Includes Office of Administrative Law approvals and Secretary of State filings of 10/08/1999, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, 06/01, 08/12, 09/09, 09/16, 10/04, 11/04, 01/16/2003, 02/06, 02/13, 02/27, 05/01, 07/07, 05/21/2004, 06/01, 07/02, 07/22, 11/02, 11/04, 11/10, 12/06, 12/20, 01/31/2005, 02/03, 02/15, 02/23, 02/28, 03/02, 04/26, 05/24, 05/26, 10/27, 10/31, 03/14/2006, 05/15, 08/21, 09/05, 11/03, 01/08/2007, 02/16, 04/25, 04/30, 05/17, 06/20, 07/13, 07/18, 08/31, 10/01, 10/03, 02/06/2008 and 03/03.

Title 2. Administration
Division 2. Financial Operations
Chapter 3. Department of General Services
Subchapter 4. Office of Public School Construction
Group 1. State Allocation Board
Subgroup 5.5. Regulations Relating to the Leroy F. Greene School Facilities Act of 1998: (School Facility Program)

Article 1. General Provisions and Definitions

Section 1859. Purpose.

These regulations implement the Leroy F. Greene School Facilities Act of 1998, which establishes a State program to provide State per pupil funding for new construction and modernization of existing school facilities.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.10 and 17070.35, Education Code.

Section 1859.1. General Services Director.

The General Services Director, or his or her legal designee shall perform all acts necessary to carry out the provisions of the Act except such functions as are reserved to the Board and to other agencies by law or by Sections 1859 through 1859.107 inclusive. The acts to be performed include, but are not limited to, entering into contracts to administer the Act.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.20, Education Code.

Section 1859.2. Definitions.

For the purpose of these regulations, the terms set forth below shall have the following meanings, subject to the provisions of the Act:
"Academic Achievement" means to improve one's ability to engage in academic endeavors and to accomplish study in core curriculum areas such as reading, writing, mathematics, fine arts, science, vocational education, technology, history or social science.
"Act" means the Leroy F. Greene School Facilities Act of 1998.
"Adjacent" means the HSAAs that will make up the Super HSAA are adjoining, touching, or share a common geographical boundary.
"Alternative District Owned Site" means a district owned site that is deemed available for the project by the California Department of Education.
"Alternative Education" means community day, county community, county community day, and continuation high schools.
"Alternative Enrollment Projection" means a calculation of projected enrollment by eligible school districts as authorized by Education Code Section 17071.75(a)(1).
"Application" means a request pursuant to the Act to receive an eligibility determination and/or funding for a school project.
"Apportionment" shall have the meaning set forth in Education Code Section 17070.15(a).
"Approved Application(s)" means a district has submitted the application and all documents to the Office of Public School Construction that are required to be submitted with the application as identified in the General Information Section of Forms SAB 50-01, *Enrollment Certification/Projection*, (Revised 03/05); SAB 50-02, *Existing School Building Capacity*; SAB 50-03, *Eligibility Determination*, (Revised 09/06); and SAB 50-04, *Application for Funding*, as appropriate, and the Office of Public School Construction has completed and accepted a preliminary approval review pursuant to Education Code Section 17072.25(a).

