REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, April 25, 2007

AMENDMENTS TO THE CHARTER SCHOOL FACILITIES PROGRAM REGULATIONS

PURPOSE OF REPORT

To request:

1. Adoption of amendments to the School Facility Program (SFP) regulations related to the use of funds from rescinded Charter School Facilities Program (CSFP) Preliminary Apportionments and procedures for conversion to a Final Apportionment.
2. Authorization to file the proposed regulations with the Office of Administrative Law (OAL).

BACKGROUND

The CSFP was established under Assembly Bill (AB) 14, Chapter 935, Statutes of 2002 and six apportionments were made in July 2003, exhausting the $100 million made available for the program through the passage of Proposition 47. As a result of the small number of projects funded, Senate Bill 15, Chapter 587, Statutes of 2004 modified the program to include among other changes, total project funding caps. With these changes, the additional $300 million made available for the program under Proposition 55 funded a total of 28 projects. However, for those who received a Preliminary Apportionment under Proposition 55, it has become apparent that the limited funding made available for each project has made it difficult to build these schools. Recently, AB 127, Chapter 35, Statutes of 2006 again modified the program, this time removing the total project caps for those projects that will receive a Preliminary Apportionment out of the $500 million available through Proposition 1D.

Over the course of the past year, four Preliminary Apportionments have come before the Board to be rescinded. These four charter schools determined that the CSFP was not the best funding source available for their projects. As a result, there is a total of $37,981,745 available to the program from these rescinded apportionments. Current regulations do not address the use of funding made available from rescinded Preliminary Apportionments, but do address funds not needed for Final Conversions are to stay within the respective 2002 or 2004 Charter School Facilities Account.

AUTHORITY

Education Code (EC) Section 17070.35 (a)(2) authorizes the Board to adopt rules and regulations in connection with the administration of the Leroy F. Greene School Facilities Act of 1998 as it deems necessary.

EC Sections 17078.52 through 17078.66 established the Charter School Facilities Program.

STAFF COMMENTS

While it is true that the initial concept of the total project funding caps (which were based on 2003 per pupil grant amounts) was supported by various members of the charter school community, the OPSC has been made aware that for some of those in receipt of a Preliminary Apportionment under Proposition 55, it is not feasible to construct a school within the total project funding caps that are in place. The funding caps are causing some schools to face a shortage of funds for construction costs, while others face a shortage of funds to acquire land on which to build. The Board has satisfied its statutory responsibility to implement total project caps at the time of the preliminary apportionment, and has successfully distributed the funds to a greater proportion of projects. Staff has identified several areas at the time of conversion to a Final Apportionment in which the Board has flexibility to modify the program to enable more of these projects to come to fruition. The suggested changes are

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STAFF COMMENTS (cont.)

summarized below and are reflected in the amended regulations attached to this item. These changes were also discussed at a meeting held in March of 2007 to which all recipients of a Preliminary Apportionment under either Proposition 47 or Proposition 55 and representatives from the major charter school organizations were invited. The meeting was well attended and the participants provided input to Staff's proposed changes along with alternate suggestions. The changes recommended by Staff were supported by the vast majority of those in attendance. In all of the suggested changes, the Final Apportionment would be limited to eligible costs, as would any project under the SFP.

- *Removal of Regulations Categorizing Funds for Either Site Acquisition or Construction*
  The current regulations for those who received a preliminary apportionment under Proposition 55 have two categories of funding identified, site acquisition and construction. Excess costs in one category cannot be used to cover shortfalls in the other. Staff suggests removing this distinction and allowing the funds to be used for any eligible costs, at the discretion of the charter school. This will allow charter schools to work within the amount already apportioned in order to make choices about the project that will allow it to go forward. With this option, no additional funds are required and charter schools do not need to be financially sound for amounts in excess of the Preliminary Apportionment.

- *Use of Rescinded Funds*
  As there has been additional funding provided under Proposition 1D for another filing period, Staff recommends using the funds from rescinded projects (currently $37,981,745) plus the remaining balance of $4,676,661 available in the Unrestricted Charter School Fund in the 2004 Charter School Facilities Account to provide extra funding primarily for those projects apportioned under Proposition 55. Some of the rescinded amounts need to remain available for the projects receiving a preliminary apportionment under Proposition 47, as the regulations in place at the time allowed for projects to exceed the preliminary apportionment provided that funds were available. Of the rescinded amounts available, Staff feels that it would be sufficient to leave $12 million to cover any overages on the five projects that have yet to convert. This leaves a current balance of $30,658,406 for the Proposition 55 projects.

