be for the minimum work necessary to obtain DSA approval;
  - (3) The School Building is designed for occupancy by students and staff; and
  - (4) The DSA concurs with a report by a structural engineer, which identifies structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event. The structural engineers report shall conform to the guidelines prepared by the DSA, in accordance with Education Code Section 17310.

If the unacceptable risk of injury is due to the presence of faulting, liquefaction or landslide, these hazards must be documented by a geological hazards report prepared by an engineering geologist in accordance with California Building Code, Part 2, Chapter 18, Section 1803A and with concurrence of the California Geological Survey.

- (b) To qualify for replacement funding for School Buildings, the district must submit an Approved Application for funding based on their specific circumstances in accordance to either (1) or (2) below:
  - (1) For School Buildings that are lost, destroyed, or unable to be repaired the district must submit:
    - (A) A report from a licensed design professional (a design professional licensed by the appropriate State of California oversight authority) identifying the School Buildings that are the Most Vulnerable Category 2 building(s) and;
    - (B) DSA letter(s) of concurrence to the findings in the report required in (b)(1)(A);
    - (C) If the collapse potential is due to faulting, liquefaction, or landslide, or if it is otherwise required by DSA for project approval, the district must submit 1. and 2. below:
      - 1. A geological hazards report prepared by an engineering geologist indicating the potential for building displacement and recommended site improvements to mitigate the hazard
      - 2. Concurrence to the report from the California Geological Survey.
    - (D) Documentation which demonstrates that the facilities in the project must be reconstructed in order to house the current enrollment of the District.
  - (2) For School Buildings with interior square footage to be mitigated, the district must submit:
    - (A) A report from a licensed design professional (a design professional licensed by the appropriate State of California oversight authority) identifying the structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event and the minimum mitigation work necessary to obtain DSA approval.
    - (B) DSA letter(s) of concurrence to the report
    - (C) If the collapse potential is due to faulting, liquefaction, or landslide, or if it is otherwise required by DSA for project approval the district must submit 1. and 2. below:
      - 1. A geological hazards report prepared by an engineering geologist indicating the potential for building displacement and recommended site improvements to mitigate the hazard
      - 2. Concurrence to the report from the California Geological Survey.
    - (D) Documentation that demonstrates that the facilities in the project must be reconstructed in order to house the current enrollment of the district.
  - (E) A detailed Form SAB 58-01 that meets the following requirements:
    - 1. The Form SAB 58-01 must use the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed in the most current edition of the Current Construction Remodeling and Repair Cost publication, amounts entered on the Form SAB 58-01 must use the provided unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the district must provide supporting documentation for OPSC to review the requested unit cost.
    - 2. All requested line items shall include Construction Specifications Institute reference number (CSI #), description, quantity, unit, cost per unit, and District's request. Any line items that include amounts in lump-sum formats will not be reviewed or approved.
    - 3. The work in the Form SAB 58-01 shall match the work outlined in the report provided by the licensed design professional industry specialist (a person or entity that specializes in the specific area of expertise for that health and safety issue) for the minimum work that would be required to mitigate the seismic threat if the School Building were to be rehabilitated instead of replaced.
    - 4. The Form SAB 58-01 may also include any ancillary work required by DSA to obtain plan approval for the minimum work required to mitigate the seismic threat.