"Approved Application for Career Technical Education Facilities Project Funding" means an applicant has submitted an *Application for Career Technical Education Facilities Funding,* Form SAB 50-10, including all required supporting documents as identified in the General Information Section of that Form, to the OPSC and the OPSC has accepted the application for processing.
"Approved Application for Joint-Use Funding" means a district has submitted an *Application for Joint-Use Funding,* Form SAB 50-07, including all required supporting documents as identified in the General Information Section of that Form, to the OPSC and the OPSC has accepted the application for processing.
"Attendance Area" shall have the meaning set forth in Education Code Section 17070.15(b).
"Authority" shall have the meaning set forth in Education Code Section 17078.52(d)(1).
"Board" means the State Allocation Board as established by Section 15490 of the Government Code.
"CBEDS Report" means the enrollment information provided through the California Basic Educational Data System (CBEDS) by school districts to the CDE.
"California Department of Education" (CDE) means the offices within that department that have responsibility for school facilities matters.
"Career Technical Education Facilities Project" means a project approved by the Board pursuant to Education Code Section 17078.72.
"CDE Source School List" means a list developed and published by the CDE that identifies districts and Critically Overcrowded Schools pursuant to Education Code Section 17078.18(c).
"Certification" means the act of affirmatively representing, asserting or verifying circumstances, data or information as required by the Act or this subgroup.
"Charter School" shall mean a school established pursuant to Education Code, Title 2, Division 4, Part 26.8, Section 47600, et seq.
"Charter School Agreements" mean a memorandum of understanding, a funding agreement and a use agreement as established by the California School Finance Authority (CSFA).
"Charter School Facility Account" means the fund for new construction Charter School projects authorized by Education Code Sections 100620(a)(1)(A), 100820(a)(1)(A) and 101012(a)(2).
"Charter School Facilities Program Rehabilitation" shall mean work that includes, but will not be limited to, structural changes or other types of work on an existing district facility that extends the useful life of or enhances the physical environment of the school, as provided in Education Code Section 17078.58(a).
"Charter School General Location" shall mean a minimum of a one mile radius to a maximum of a three mile radius from the present or proposed location of the Charter School project as identified in the chartering agreement.
"Childcare" means any program that is operated less than 24-hours per day, in which non-medical, licensed care and supervision are provided to children in a group setting.
"Class B Construction Cost Index" is a construction factor index for structures made of reinforced concrete or steel frames, concrete floors, and roofs, and accepted and used by the Board.
"Classroom" means a teaching station that has the same meaning as the term used in Education Code Section 17071.25(a)(1).
"Classroom-Based Instruction" shall have the meaning set forth in Education Code Section 47612.5(e)(1).
"Classroom Provided" means a classroom acquired by lease, lease-purchase, or purchase for which a contract has been signed for the construction or acquisition of the classroom.
"Committee" shall have the meaning set forth in Education Code Section 17070.15(e).
"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.
"County Fund" shall have the meaning set forth in Education Code Section 17070.15(j).
"Critically Overcrowded School (COS)" means a school that has a pupil population density greater than 115 pupils per useable acre in grades Kindergarten through six, or a pupil population density greater than 90 pupils per useable acre in grades seven through twelve based on the 2001 CBEDS enrollment.
"Current Replacement Cost" means $346.60 per square foot for Toilet Facilities and $192.60 per square foot for all other spaces. The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.
"Date of Occupancy" means the date the grant deed is recorded with the County Recorder's Office.
"Demographic Research Unit" (DRU) means this office within the California Department of Finance.
"Department" shall have the meaning set forth in Education Code Section 17070.15(d).
"District Representative" means a member of a school district staff or other agent authorized to serve as "District Representative" to execute and file an application with the Board on behalf of the district and/or act as liaison between the Board and the district.

