

Amend Regulation Section 1859.2 as follows:

Section 1859.2. Definitions.

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

"Inactive Preliminary Apportionment" means an apportionment for a project, based on a finding by the SAB, that meets all of the following criteria: 1) received a Preliminary Apportionment prior to December 17, 2008; 2) A complete request to convert a Preliminary Apportionment to a Final Apportionment has not been made; 3) the time limit under Education Code Section 17078.25(a) or (b) will expire on or after December 17, 2008.

"Inactive Preliminary Charter School Apportionment" means an apportionment for a project, based on a finding by the SAB, that meets all of the following criteria: 1) received a Preliminary Charter School Apportionment prior to December 17, 2008; 2) A complete request to convert a Preliminary Charter School Apportionment to a Final Charter School Apportionment has not been made; 3) the time limit under Education Code Sections 17078.25(a) or (b) and 17078.52(c)(3) will expire on or after December 17, 2008.

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Note: Authority cited: Sections 17070.35 and 17078.64, Education Code; Section 15503, Government 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 Section 1771.5, Labor Code.

Amend Regulation Section 1859.121 as follows:

Section 1859.121. Joint-Use Project Application Submittals and Apportionments.

The Board shall accept Approved Applications for Joint-Use Funding on a yearly basis as follows:

- (a) For any funding made available for this purpose by May 31, 2003, applications will be accepted from November 5, 2002 through May 31, 2003. The Board will apportion the funding made available by May 31, 2003 at the July 2003 Board meeting.
- (b) For any additional funding that is made available for this purpose from June 1, 2003 through May 31, 2008, the Board will accept applications from June 1 of the prior calendar year through May 31 of the current calendar year for any funding made available for this purpose by May 31 of each year. The Board will apportion the funding made available by May 31 of each year at the following July Board meeting based on the SFP regulations in effect at that time.
- (c) For any funding that is made available for this purpose the Board will accept applications for the 2008/2009 funding cycle from June 1, 2008 through March 1, 2009. For the 2009/2010 funding cycle and for all future funding cycles, the Board will accept applications from March 2 of the prior calendar year through March 1 of the current calendar year. Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, ~~The~~ Board will apportion the funding made available based on the SFP regulations in effect at that time.

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

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Adopt Regulation Section 1859.148.2 as follows:

Section 1859.148.2. Inactive Preliminary Apportionments Under a State of California Fiscal Crisis

In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board can make a finding that a project has an Inactive Preliminary Apportionment, as defined in Regulation Section 1859.2, that no longer meets the meaning of Preliminary Apportionment as defined in Education Code Section 17078.10(c), and that the four-year period with a possible one time one-year extension requirement set forth in Education Code Section 17078.25(a) and (b) is therefore suspended as of December 17, 2008 and until such time as the Board finds that State bond funds are available for the project, the balance of four-year period with a possible one time one-year extension period which existed on December 17, 2008 shall resume. Once the Board finds that State bond funds are available for the project, the four-year period with a possible one time one-year extension requirement set forth in Education Code Section 17078.25(a) and (b) shall resume but in no case shall that period of time exceed a total of four-year period with a possible one time one-year extension while the subject project has a Preliminary Apportionment. Each project will resume where its originating period of time was suspended, as of December 17, 2008.

This regulation section shall become inoperative January 1, 2010.

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

Reference: Section 17078.25, Education Code.

Amend Regulation Section 1859.164.2 as follows:

Section 1859.164.2. Preliminary Charter School Apportionment Fund Release.

A Charter School receiving a Preliminary Charter School Apportionment from the Board after July 2, 2003 may request an advance release of funds for either of the following:

- (a) A separate advance release of funds for design equal to 20 percent of the amount determined in Section 1859.163.1(a)(1) through (9) or Section 1859.163.5(a) through (g).
- (b) A separate advance release of funds for site acquisition once the requirements in Section 1859.81.1(a)(2) and (3) are met for an amount not to exceed the Preliminary Charter School Apportionment for site acquisition. The Board shall release to the Charter School an amount up to the Preliminary Charter School Apportionment determined in Section 1859.163.1(b).