- (F) A cost/benefit analysis that demonstrates that the minimum work to mitigate the seismic threat and remain in the School Building(s) exceeds 50 percent of the Current Replacement Cost.
- (G) All other documents required to complete an Approved Application for funding. This includes:
1. A completed *Application For Funding* (Form SAB 50-04).
  2. The DSA Plan Approval letter for the project or documentation from DSA verifying that the project is exempt from their approval process.
  3. CDE Plan Approval letter for the project or documentation from CDE verifying that the project is exempt from their approval process.
  4. If the project is for a high school site, a letter or meeting minutes from the district's Career and Technical Education Advisory Committee (CTEAC) certifying that the district is in compliance with all career technical facility needs and assessments as outlined in Education Code, Section 17070.955.
- (3) Applications for seismic mitigation replacement funding that do not meet the requirements of (1) or (2) above shall be returned without review.
- (4) If the district qualifies for Replacement funding in accordance to (a)(1) or (a)(2) above, the district is eligible to receive funding for the project as follows:
- (A) If the district is required to replace the entire site and relocate to a new site, the district is eligible to receive funding as follows:
1. A New Construction Grant will be provided for the lesser of 2. or 3. below.
  2. The classroom capacity determined by multiplying the number of classrooms on the project site being replaced by:
    - a. 25 pupils for each K-6 classroom.
    - b. 27 pupils for each 7-12 classroom.
    - c. 13 pupils for each Non-Severely Disabled Individuals with Exceptional Needs classroom.
    - d. 9 pupils for each Severely Disabled Individuals with Exceptional Needs classroom.
  3. The higher of a., b., or c. below:
    - a. The CBEDS Report of the current enrollment reporting year at the existing project site.
    - b. The average CBEDS Report of the current enrollment reporting year and two immediately preceding enrollment reporting years at the existing project site.
    - c. If the site is closed, use the CBEDS Report of the last enrollment reporting year in which the site was open.
  4. Additional funding may be provided, as applicable, for:
    - a. Fire code requirements pursuant to Section 1859.71.2,
    - b. therapy room pursuant to Section 1859.72,
    - c. multilevel construction pursuant to Section 1859.73,
    - d. project assistance pursuant to Section 1859.73.1.
    - e. replacement with multistory construction pursuant to Section 1859.73.2,
    - f. site acquisition pursuant to Sections 1859.74, 1859.74.5 and 1859.75,
    - g. Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and 1859.74.4,
    - h. Applicable site development costs pursuant to Section 1859.76, and
    - i. New construction Excessive Cost Hardship Grant for geographic location pursuant to Section 1859.83(a),
    - j. New construction Excessive Cost Hardship Grant for small size projects pursuant to Section 1859.83(b),
    - k. New construction Excessive Cost Hardship Grant for new school projects pursuant to Section 1859.83(c),
    - l. New construction Excessive Cost Hardship Grant urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (B) If the district qualifies to replace some but not all School Buildings on the project site, funding will be based on the Square Footage of the School Buildings replaced and is

capped by the lesser of the amount provided in accordance to the chart below and the Square Footage constructed for each category as justified by enrollment at the project site as follows:

1. The enrollment at the project site, is determined by the higher of a. or b. below, or c.:
  - a. The CBEDS Report of the current enrollment reporting year at the existing project site.
  - b. The average CBEDS Report of the current enrollment reporting year and two immediately preceding enrollment reporting years at the existing project site.
  - c. If the site is closed, use the CBEDS Report of the last enrollment reporting year in which the site was open.
2. Using the enrollment determined in 1. any permanent replacement Square Footage provided in accordance to a. and b. below will be calculated in accordance to the chart below.
  - a. Non-specialized classroom space provided is limited by the enrollment determined in Section 1859.82.2(b)(4)(B)1. rounded up to the nearest whole classroom based on Section 1859.82.2(b)(4)(A)2., and reduced for any space available to house the displaced pupils.
  - b. Classrooms with specialized design such as auto shop, metal shop, music rooms, consumer home economic laboratories, industrial technology laboratories, or science laboratories will qualify for funding if used for its specialized purpose in the current enrollment reporting year or immediately preceding enrollment reporting year. Additionally, these spaces will not count as available capacity for purposes of providing funding in this section when calculating space available to house displaced pupils.
  - c. Any space not in the chart below will be provided based on the Square Footage replaced. This may include but is not limited to janitor's closets, hallways, workrooms, and vestibules.