"Division of the State Architect (DSA)" means the State office within the Department of General Services that reviews school building plans and specifications for structural, fire safety and access compliance.
"Elementary School Pupil" means a student housed in a school serving Kindergarten through sixth grade, or any combination of Kindergarten through sixth grade.
"Encumbered for Specific Purposes" means a commitment of funds by the school district to meet a legally binding obligation.
"Energy Audit" means an energy analysis and report which sets forth the utility savings that could be generated if the proposed project was designed, constructed, and equipped with energy efficiency and renewable technologies that would make the proposed project exceed the minimum building energy-efficiency standards mandated for new public buildings pursuant to the applicable California Building Standards Code.
"Energy Efficiency Account" means the funds set aside by the Board for purposes of Education Code Section 17077.35.
"EnergyPro 3.1" means a computer program approved by the State Energy Resources Conservation and Development Commission that calculates energy efficiency standards.
"Environmental Hardship" means the State funding for site acquisition as authorized by Section 1859.75.1.
"Excessive Cost Hardship Grant" means the funding provided by Section 1859.83.
"Executive Officer" means the individual appointed by the Governor to direct the Office of Public School Construction, and who concurrently serves as Executive Officer to the Board.
"Existing School Building Capacity" means the district's total capacity to house pupils as calculated pursuant to Sections 1859.30 through 1859.33.
"Existing School Site" for purposes of Joint-Use, means real property that has a public school with any grades K-12 and that has at minimum administration and classroom facilities for any grades K-12 and has been assigned a county district school (CDS) code, which meets the criteria of Regulation Section 1859.23.
"Extra Cost" means the added costs to complete a Type II Joint-Use Project as determined in Section 1859.125.1.
"Facility" means all or a portion of any real property, site improvements, utilities and/or buildings or other improvements contained in the project.
"Facility Hardship" means new or replacement facilities authorized by Section 1859.82 (a) or (b).
"Field Act Facility" means a school building meeting the requirements contained in Education Code Section 17280, et seq.
"Final Apportionment" means an apportionment made pursuant to Education Code Section 17070.15 by submittal of an application pursuant to Section 1859.21.
"Final Apportionment Unfunded List" means a list of projects where the entire Final Apportionment request was not converted to a Final Apportionment.
"Final Charter School Apportionment" shall mean a Preliminary Charter School Apportionment that has been converted to a Final Charter School Apportionment in accordance with Section 1859.165.
"Financial Hardship" means State funding for all or a portion of the district's matching share required by Section 1859.77.1 or 1859.79.
"Financially Sound" shall have the meaning set forth in Education Code Section 17078.52(d)(4) and Title 4, California Business Regulations commencing with Section 10151, et seq.
"Form SAB 50-01" means the *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 04/07), which is incorporated by reference.
"Form SAB 50-02" means the *Existing School Building Capacity*, Form SAB 50-02 (Revised 09/02), which is incorporated by reference.
"Form SAB 50-03" means the *Eligibility Determination*, Form SAB 50-03 (Revised 09/06), which is incorporated by reference.
"Form SAB 50-04" means the *Application For Funding*, Form SAB 50-04 (Revised 10/07), which is incorporated by reference.
"Form SAB 50-05" means the *Fund Release Authorization*, Form SAB 50-05 (Revised 05/07), which is incorporated by reference.
"Form SAB 50-06" means the *Expenditure Report*, Form SAB 50-06 (Revised 02/07), which is incorporated by reference.
"Form SAB 50-07" means the *Application For Joint-Use Funding*, Form SAB 50-07 (Revised 01/05), which is incorporated by reference.
"Form SAB 50-08" means the *Application For Preliminary Apportionment*, Form SAB 50-08 (Revised 09/04), which is incorporated by reference.
"Form SAB 50-09" means the *Application for Charter School Preliminary Apportionment*, Form SAB 50-09 (Revised 09/06), which is incorporated by reference.
"Form SAB 50-10" means the *Application for Career Technical Education Facilities Funding*, Form SAB 50-10 (New 01/07), which is incorporated by reference.