  The attached regulations reflect a dispersion methodology in which a fund is set aside within each of the Charter School Facilities Accounts for rescinded amounts. These funds, the Conversion Increase Funds, would be available at the time of final conversion. A project could receive additional funds up to an amount commensurate with the ratio of the preliminary apportionment for the project to the total of the preliminary apportionments that have not been rescinded as of April 25, 2007. For projects that have yet to convert, the amounts that are set aside in this fund would be guaranteed to be available based on the percentage the project is entitled to. This method allows a charter school to know now exactly how much additional funding is available for the project. Amounts remaining after all projects have converted or rescinded would revert to the Unrestricted Fund.

- *Use of Funds from the Hazardous Material/Waste Removal Fund and the DTSC/Relocation Fund*
  Staff recommends transferring the amounts set aside in both the Hazardous Material/Waste Removal Fund and the DTSC/Relocation Fund to the Conversion Increase Fund within the 2004 Charter School Facilities Account. This would provide an additional $15,689,237 to be disbursed using the same methodology as the rescinded amounts. Again, this allows the charter school to set the budget for the project now, while knowing that the funds will be available at the time of Final Conversion.

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STAFF COMMENTS (cont.)

- *Unrestricted Charter School Fund Use*
  It is possible that additional Preliminary Apportionments funded through either Proposition 47 or Proposition 55 will be rescinded. Staff feels that it is important to use the funds from Proposition 55 projects rescinded after April 25, 2007 to first replenish the Hazardous Material/Waste Removal Fund and the DTSC/Relocation Fund. Once those funds have been replenished to the original levels, additional rescinded amounts would go into the Unrestricted Charter School Fund. The Unrestricted Charter School Fund would be available to recipients of Proposition 55 apportionments at the time of Final Conversion on a first come, first served basis.

The changes outlined above will bring total project costs much closer to the current amounts allowed under the SFP. It should be noted that any charter school that requests additional funds at the time of conversion must be found financially sound for the new amount. While the plan above was widely accepted at the March 2007 stakeholder meeting, alternate solutions were also discussed and are listed below for the Board's review:

- *Place the rescinded amounts into the fund available for the current filing period along with the $500 million made available by Proposition 1D*
  This option is possible. However, Staff feels that the program would be better served by assisting those who have already received an apportionment and have spent the last two years attempting to design and build their project, incurring expenses along the way. In many cases, without additional funds, the current projects will not convert.

- *Implement staff recommendation above for the use of rescinded amounts with a different dispersion methodology*
  Some recipients felt that instead of basing the Conversion Increase Fund percentage on the ratio of the Preliminary Apportionment to the total available at the time, it should be calculated by taking all of the rescinded funds available and dividing it by the number of projects remaining. This would result in the same percentage for everyone. Staff does not feel that this is the most equitable method of dispersion, as small projects would receive more relief than larger projects. In fact, small projects may receive more funds than they need to convert.

- *Provide additional funds at the time of conversion from the rescinded amounts based on a first come, first served methodology*
  This option would benefit those that are ready to convert now, in that they may receive the maximum amount of funding possible. However, it will not assist the majority of the recipients as they will not know what their budget will be and cannot effectively design their project or make the decision as to whether or not they will continue with the project.

During the meeting, concerns were also raised on the effective date of the proposed changes. Several charter schools are ready to submit Final Apportionment applications but do not want to jeopardize the additional funding that may be available once any Regulatory changes are in effect. In order to relieve these concerns, Staff is drafting regulations that will allow projects that convert after the date of this Board meeting to qualify for the additional funding. This will necessitate that these apportionments provided in future consent agendas will not be final until the regulations become effective and the appropriate increases have been approved by the Board.

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STAFF COMMENTS (cont.)