<u>Facility</u>	<u>Elementary School Pupils</u>	<u>Middle School Pupils</u>	<u>High School Pupils</u>
<u>Multi-Purpose (includes food service)</u>	<u>5.3 sq. ft. per pupil minimum 4,000 sq. ft.</u>	<u>5.3 sq. ft. per pupil minimum 5,000 sq. ft.</u>	<u>6.3 sq. ft. per pupil minimum 8,200 sq. ft.</u>
<u>Toilet</u>	<u>3 sq. ft. per pupil minimum 300 sq. ft.</u>	<u>4 sq. ft. per pupil minimum 300 sq. ft.</u>	<u>5 sq. ft. per pupil minimum 300 sq. ft.</u>
<u>Gymnasium (includes shower/locker area)</u>	<u>N/A</u>	<u>12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.</u>	<u>15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.</u>
<u>School Administration</u>	<u>3 sq. ft. per pupil minimum 600 sq. ft.</u>	<u>3 sq. ft. per pupil minimum 600 sq. ft.</u>	<u>4 sq. ft. per pupil minimum 800 sq. ft.</u>
<u>Library/Media Center</u>	<u>2.3 sq. ft. per pupil plus 600 sq. ft., minimum 960 sq. ft.</u>	<u>3.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.</u>	<u>4.3 sq. ft. per pupil plus 600 sq. ft. minimum 960 sq. ft.</u>
<u>Kindergarten Classrooms (including Transitional Kindergarten)</u>	<u>1,350 sq. ft. for each replacement classroom.</u>	<u>NA</u>	<u>NA</u>
<u>Classrooms (1<sup>st</sup>-12<sup>th</sup> grade)</u>	<u>960 sq. ft. for each replacement classroom</u>	<u>960 sq. ft. for each replacement classroom</u>	<u>960 sq. ft. for each replacement classroom</u>
<u>Computer instructional support area and Industrial and Technology/Education Laboratory</u>	<u>960 sq. ft. for each replacement classroom.</u>	<u>960 sq. ft. for each replacement classroom.</u>	<u>960 sq. ft. for each replacement classroom.</u>
<u>Laboratory Classrooms (including science and consumer home economics)</u>	<u>1,300 sq. ft. for each replacement classroom.</u>	<u>1,300 sq. ft. for each replacement classroom.</u>	<u>1,300 sq. ft. for each replacement classroom.</u>

- d. Beginning in 2020 August 31, 2020, the resulting Square Footage amount(s) shall be multiplied by \$204 per square foot for all non-Toilet Facilities and by \$366 per square foot for Toilet Facilities (includes shower/locker area and physical therapy area for Individuals with Exceptional Needs).
3. Additional funding may be provided, as applicable, for:
- therapy room pursuant to Section 1859.72,
  - multilevel construction pursuant to Section 1859.73,
  - project assistance pursuant to Section 1859.73.1.
  - replacement with multistory construction pursuant to Section 1859.73.2,
  - site acquisition pursuant to Section 1859.74,
  - Hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and 1859.74.4,
  - Applicable site development costs pursuant to Section 1859.76, and
  - Excessive Cost Hardship Grant for geographic location pursuant to Section 1859.83(a), and
  - Excessive Cost Hardship Grant for small size projects pursuant to Section 1859.83(b).
- (C) If the district qualifies for replacement funding, the funding may be used to rehabilitate the facility as long as the seismic hazard is fully mitigated. If replacement funding is used for rehabilitation work, the district may request the following supplemental grants, as applicable, for:

1. Fire code requirements pursuant to Section 1859.71.2 if the funding is based on a per-pupil basis pursuant to Section 1859.82.2(b)(4)(A).
2. Therapy room pursuant to Section 1859.72.
3. Project assistance pursuant to Section 1859.73.1.
4. Excessive Cost Hardship Grant for geographic location pursuant to Section 1859.83(a).
5. Excessive Cost Hardship Grant for small size projects pursuant to Section 1859.83(b), and
6. Excessive Cost Hardship Grant for urban location, security requirements and impacted site pursuant to Section 1859.83(d).
- (c) Districts may qualify for seismic mitigation funding to rehabilitate their School Buildings including lunch shelters and covered walkways, exterior square footage of School Buildings, or site conditions. Factors to be considered by the Board may include (1) or (2) below:
  - (1) School Buildings where the minimum cost to rehabilitate and remain in the School Building is 50 percent or less of the Current Replacement Cost.
  - (2) Square footage of the Most Vulnerable Category 2 School Buildings, covered walkways, and lunch shelters that need repair or replacement to mitigate a collapse potential in the event of seismic activity as confirmed by the DSA.
  - (3) To qualify for seismic mitigation rehabilitation funding, the district must submit an Approved Application for funding as well as all documents outlined below. Applications that do not meet these requirements will be returned without review.
- (A) A report from a licensed design professional (a design professional licensed by the appropriate State of California oversight authority) identifying the structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event and the minimum mitigation work necessary to obtain DSA approval.
- (B) DSA letter(s) that concur to the findings and minimum mitigation work outlined in the report required by (b)(1)(A).
- (C) If the collapse potential is due to faulting, liquefaction, or landslide, or if it is otherwise required by DSA for project approval, the district must submit 1. and 2. below:
  1. A geological hazards report prepared by an engineering geologist in accordance with California Building Code, Part 2, Chapter 18, Section 1803A and with the concurrence of the California Geological Survey.
  2. Concurrence to the report in 1. from the California Geological Survey.
- (D) A detailed Form SAB 58-01 that meets the following requirements:
  1. The Form SAB 58-01 must use the most current edition of the Current Construction Remodeling and Repair Cost publication by Sierra West Publishing. For all materials or items listed in the most current edition of the Current Construction Remodeling and Repair Cost publication, amounts entered on the Form SAB 58-01 must use the provided unit costs. For individual materials or items that are not contained in the most current edition of the Current Construction Remodeling and Repair publication, the district must provide supporting documentation for OPSC to review the requested unit cost.
  2. All requested line items shall include Construction Specifications Institute reference number (CSI #), description, quantity, unit, cost per unit, and District's request. Any line items that include amounts in lump-sum formats will not be reviewed or approved.
  3. The work in the Form SAB 58-01 shall match the work outlined in the report provided by the licensed design professional industry specialist (a person or entity that specializes in the area of expertise for that health and safety issue) for the minimum work required to mitigate the seismic threat. The Form SAB 58-01 submitted to OPSC shall be for the same scope of work reviewed and concurred to by DSA, and that is referenced in the governmental concurrence letter for the project.
  4. The Form SAB 58-01 may also include any ancillary work required by DSA to obtain plan approval for the minimum work required to mitigate the seismic threat.