"Form SAB 50-11" means the *Overcrowding Relief Grant District-Wide Eligibility Determination*, Form SAB 50-11, (New 02/07), which is incorporated by reference.
"Fund" shall have the meaning set forth in Education Code Section 17070.15(i).
"General Location" means the proposed location of a new school as set forth in Education Code Section 17078.22 and Section 1859.142.
"General Site Development" means on-site hard surfaced areas for foot traffic, driveways, walks, parking, curbs and gutters; outdoor instructional play facilities such as turfed or paved play areas, permanent playground equipment, outdoor places of assembly, tennis/handball courts, running tracks and baseball, football and soccer fields; applicable landscaping of building frontages and outdoor facilities noted above.
"Governmental Agency" shall include but is not limited to a public entity as defined in Government Code Section 7260(a) including California federally recognized or historically established tribal governments.
"Hazardous Material/Waste Removal Fund" shall mean the fund established pursuant to Section 1859.163.3, in order to set aside funding at the time Preliminary Charter School Apportionments are approved by the Board for hazardous material waste removal that will be provided at the Final Charter School Apportionment when actual costs are known.
"High Performance Rating Criteria" (HPRC) means the standard used to evaluate the costs of designs and materials that promote high performance schools. The HPRC will be using the Collaborative for High Performance Schools (CHPS) rating criteria model as identified in the CHPS *Best Practices Manual Volume III 2002 Edition and 2006 Edition*, as incorporated by reference. For the purposes of the SFP, the HPRC contained in these regulations have been modified to focus on facility related components.
"High Performance School Account" means the funds set aside by the Board for purposes of Education Code Section 101012(a)(8).
"High School Attendance Area (HSAA)" means an attendance area that serves a currently operated high school, other than a continuation school or a community school.
"High School District" means a school district that serves any combination of grades seven through twelve exclusively.
"High School Pupil" means a student in a school serving ninth through twelfth grade or any combination of ninth through twelfth grade.
"Higher Education" means an entity that is a public community college; a public college; a public university; or a non-profit/accredited organization of higher education.
"In Escrow, Governmental Entities" means the approval and signature of instrument(s) that will convey a specified school parcel or site from the public/government entity including the federal government for a determinable sum, and for a determinable date of acquisition which may be based on the district's receipt of funding from the State.
"In Escrow, Non-Governmental Entities" means the deposit of signed instrument(s) and/or funds with instructions with a title company or escrow agent to carry out the provisions of an agreement or contract to acquire a specified school parcel or site for a determinable sum, and for a determinable date of acquisition which may be based on the district's receipt of funding from the State.
"Inadequate" means, for purposes of Joint-Use Projects, the square footage of the existing facility is less than 60 percent of the square footage entitlement shown in the Chart in Section 1859.124.1.
"Independent Audit" means an examination and report of the district's accounts by a certified public accounting firm.
"Individual with Exceptional Needs" shall have the meaning set forth in Education Code Section 56026 as further defined and classified in 34 Code of Federal Regulations Part 300.5.
"Instrument" means a written, legally enforceable agreement, approved and signed by all parties to the escrow, for the conveyance to the district of real estate for a specified parcel or site, that includes a compensation clause and either a purchase option agreement, a purchase agreement, promissory note, lease agreement, installment sales contract, gift, or other real estate conveyance valid in the State of California for property conveyed from a public/government entity, including the federal government.
"Interim Housing" means the rental or lease of classrooms used to house pupils temporarily displaced as a result of the modernization of classroom facilities.
"Joint-Use Project" means a project approved by the Board pursuant to Education Code Sections 17050, 17051, or 17077.40.
"Joint-Use Partner(s)" means an entity or entities that has entered into a joint-use agreement pursuant to the provisions of Education Code Section 17077.42.
"Labor Compliance Program (LCP)" shall be as described in subdivision (b) of Labor Code Section 1771.5 and approved by the Department of Industrial Relations.
"Large Charter School" shall be defined as a school in which the enrollment is greater than 351 pupils, based on the latest available CBEDS report or if a CBEDS report is unavailable, the registration list for the Charter School may be used.