To date, there has been one project that has converted to a Final Apportionment under Proposition 55. The Vaughn High School Academy had a Final Apportionment approved in January 2006 and funds have subsequently been released for this project. The construction of the charter school is underway; however, financial shortfalls have prevented the project from reaching completion. The charter school and the other recipients of the Proposition 55 apportionments have requested that this project be able to participate in any additional funding provided from the rescinded amounts in spite of having already received a Final Apportionment. They argue that there should be no penalty for being the first to convert to a Final Apportionment, as this project faces the same financial challenges as all of the rest; and that to institute such a significant change to the program while precluding the only project to date that has succeeded in moving forward from participating is unfair. However, the Board does not have the statutory authority to provide additional funding to projects after funds have been released. EC Section 17070.63(a) precludes the Board from providing any additional funding and establishes the State's "full and final contribution" for projects under Chapter 12.5, the Leroy F. Greene School Facilities Act of 1998. Therefore, Staff cannot support this request.

In addition to the items above which were addressed at the March 2007 stakeholder meeting, Staff also recommends the use of an Unfunded List for conversion increase costs. In the event that there are no additional funds in the Unrestricted Charter School Fund when a project converts, the Unfunded List will allow those projects to access additional funds that become available through future rescissions or excess Preliminary Charter School Apportionment reservations that return to the Charter School Facilities Accounts. The attached regulations outline the conversion process including the use of the Unfunded List.

RECOMMENDATIONS

1. Adopt the proposed regulation amendments shown on the Attachment to this item.

2. Authorize the establishment of the Conversion Increase Funds.

3. Authorize the transfer of all funds as of today's date from the Hazardous Material/Waste Removal Fund and the DTSC/Relocation Fund into the Conversion Increase Fund within the 2004 Charter School Facilities Account.

4. Specify that eligible Final Charter School Apportionments provided in future consent agendas that qualify for additional funds due to project increases are not final until the regulations become effective and the appropriate increases have been approved by the Board.

5. Authorize Staff to begin the regulatory process with the OAL.

6. Deny the request for additional funding from these regulation changes for the Vaughn High School Academy Project.

BOARD ACTION

In considering this Item, the Board approved Staff's recommendations one through five. The Board did not take any action on recommendation number six and requested that Staff research potential options for the Vaughn High School Academy Project.

ATTACHMENT

Amend Regulation Section 1859.2

Section 1859.2. Definitions.

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

…
"Charter School Facility Account" means the fund for new construction Charter School projects authorized by Education Code Sections 100620(a)(1)(A) and 100820(a)(1)(A).

…

"Conversion Increase Fund" shall be the fund in either the 2002 or 2004, as appropriate, Charter School Facilities Accounts to set aside Preliminary Charter School Apportionment amounts rescinded on or before April 25, 2007, for a Final Charter School Apportionment, pursuant to Section 1859.167.

…

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, 17074.32, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17280, and 56026, Education Code; Section 53311, Government Code; and Section 1771.5, Labor Code.

Amend Regulation Section 1859.163.3.

Section 1859.163.3. Establishment of Funds for Relocation/DTSC Fee and Hazardous Material/Waste Removal.

For Preliminary Charter School Apportionments awarded on February 23, 2005, t~~T~~he Board shall establish two separate funds from the funding provided through the 2004 Bond for the site acquisition values calculated pursuant to costs provided in Section 1859.163.2(b) and (d) that will not be part of the Preliminary Charter School Apportionment determined in Section 1859.163.1. The amount to reserve for the funds will be determined as follows:

Relocation/DTSC Fee Fund

(a) For all projects requesting an additional grant for relocation and DTSC costs on the Form SAB 50-09 pursuant to Section 1859.163.2(b), the value of each property as determined in Section 1859.163.2(a) will be added. The sum would then be multiplied by 15 percent. The product would provide the dollar value to be reserved, but shall not be less than $2.75 million.

Hazardous Material/Waste Removal Fund

(b) For all projects requesting an additional grant for hazardous material/waste removal and remediation costs provided pursuant to Section 1859.163.2(d), the value of each property as determined in Section 1859.163.2(a) will be added. The sum would then be multiplied by 10 percent. The product would provide the dollar value to be reserved, but shall not be less than $2.5 million.