- (E) A cost/benefit analysis that demonstrates that the minimum work to mitigate the seismic threat and remain in the School Building(s) is less than 50 percent of the Current Replacement Cost.
- (F) All other documents required to complete an Approved Application for funding. This includes:
  - 1. A completed *Application For Funding* (Form SAB 50-04).
  - 2. The DSA Plan Approval letter for the project or documentation from DSA verifying that the project is exempt from their approval process.
  - 3. CDE Plan Approval letter for the project or documentation from CDE verifying that the project is exempt from their approval process.
  - 4. If the project is for a high school site, a letter or meeting minutes from the district's Career and Technical Education Advisory Committee (CTEAC) certifying that the district is in compliance with all career technical facility needs and assessments as outlined in Education Code Section 17070.955.
- (4) If the district qualifies for seismic mitigation funding to repair their permanent School Buildings, the district is eligible to receive funding for the project as follows:
  - (A) The Seismic Rehabilitation Grant based on 50 percent of the eligible costs in the Form SAB 58-01 required in Section 1859.82.2(c)(3)(D) that have been reviewed by OPSC and approved by the Board.
  - (B) If the district qualifies for rehabilitation funding, the funding may be used towards the replacement of the facility as long as the qualifying seismic threat is fully mitigated.
  - (C) Applicable supplemental grants may be provided for the following:
    - 1. project assistance pursuant to Section 1859.73.1.,
    - 2. Excessive Cost Hardship Grant for geographic location pursuant to Section 1859.83(a), and
    - 3. Excessive Cost Hardship Grant for accessibility and fire code requirements in accordance with Section 1859.83(e)(3).
  - (d) Any grants provided in accordance to (b) or (c) above shall be adjusted as follows:
    - (1) For projects funded in accordance to (b) above:
      - (A) Reduced for any space deemed available by the Board in the district, HSAA, or Super HSAA that could be used to house some or all of the displaced pupils in the project.
      - (B) Reduced by 50 percent of any insurance proceeds collected by the district for the project. Any insurance proceeds collected after Apportionment shall be reported to OPSC and the Apportionment will be amended accordingly.
      - (C) Reduced by 50 percent of the net proceeds available from the disposition of the property and/or facilities in the project.
    - (2) For projects funded in accordance to (c) above:
      - (A) 50 percent of any insurance proceeds collectable by the district for the project.
      - (B) 50 percent of the net proceeds available from the disposition of any displaced facilities in the project.
  - (e) Adjustments to School Facility Program per-pupil grants.
    - (1) The district's New Construction Eligibility will be adjusted for any net increase in classroom capacity in the project pursuant to Section 1859.51(i).
    - (2) The baseline eligibility for modernization as provided in Section 1859.60 will be adjusted for any funding received in accordance to (b) above. The age of the classroom and Square Footage in the project shall be reset to the date of the Apportionment for the project.
  - (f) Districts that qualify for Financial Hardship assistance may file an application for design funding, site funding, and determination of program eligibility in advance of construction funding.
    - (1) To request advanced funding for design for eligible projects, the district must submit an *Application for Funding* (Form SAB 50-04) indicating the request for design funding and all documents listed in Section 1859.82.2(c)(3)(A) through Section 1859.82.2(c)(3)(E).
    - (2) Advanced funding for design shall be provided based on the eligible project type as follows:

- (A) For projects receiving funding for advanced design for the replacement of all School Buildings on the project site, pursuant to Section 1859.82.2(b)(4)(A), the Board will apportion an amount not to exceed 40 percent of the New Construction Grant less any district funds available for the project pursuant to Section 1859.81(a).
- (B) For projects receiving funding for advanced design for at least one but not all School Buildings on the project site pursuant to Section 1859.82.2(b)(4)(B), the Board will apportion an amount not to exceed 40 percent of the Facility Hardship Square Footage Grant less any district funds available for the project pursuant to Section 1859.81(a).
- (C) For projects receiving funding for advanced design for a Seismic Rehabilitation Grant pursuant to Section 1859.82.2(c), the Board will apportion an amount not to exceed 25 percent of the costs determined pursuant to Section 1859.82.2(c)(4)(A) less any district funds available for the project pursuant to Section 1859.81(a).
- (3) Advanced funding for site shall be provided pursuant to Section 1859.82.2(b)(4)(A)4. The district is eligible for advanced funding for site acquisition as calculated pursuant to Section 1859.81.1.
- (4) The amount apportioned for advanced design is an estimate of the funds needed for design, engineering, and other pre-construction project costs. Qualifying districts may request a separate Apportionment for the design and for site acquisition for the same seismic mitigation project.
- (5) The district is required to submit an Approved Application for funding and an updated Form SAB 58-01 for projects funded in accordance with Section 1859.82.2(c) or site development worksheet for projects funded in accordance with Section 1859.82.2(b), that reflects the final approved drawings for the project within:
  - (A) 18 months from the date of Apportionment if the project scope will be for repair or replacement on the same site.
  - (B) 24 months from the date of Apportionment if the project scope is for the replacement of School Building(s) which will be located on a replacement site.
  - (6) If the district does not submit the Approved Application for funding within the timelines required by Section (2) above, the application will be reduced to eligible costs incurred.
  - (7) Upon receipt of the Approved Application, the application will be reviewed for conformance with all program laws and regulations.
  - (8) Any funding provided in Section 1859.82.2 shall be offset by any advanced design funding previously provided for the project pursuant to Section 1859.82.2(f)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10, 17075.15, 101012(a)(1) and 101122, Education Code.

### **Adopt Regulation Section 1859.82.3**

#### **Section 1859.82.3. Facility Hardship Program and Seismic Mitigation Program Conceptual Approvals.**

A district may request approval from the Board to determine eligibility for facility hardship or seismic mitigation programs in advance of project funding. Board approval does not constitute a reservation of bond authority. Board approval only confirms the district meets the criteria in Section 1859.82.

- (a) To request conceptual approval for facility hardship projects, the district must submit an *Application For Funding* (Form SAB 50-04) indicating the request for conceptual approval and all documents listed below:
  - (1) For replacement projects, all of the documents listed in Section 1859.82.1(b)(2)(A) through Section 1859.82.1(b)(2)(D).



- (2) For rehabilitation projects, all of the documents listed in Section 1859.82.1(c)(3)(A) through Section 1859.82.1(c)(3)(D)3.
- (b) To request conceptual approval for seismic mitigation projects, the district must submit an *Application For Funding* (Form SAB 50-04) indicating the request for conceptual approval and all documents listed below:
  - (1) For replacement projects, all of the documents listed in Section 1859.82.2(b)(2)(A) through Section 1859.82.2(b)(2)(F).
  - (2) For rehabilitation projects, all of the documents listed in Section 1859.82.2(c)(3)(A) through Section 1859.82.2(c)(3)(E).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10, 17075.15, 100420, 100620, 100820, 101012(a)(1) and 101122, Education Code.

### Amend Regulation Section 1859.83

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

...