"Lease-Purchase Program (LPP)" means the Leroy F. Greene State School Building Lease-Purchase Law of 1976, commencing with Education Code Section 17000.
"Low-income" shall be the percentage of pupils deemed eligible for free/reduced lunch as identified in the most recent Free and Reduced Price Meals data on file at the CDE. The data on file with CDE shall be determined to be the information collected for the month of October, and any errors and omissions amendments to that information for that time period that have been received and approved by the CDE.
"Major Maintenance" shall have the meaning set forth in Education Code Section 17070.77(b).
"Material Inaccuracy" means any falsely certified eligibility or funding application related information submitted by school districts, architects or other design professionals that allowed the school district an advantage in the funding process.
"Median Cost" means, for purposes of a Preliminary Apportionment, the middle number in a given sequence of property value numbers, or the average of the middle two property value numbers when the given sequence of property value numbers has an even number of numbers.
"Medium Charter School" shall be defined as a school with an enrollment of 176 pupils to 350 pupils, based on the latest available CBEDS report or if a CBEDS report is unavailable, the registration list for the Charter School may be used.
"Mello-Roos Bonds" means the bonds that are authorized under the provisions of the Mello-Roos Community Facilities Act of 1982, commencing with Government Code Section 53311.
"Middle School Pupil" means a student in a school serving sixth through eighth grade, or seventh and eighth grades.
"Modernization" shall have the meaning set forth in Education Code Section 17070.15(f) for purposes of projects subject to Subgroup 5.5, Article 2, commencing with Section 1859 or Education Code Section 17021 under the Lease-Purchase Program.
"Modernization Adjusted Grant" means the Modernization Grant, plus any other funding provided by these Regulations.
"Modernization Grant" means the funding provided pursuant to Education Code Section 17074.10(a) and Sections 1859.78, 1859.78.3, 1859.78.6, and 1859.78.8.
"Modernization Eligibility" means the result of the calculation contained in either Option A or B of the Form SAB 50-03.
"Multi-Track Year-Round Education (MTYRE)" means a school education program in which the students are divided into three or more groups on alternating tracks, with at least one group out of session, and the other groups in session during the same period.
"Net School Building Capacity" means the capacity of a school building to house pupils after excluding the pupils housed in a Classroom which was demolished and replaced in the project and, for schools operating on a multi-track year-round education calendar as defined in Education Code Section 42260(d)(1), after including the maximum enrollment attending the school at one time.
"New Construction Adjusted Grant" means the New Construction Grant, plus any other funding provided by these Regulations.
"New Construction Eligibility" means the result of the calculation determined in Education Code Section 17071.75.
"New Construction Grant" means the funding provided pursuant to Education Code Section 17072.10(a) and Sections 1859.71 and 1859.71.1.
"Nonclassroom-Based Instruction" shall have the meaning set forth in Education Code Section 47612.5(d)(1) and (e)(2).
"Non-Profit Entity" means an entity that is organized and operated for purposes of not making a profit under the provisions of the federal Internal Revenue Code Section 501(c)(3), or is organized as/operated by a nonprofit public benefit corporation, pursuant to State Corporations Code, Title 1, Division 2, Part 2, Section 5110, et seq.
"Non-Profit Organization" means an entity that is organized and operated for purposes of not making a profit under the provisions of the Revenue and Taxation Code.
"Non-Severely Disabled Individual with Exceptional Needs" means an individual with exceptional needs not defined in Education Code Section 56030.5 but included in 34 Code of Federal Regulations Part 300.5.
"Occupancy" means the point at which pupils occupy a classroom as evident by district documents such as the school board's adopted calendar, classroom attendance rosters, fire marshal approval of the classroom, etc.
"Office of Public School Construction (OPSC)" means the State office within the Department of General Services that assists the Board as necessary and administers the Act on behalf of the Director.
"Overcrowded School District" for purposes of determining preference points is any district that demonstrates eligibility in excess of two percent of their unhoused pupils.
"Overcrowding Relief Grant" (ORG) means the funding provided pursuant to Education Code Section 17079, et seq.
"Overcrowding Relief Grant Eligibility Determination" means the form that is submitted to the California Department of Education for purposes of determining whether a school site is eligible for Overcrowding Relief Grant funding and the maximum number of pupils that are eligible to receive funding at a school site.
"Overcrowding Relief Grant Pupil Eligibility" means the result of the calculation determined in Section 1859.182(a).