Any Charter School that received a Preliminary Charter School Apportionment on February 23, 2005 that is requesting a Final Charter School Apportionment may request the funding provided in (a) and/or (b) above when the Form SAB 50-04 is submitted. At the time of Final Charter School Apportionment, should insufficient funds remain in either the Relocation/DTSC Fee Fund or Hazardous Material/Waste Removal Fund to fully apportion those site acquisition costs, any amount not apportioned by the Board for relocation, DTSC fees, or hazardous material waste removal or remediation shall be placed on an Unfunded List in Board date approval order. Any funds returned to the Unrestricted Charter School Fund ~~in the appropriate Charter School Facility Account~~ pursuant to Section 1859.167(b) shall be used by the Board to fund projects remaining on the Unfunded List.

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

Reference: Section 17078.56, Education Code.

Amend Regulation Section 1859.167.

Section 1859.167. Final Charter School Apportionment.

(a) ~~For Charter School Preliminary Apportionments provided by the Board on July 2, 2003,~~ With the exception of Charter School Preliminary Apportionments provided by the Board on February 23, 2005, the amount of the Final Charter School Apportionment will be based on the provisions of any amended or new regulations that are effective at the time the Form SAB 50-04, for the Final Charter School Apportionment is submitted and accepted for processing by the OPSC. Prior to the Board providing a Final Charter School Apportionment, the Charter School will need to have a current Financial Soundness certification from the Authority. The Board shall convert the amounts determined below from the Preliminary Charter School Apportionment to the Final Charter School Apportionment:

(1) If the Final Charter School Apportionment request is equal to or less than the Preliminary Charter School Apportionment, the Final Charter School Apportionment shall be funded entirely. The difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment shall be transferred to the Unrestricted Charter School Fund in the ~~2002~~ appropriate Charter School Facilit~~y~~ies Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.

(2) If the Final Charter School Apportionment request is greater than the Preliminary Charter School Apportionment, the Board shall convert the Preliminary Charter School Apportionment to a Final Charter School Apportionment by either of the following:

(A) If the balance in the Unrestricted Charter School Fund in the ~~2002~~ appropriate Charter School Facilit~~y~~ies Account is greater than the difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment, fund the Final Charter School Apportionment entirely. The Final Charter School Apportionment shall become the full and final apportionment for the project.

(B) If the balance in the Unrestricted Charter School Fund in the ~~2002~~ appropriate Charter School Facilit~~y~~ies Account is less than the difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment, fund the Final Charter School Apportionment using any remaining balance in the Unrestricted Charter School Fund in the ~~2002~~ appropriate Charter School Facilit~~y~~ies Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.

(b) For Preliminary Charter School Apportionments provided by the Board ~~after July 2, 2003~~ on February 23, 2005:

(1) T~~t~~he Final Charter School Apportionment will be subject to the provisions of any amended or new regulations that are effective at the time the Form SAB 50-04 is submitted and accepted for processing by the OPSC for the Final Charter School Apportionment; and,

~~(2) the per-pupil grant amounts shall not exceed the amount allotted in 1859.163.1(a)(1); and,~~

~~(3) if the Preliminary Charter School Apportionment was based on the Charter School being eligible for the additional grant in Section 1859.163.1(a)(5)(6) and at the time the Final Charter School Apportionment is provided the Charter School does not meet the requirements to receive that adjustment pursuant to Section 1859.83(d), the Charter School construction cost funding cap will be re-established based on the non-urban project amount, pursuant to Section 1859.163.1(a); and,~~

(2) ~~(4)~~ T~~t~~he Final Charter School Apportionment shall not contain additional pupil grants beyond that which the Charter School may have requested at the time of the Preliminary Charter School Application; and,

(3) ~~(5)~~ P~~p~~rior to the Board providing a Final Charter School Apportionment the Charter School will need to have a current Financial Soundness certification from the Authority; and,

(4) ~~(6)~~ The amount of the Final Charter School Apportionment shall not exceed the Preliminary Charter School Apportionment with the exception of amounts available pursuant to Section 1859.167.2 and 1859.167.3. The additional amount of funds available to an individual project may include amounts from both the Conversion Increase Fund and Unrestricted Charter School Fund. The sum of the Preliminary Apportionment, the additional funds from the Conversion Increase Fund, and the additional amounts from the Unrestricted Charter School Fund shall not exceed the amount necessary to bring the total eligible project costs current to the grant amounts in place at the time of conversion. ~~determined in Section 1859.163.1, and~~ T~~t~~he Board shall convert the ~~amounts determined below from the~~ Preliminary Charter School Apportionment to the Final Charter School Apportionment as outlined below:

(A) If the ~~portion of the~~ Preliminary Charter School Apportionment ~~calculated pursuant to Section 1859.163.1(a)~~ is greater than the Final Charter School Apportionment request ~~for the items identified as construction costs~~ then the difference shall be used to return the Relocation/DTSC Fund and the Hazardous Material/Waste Removal Fund to the amounts originally reserved for these purposes. The amount returned to the Relocation/DTSC Fund shall be equal to 83.6 percent of the amount available for return; the amount returned to the Hazardous Material/Waste Removal Fund shall be equal to 16.4 percent of the amount available for return. Once these funds have been replenished, any remaining funds shall be transferred to the Unrestricted Charter School Fund in the ~~appropriate~~ 2004 Charter School Facilit~~y~~ies Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.

(B) ~~If the portion of the Preliminary Charter School Apportionment calculated pursuant to Section 1859.163.1(b) is greater than the Final Charter School Apportionment request for the site acquisition cost items then the difference shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account~~. If the project is eligible for an additional grant for relocation expenses, DTSC fees, or hazardous waste removal pursuant to Sections 1859.74 or 1859.74.2, the Preliminary Charter School Apportionment may be increased accordingly using the funding set aside in Section 1859.163.3. ~~The Final Charter School Apportionment shall become the full and final apportionment for the project.~~

(C) If the ~~portion of the~~ Preliminary Charter School Apportionment plus the additional amounts provided from the Conversion Increase Fund and the Unrestricted Charter School Fund ~~calculated pursuant to Section 1859.163.1(a)~~ is less than the Final Charter School Apportionment request ~~for the items identified as construction costs~~, the ~~amount of funding provided at the Preliminary Charter School Apportionment shall become the full and final apportionment for the project~~ difference shall be placed on an Unfunded List.

~~(D) If the portion of the Preliminary Charter School Apportionment calculated pursuant to Section 1859.163.1(b) is less than the Final Charter School Apportionment request for the site acquisition cost items, the amount of funding provided at the Preliminary Charter School Apportionment shall become the full and final apportionment for the project. If the project is eligible for an additional grant for relocation expenses, DTSC fees, or hazardous waste removal pursuant to Sections 1859.74 or 1859.74.2, the Preliminary Charter School Apportionment may be increased accordingly using the funding set aside in Section 1859.163.3.~~

~~(E) The Board may approve any funds deposited into the Unrestricted Charter School Fund in the appropriate Charter School Facility Account pursuant to (b)(6)(A) or (B) shall be first used to fund~~

~~remaining site acquisition costs on the Unfunded List pursuant to Section 1859.163.3. If no projects remain on the Unfunded List the Board shall use any funds for other Charter School facility projects.~~

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

Reference: Sections 17078.52 and 17078.56, Education Code.

Repeal Regulation Section 1859.167.1.

~~Section 1859.167.1. Final Charter School Apportionment Conversion Site Acquisition Guidelines.~~

~~When a Charter School submits the Form SAB 50-04 for a Final Charter School Apportionment pursuant to Section 1859.167, the Final Charter School Apportionment for site acquisition costs may not exceed the amount calculated pursuant to Section 1859.163.1(b). The Useable Acres for the project may not exceed the CDE recommended site size for the project established at the time the initial Preliminary Charter School Application was submitted to the OPSC.~~

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

~~Reference: Sections 17078.56 and 17078.58, Education Code.~~

Adopt Regulation Section 1859.167.2.

Section 1859.167.2. Preliminary Apportionment Rescissions.

(a) For projects apportioned on or before February 23, 2005 that are rescinded by the Board for purposes other than those outlined in Section 1859.166, the following will occur upon rescission:

(1) the SFP New Construction Eligibility will be increased for the pupils assigned to the Preliminary Charter School Application for the school district that physically contains the Charter School within its geographical boundaries.

(2) Those projects that have received an advanced release of funds as provided in Section 1859.164.2(a), shall be reduced to costs incurred and closed-out pursuant to Section 1859.106 with a corresponding SFP new construction baseline eligibility adjustment for the pupils assigned to the Preliminary Charter School Application.