##### (a) Excessive Cost due to Geographic Location.

A district with a project that is located in a geographic area designated in the Geographic Percentage Chart below is eligible for the sum of the Excessive Cost Hardship Grant(s) determined by multiplying the indicated percentage factor shown in the Geographic Percentage Chart below by each of the following amounts:

- (1) The New Construction Grant and the Modernization Grant.
- (2) The funding provided by Sections 1859.71.2, 1859.71.3, 1859.72, 1859.73, 1859.73.2, 1859.76(d)(1) and (2), 1859.78.4, 1859.78.5, 1859.82.1, 1859.82.2, 1859.82(a) and (b), 1859.83(b), (c), (d) and (e) (f)-and 1859.125(a)(1) through (a)(2).

...

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

- (1) Excluding Joint-Use Projects and grant requests pursuant to Section 1859.79.3(a)(1) or (a)(2), if the project will house less fewer than 101 pupils, the district is eligible for an Excessive Cost Hardship Grant equal to 12 percent of the funding provided by the New Construction Grant or 12 percent of the funding provided by the Modernization Grant.
- (2) Excluding Joint-Use Projects and grant requests pursuant to Section 1859.79.3(a)(1) or (a)(2), if the project will house between greater than 100 404 and fewer than 201 200 pupils, the district is eligible for an Excessive Cost Hardship Grant equal to four percent of the funding provided by the New Construction Grant or four percent of the funding provided by the Modernization Grant.
- (3) A Type I Joint-Use Project and a Type II, part of a qualifying SFP Modernization project, Joint-Use Project is eligible for an Excessive Cost Hardship Grant equal to:
  - (A) 12 percent of the funding provided by Section 1859.125(a)(1) through (a)(2), if the qualifying SFP New Construction or Modernization project pursuant to Sections 1859.123 or 1859.123.1 will house less fewer than 101 pupils.
  - (B) Four percent of the funding provided by Section 1859.125(a)(1) through (a)(2), if the qualifying SFP New Construction or Modernization project pursuant to Sections 1859.123 or 1859.123.1 will house between greater than 100 404 and fewer than 201 200 pupils.
- (4) A Type II Joint-Use Project, not part of a qualifying SFP Modernization project, is eligible for an Excessive Cost Hardship Grant equal to eight percent of the funding provided by Section 1859.125(a)(1) through (a)(2).

- (5) A grant request pursuant to Section 1859.79.3(a)(1) or (a)(2) and ~~less~~ fewer than 101 pupils is eligible for an Excessive Cost Hardship Grant equal to four percent of the funding provided by the Modernization Grant.
- (6) A Facility Hardship project that is eligible to receive funding pursuant to Sections 1859.82.1(b)(4)(B), 1859.82.1(b)(4)(C), or 1859.82.2(b)(4)(B), may request an Excessive Cost Hardship Grant for small size project if the following qualifications are met:
  - (A) For the purposes of determining qualification for (6)(B) or (6)(C) below:
    - (1) Calculate the Facility Hardship Square Footage Grant pursuant to Section 1859.82.1(b)(4)(B). If the Facility Hardship project is for the replacement of portable space, calculate the sum of the Portable Replacement Grant and Portable Toilet Replacement Grant pursuant to Section 1859.82.1(b)(4)(C).
    - (2) Divide the amount determined in (6)(A)(1) by the New Construction Grant at the time the project is approved by the Board, for the highest grade level served at the site.
    - (3) Round the quotient to the nearest whole number.
  - (B) The District is eligible for an Excessive Cost Hardship Grant equivalent to 12 percent of the funding provided by the Facility Hardship Square Footage Grant if the calculated result of Section (6)(A) above is fewer than 101 pupils.
  - (C) The District is eligible for an Excessive Cost Hardship Grant equivalent to four percent of the funding provided by the Facility Hardship Square Footage Grant if the calculated result of Section (6)(A) above is greater than 100 and fewer than 201 pupils.

...

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

...

- (2) Excessive Cost Hardship Grants for Alternative Education schools for which the plans and specifications for the project were accepted by the DSA on or after March 24, 2004, or for any Alternative Education schools for which the plans and specifications for the project were accepted by the DSA prior to March 24, 2004 and in lieu of choosing funding under Section ~~1859.82(e)(1)~~1859.83(c)(1), may request funding as follows:

...