"Permanent Area" means any area not included in a portable classroom.
"Permanent Classroom" means any classroom not meeting the definition of portable classroom.
"Phase C Approval" means the construction approval by the Board under the Lease-Purchase Program.
"Phase One Environmental Site Assessment (POESA)" shall have the meaning set forth in Education Code Section 17210(g).
"Phase P Approval" means the planning approval by the Board under the Lease-Purchase Program.
"Phase S Approval" means the site approval by the Board under the Lease-Purchase Program.
"Piggyback Contract" means a contract for acquisition of personal property, without advertising for bids, as authorized by Public Contract Code Section 20118.
"Portable Classroom" shall have the meaning set forth in Education Code Section 17070.15(k).
"Preliminary Application" means the district has submitted Form SAB 50-08, including all documents that are required to be submitted with the application as identified in the General Instructions Section of that Form to the OPSC and the OPSC has accepted the application for processing.
"Preliminary Apportionment" means an apportionment made pursuant to Education Code Section 17078.10(c).
"Preliminary Charter School Application" means a district filing on behalf of a charter school or the charter school submitting directly on Form SAB 50-09, including all supporting documents as identified in the General Instructions Section of that Form submitted to the OPSC and the OPSC has accepted the application for processing.
"Preliminary Charter School Apportionment" means an apportionment made pursuant to Education Code Section 17078.52(d)(3).
"Preliminary Endangerment Assessment (PEA)" shall have the meaning set forth in Education Code Section 17210(h).
"Preliminary Plans" means a set of architectural drawings not approved by the DSA that provide a preliminary design.
"Priority One" shall have the meaning set forth in Education Code Section 17017.7(a)(1).
"Priority Two" shall have the meaning set forth in Education Code Section 17017.7(a)(2).
"Property" shall have the meaning set forth in Education Code Section 17070.15(g).
"Proposition 1A" means the Initiative Measure (Prop. 1A) enacted by passage at the November 4, 1998 general election.
"Proposition 39" means the Initiative Measure (Prop. 39) enacted by passage at the November 7, 2000 general election which amended Sections 15102, 15106, 35233, and 72533 and added Chapter 1.5 (commencing with Section 15264) to Part 10, of the Education Code, and added applicable sections of the California Constitution relating to passage of local school bonds with a 55 percent vote of the electorate at a primary or general election, a regularly scheduled local election, or a statewide special election.
"Proposition 47" means the Kindergarten-University Public Education Facilities Bond Act of 2002.
"Proposition 55" means the Kindergarten-University Public Education Facilities Bond Act of 2004.
"Pupil" means a student enrolled in any grade Kindergarten through grade twelve.
"Qualifying Pupils" means enrollment in excess of 86 pupils per useable acre for Kindergarten through sixth grade or 68 pupils per useable acre for grades seven through twelve.
"Quarterly Basis" means a three-month period commencing on January 1, April 1, July 1 and October 1 of each calendar year.
"Ready for Apportionment" means a final review of an Approved Application has been completed by the OPSC and it has been determined that it meets all requirements of law for an apportionment or eligibility determination, and the OPSC will recommend approval to the Board.
"Reconfiguration" for the purposes of the Small High School Program means a project to create new Small High Schools, on an existing high school which can include limited new construction, as needed, pursuant to Education Code Section 17074.32, and the work shall be part of a current Modernization project and considered one project regardless of the number of new high school entities created.
"Reconfigure" for the purposes of the Career Technical Education Facilities Program means remodeling an existing school building within its current confines and/or the expansion of the square footage of the existing building.
"Reconfigure" for the purposes of the Joint-Use program means remodeling an existing school building within its current confines and/or the expansion of the square footage of the existing building and any necessary replacement of displaced classrooms or other minimum essential facilities.
"Region One" shall consist of the following counties: Alpine, Amador, Butte, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba.
"Region Two" shall consist of the following counties: Alameda, Calaveras, Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono, Monterey, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Stanislaus, Tulare, and Tuolumne.
"Region Three" shall consist of the following counties: Los Angeles, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura.
"Region Four" shall consist of the following counties: Imperial, Orange, Riverside, and San Diego.