Qualified Charter Schools may request a separate advance release of funds for the design and for the site acquisition for the same project. A Charter School seeking an advance release of funds pursuant to (a) and/or (b) must have been deemed and maintained financial soundness status from the Authority. Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release State funds included in a Preliminary Charter School Apportionment pursuant to (a) or (b) to the Charter School after submittal of the Form SAB 50-05. The OPSC shall not release funds in excess of the Preliminary Charter School Apportionment. State funds released from a Preliminary Charter School Apportionment pursuant to this Section shall be subject to the provisions in Section 1859.166. Once the Preliminary Charter School Apportionment is converted to a Final Charter School Apportionment pursuant to Section 1859.167, the Charter School may request a release of the remaining funds as prescribed in Section 1859.90. Prior to the release of any funds, the Charter School Agreements must be executed.

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

Reference: Sections 17078.53 and 17078.58, Education Code.

Adopt Regulation Section 1859.166.2 as follows:

Section 1859.166.2. Inactive Preliminary Charter School Apportionments Under a State of California Fiscal Crisis

In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board can make a finding that a project has an Inactive Preliminary Charter School Apportionment, as defined in Regulation Section 1859.2, that no longer meets the meaning of Preliminary Charter School Apportionment as defined in Education Code Section 17078.52(c)(3), and that the four-year period with a possible one time one-year extension requirement set forth in Education Code Section 17078.25(a) and (b) is therefore suspended as of December 17, 2008 and until such time as the Board finds that State bond funds are available for the project, the balance of four-year period with a possible one time one-year extension period which existed on December 17, 2008 shall resume. Once the Board finds that State bond funds are available for the project, the four-year period with a possible one time one-year extension requirement set forth in Education Code Section 17078.25(a) and (b) shall resume but in no case shall that period of time exceed a total of four-year period with a possible one time one-year extension while the subject project has a Preliminary Charter School Apportionment. Each project will resume where its originating period of time was suspended, as of December 17, 2008.

This regulation section shall become inoperative January 1, 2010.

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

Reference: Section 17078.52 and 17078.53, Education Code.

Amend Regulation Section 1859.197 as follows:

Section 1859.197. Fund Release Process.

The OPSC will release State funds that have been apportioned by the Board pursuant to Sections 1859.195 and 1859.196 after submittal by the applicant of the Form SAB 50-05.

- (a) If an apportionment was made for a Career Technical Education Facilities Project, the applicant must submit a Form SAB 50-05 within 18 months of the Apportionment as outlined in Education Code Section 17076.10 or the apportionment shall be rescinded without further Board action.
- (b) If Career Technical Education Facilities funds were reserved for the applicant pursuant to Section 1859.193(d) of these Regulations, the applicant:
 - (1) Has one year from the date of apportionment to submit the CDE plan approval and DSA-approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the apportionment shall be rescinded without further Board action.
 - (2) Has 18 months from the date the CDE plan approval and DSA-approved plans and specifications, as needed, are submitted to the OPSC to submit a completed Form SAB 50-05 or the apportionment shall be rescinded without further Board action.
- (c) If the applicant requires a loan for the entire matching share requirement pursuant to Section 1859.194(b) of these Regulations:
 - (1) Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, ~~the~~ OPSC will release ten percent of the Career Technical Education Facilities grant to the applicant within 30 calendar days of the apportionment.
 - (2) The applicant has one year from the date of apportionment to submit the CDE plan approval and DSA-approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the apportionment shall be rescinded without further Board action
 - (3) The applicant has 18 months from the date in (c)(2) to submit a completed Form SAB 50-05 or the apportionment shall be rescinded without further Board action.
- (d) The applicant is subject to substantial progress time limit on the apportionment as outlined in Education Code Section 17076.10(b).

Note: Authority cited: Sections 17070.35 and 17078.72(k), Education Code.

Reference: Sections 17078.72 and 17076.10 Education Code.