(b) For projects apportioned on July 2, 2003 that are rescinded by the Board for purposes other than those outlined in Section 1859.166, the funds shall be returned to the program as follows:

(1) A fund shall be established within the 2002 Charter School Facilities Account to be known as the Conversion Increase Fund. An amount equal to $16,634,364 from Preliminary Charter School Apportionments rescinded on or before April 25, 2007 shall be transferred, on a one time basis, from the Unrestricted Charter School Fund to the Conversion Increase Fund established within that same account. The Conversion Increase Fund shall be used for the purposes outlined in Section 1859.167(b)(4).

(2) Funds available due to projects that rescind after April 25, 2007 shall be transferred to the Unrestricted Charter School Fund within the 2002 Charter School Facilities Account.

(c) For projects apportioned on February 23, 2005 that are rescinded by the Board for purposes other than those outlined in Section 1859.166, the funds shall be returned to the program as follows:

(1) A fund shall be established within the 2004 Charter School Facilities Account to be known as the Conversion Increase Fund. This fund shall be used for the purposes outlined in Section 1859.167(b)(4). This fund shall include all amounts from Preliminary Charter School Apportionments rescinded from the 2004 Charter School Facilities Account on or before April 25, 2007, plus the amounts initially reserved for the DTSC/Relocation Fund and the Hazardous Material/Waste Removal Fund established in Section 1859.163.3.

(2) Funds available due to project rescissions after April 25, 2007 including both the Preliminary Apportionment reservation and any amount available pursuant to subsection (c)(1) above that is not needed for a Final Charter School Apportionment, shall first be used to replenish the DTSC/Relocation Fund and the Hazardous Material/Waste Removal Fund until the cumulative deposits made back into the funds total the amount of funds initially reserved. Once these funds have been replenished, future rescinded amounts shall be returned to the Unrestricted Charter School Fund.

(d) The maximum amount available for each individual Final Charter School Apportionment from the 2002 and/or 2004 Conversion Increase Fund shall be equal to the ratio of the project's Preliminary Charter School Apportionment to the total value of preliminary charter school apportionments awarded on February 23, 2005, for those recipients eligible for these Conversion Increase Fund funds, multiplied by the sum of the amount of funds available for the Conversion Increase Fund in both the 2002 and 2004 Charter School Facilities Accounts.

(e) For projects apportioned after February 23, 2005 any rescinded amounts shall be transferred into the Unrestricted Charter School Fund in the appropriate Charter School Facilities Account. Projects shall be rescinded pursuant to the process described in subsection (a) above with the exception that any adjustments to the baseline eligibility shall be based on the ratio of the number of unhoused pupils pursuant to Section 1859.162.2 and the project capacity which generated the project funding to the eligible expenditures.

Any funds released are subject to the fifty percent local matching share requirement as required by EC Section 17078.54(d).

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

Reference: Section 17078.54, Education Code.

Adopt Regulation Section 1859.167.3

Section 1859.167.3. Use of the Unrestricted Charter School Funds.

(a) Any funds that return to the Unrestricted Charter School Fund in the 2002 Charter School Facilities Account shall be available on a first come, first served basis for the purposes outlined in Section 1859.167(a)(2).

(b) With the exception of funds that return to the program due to the collection of lease payments for local matching share amounts which may not be used for the purposes outlined in Section 1859.167(b)(4), any funds in the Unrestricted Charter School Fund in the 2004 Charter School Facilities Account shall first be used to fund projects on the Unfunded List pursuant to Section 1859.163.3 and then for the purposes outlined in Section 1859.167(b)(4)(C) on a first come, first served basis.

(c) Once all Preliminary Charter School Apportionments made on July 2, 2003 have either converted to a Final Charter School Apportionment or have been rescinded by the Board, the funds remaining in the Unrestricted Charter School Fund in the 2002 Charter School Facilities Account, with the exception of funds that return to the program due to the collection of lease payments for local matching share amounts, may be used for the purposes outlined in Sections 1859.163.3 and 1859.167(b)(4).

(d) Once all Preliminary Charter School Apportionments made on February 23, 2005 have either converted to a Final Charter School Apportionment or have been rescinded by the Board, the funds remaining in the Unrestricted Charter School Fund in the 2004 Charter School Facilities Account, in addition to any lease payments collected, may be used by the Board for other Charter School facility projects pursuant to Education Code Section 17078.58.

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

Reference: Section 17078.58, Education Code.