~~(e) Excessive Cost for rehabilitation of facilities the Board has determined are a health and safety risk to the pupils pursuant to Section 1859.82(a)(1) and the cost/benefit analysis to mitigate the problem and remain in the facility is less than 50 percent of the Current Replacement Cost of the facility. The cost/benefit analysis shall not include increased costs associated with high performance related costs or components, with the exception of those high performance components that were pre-existing in the classroom or related facility. If the district qualifies, the district is eligible for funding of Rehabilitation Costs as a modernization project. If the Approved Application is received on or before April 29, 2002, the grant amount provided is 80 percent of the amount of the cost estimate required in Section 1859.82(a)(1) that has been reviewed by the OPSC and approved by the Board. If the Approved Application is received after April 29, 2002, the grant amount provided is 60 percent of the amount of the cost estimate required in Section 1859.82(a)(1) that has been reviewed by the OPSC and approved by the Board. An additional grant may be provided for high performance incentive pursuant to Section 1859.77.4 provided that the high performance points attained are related to the scope of the Facility Hardship project. For any project funded in whole or in part from Proposition 47 or Proposition 55 for which the construction contract is awarded prior to January 1, 2012, the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.78.1(a). For any project for which the construction contract is awarded on January 1, 2012 through June 19, 2014, the grant may be adjusted in the manner prescribed in Section 1859.78.1(b) and subject to the limitations established in Section 1859.78.1(c).~~

~~(f)~~ (e) Excessive cost due to accessibility and fire code requirements.

...

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

Reference: Sections 17072.32, 17074.15, 17074.16, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45 and 17250.30, Education Code; and Section 1771.3 in effect on January 1, 2012 through June 19, 2014, Labor Code.

### Amend Regulation Section 1859.90.3

#### Section 1859.90.3. Participation in the Priority Funding Process.

This section applies to Applications for funding for new construction, modernization, Overcrowding Relief Grant, Career Technical Education Facilities Program, Facility Hardship pursuant to Sections 1859.82.1 and 1859.82.2, ~~Facility Hardship pursuant to Section 1859.82 and rehabilitation pursuant to Section 1859.83(e)~~, and Charter School Facilities Program, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment.

- (a) For each Application on the Unfunded List (Lack of AB 55 Loans) for new construction, modernization, Facility Hardship pursuant to Sections 1859.82.1 or 1859.82.2, ~~1859.82, or rehabilitation pursuant to Section 1859.83(e)~~, the occurrences of (1) or (2) below shall be limited after the effective date of this regulation section [March 25, 2013]. For each Application on the Unfunded List (Lack of AB 55 Loans) for Overcrowding Relief Grant, Career Technical Education Facilities Program, and Charter School Facilities Program, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment, the occurrences of (1) or (2) below shall be limited after the effective date of this regulation section [October 1, 2014]

...

Note: Authority cited: Section 17070.35, Education Code.

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

### Amend Regulation Section 1859.93

#### Section 1859.93. Modernization Project Funding Order.

Applications shall be funded as follows:

- (a) First, to applications for Facility Hardship rehabilitation projects ~~Rehabilitation~~ pursuant to Sections 1859.82.1(c) and 1859.82.2(c), ~~1859.83(e)~~ in order of receipt of an Approved Application for funding; then,
- (b) If there are no applications pursuant to subsection (a), to applications for modernization funds in order of receipt of an Approved Application for funding.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.15 and 17075.15, Education Code.

Amend Regulation Section 1859.106

Section 1859.106. Program Accountability Expenditure Audit.

...

An adjustment in the SFP grant will be made for the following:

...

- ~~(b) For 50 percent of any insurance proceeds collectable by the district for displaced facilities and 50 percent of the net proceeds available from the disposition of displaced facilities pursuant to Section 82(a) or (b).~~
- (b) For any insurance proceeds collectable by the district for displaced facilities and net proceeds available from the disposition of displaced facilities pursuant to Sections 1859.82.1(d) and 1859.82.2(d).
- (c) For any project that received funding pursuant to 1859.71.4(c) or 1859.78.1(b), 50 percent of one-fourth of one percent of the difference between the original Total Projected Bond Apportionment and the newly calculated amount.
- (d) Any adjustments made pursuant to this Section will be made only if sufficient bond authority is available for the adjustment. If an Unfunded List has been created by the Board, then any adjustments made pursuant to this Section will be placed on the Unfunded List.

...

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17071.75, 17072.13, 17072.14, 17072.18, 17072.35, 17074.25, 17076.10, 17077.40, 17078.52 and 17251, Education Code, and Section 1771.3, Labor Code.