"Rehabilitation Cost" means health and safety mitigation cost that is less than 50 percent of the current replacement cost of the facility.
"Relocation/DTSC Fee Fund" shall mean the fund established pursuant to Section 1859.163.3, in order to set aside funding at the time Preliminary Charter School Apportionments are approved by the Board for relocation expenses and/or DTSC fees that will be provided at the Final Charter School Apportionment when actual costs are known.
"Remedial Action Plan (RAP)" means a plan approved by the Department of Toxic Substances Control (DTSC) pursuant to Health and Safety Code Section 25356.1.
"Resource Specialist Program" means pupils that meet the definition of Non-Severely Disabled Individual with Exceptional Needs as defined in Section 1859.2 that are not enrolled in a special day class.
"Response Action (RA)" means the removal of hazardous materials and solid waste, the removal of hazardous substances, and other remedial actions in connection with hazardous substances at the site.
"Restricted Charter School Fund" means the funds in the 2002 (or 2004, as appropriate) Charter School Facility Account approved for a Preliminary Charter School Apportionment.
"Restricted Fund" means the funds in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account approved for a Preliminary Apportionment(s).
"Rural Area" shall be a school with a locale code of 41, 42 or 43 as classified by the National Center for Education Statistics (NCES).
"School Building Capacity" shall have the meaning set forth in Education Code Section 17070.15(l).
"School District" shall have the meaning set forth in Education Code Sections 17070.15(m) and 17073.25.
"School Facilities Improvement District" means a legal entity authorized by Education Code Section 15300, to generate school facilities funding.
"School Facility Program (SFP)" means either the new construction or modernization programs implemented under the Act, by these Subgroup 5.5 regulations.
"SFP New Construction Account" means the fund for new construction projects authorized by Sections 100620(a)(1) and 100820(a)(1).
"Secondary School Pupil" means a student in the seventh through the twelfth grade.
"Section" means a section in these Subgroup 5.5 regulations.
"Service Region" means one of the eleven service regions of the California County Superintendents Educational Services Association.
"Severely Disabled Individual with Exceptional Needs" means an individual with exceptional needs as defined in Education Code Section 56030.5.
"Small Charter School" shall be defined as a school with an enrollment of not more than 175 pupils, based on the latest available CBEDS report or if a CBEDS report is unavailable, the registration list for the Charter School may be used.
"Small High School" for purposes of the Small High School Program means a high school with an enrollment of 500 pupils or less.
"Small High School Program" means an Approved Application submitted pursuant to Education Code Section 17072.10(c) or 17074.32.
"Small School District" means a school district with districtwide enrollment reported in Part A, the continuation high pupils reported in Part B, and the special day class pupils reported in Part C on the latest Form SAB 50-01, used to determine or adjust the district's baseline eligibility pursuant to Sections 1859.50 and 1859.51 or submitted separately to the OPSC, that is 2,500 or less.
"Source School" means a Critically Overcrowded School included on the CDE Source School List that has Qualifying Pupils.
"Special Day Class" means a class that has pupils enrolled that are individuals with exceptional needs.
"Square Footage" means the enclosed area measured from the outside face of exterior structural walls of the building. For interior areas or portions of building areas, the enclosed area shall be measured from the centerline of the interior demising wall.
"Student Yield Factor" means the number of students each dwelling unit will generate for purposes of an enrollment augmentation.
"Substantial Enrollment Requirement (SER)" means a district that is operating on a Multi-Track Year-Round Education basis pursuant to Education Code Sections 17017.6 and 17017.7(c).
"Suburban Area" shall be a school with a locale code of either 21, 22, 23, 31, 32 or 33 as classified by the NCES.
"Super High School Attendance Area (Super HSAA)" means two or more HSAAs that are adjacent to each other.
"Teacher Education" means courses for credential programs or enhancement courses that are professional growth courses for elementary, secondary, higher education and special education instructors.

"Toilet Facilities" means restroom area, shower/locker area or physical therapy area for Individuals with Exceptional Needs.
"Type I Joint-Use Project" means a project that meets the criteria of Education Code Section 17077.40(b)(1).
"Type II Joint-Use Project" means a project that meets the criteria of Education Code Section 17077.40(b)(2).
"Unfunded List" means an information list of unfunded projects.
"Unrestricted Charter School Fund" means the funds in the appropriate Charter School Facility Account not approved for a Preliminary Charter School Apportionment(s).
"Unrestricted Fund" means the funds in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account not approved for a Preliminary Apportionment(s).
"Urban Area" shall be a school with a locale code of 11, 12 or 13 as classified by the NCES.
"Useable Acres" means the gross acreage of a school site less any portion of the site publicly dedicated for off-site street improvements and any portion of the site not available for school purposes as determined by the CDE because of topological impediments or because of other unique circumstances.

Note: Authority cited: Sections 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, 17078.72(k), 17079, 17079.10, 17280, 56026, and 101012(a)(8), Education Code; Section 53311, Government Code; and Section 1771.5, Labor Code.

Article 2. Program Transition

Section 1859.10. Lease-Purchase Program and School Facility Program.

Projects approved under the LPP are subject to the regulations contained in Title 2, California Code of Regulations, commencing with Section 1865.1, and the SFP transition rules contained in this Article 2.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Section 1859.11. Previously Approved Joint Use Projects.

Joint Use projects that were approved by the Board prior to November 4, 1998, shall be eligible for funding pursuant to the LPP for all remaining approved but unfunded project costs.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Section 1859.12. Priority One New Construction.

Priority One new construction projects will be funded under the provisions of the LPP if the project received either: 1) Phase C approval by the Board prior to November 4, 1998; or 2) either Phase P or Phase P and Phase S, approvals, and DSA plan approval prior to November 4, 1998.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Section 1859.13. Priority Two New Construction.

Districts with Priority Two new construction projects which received either: 1) Phase C approval by the Board prior to November 4, 1998; or 2) either a Phase P or a Phase P and Phase S approval with DSA plan approval prior to November 4, 1998, must declare to the Board that it intends to convert the entire project to Priority One status by January 31, 1999 to receive funding for all remaining costs in accordance with the LPP provisions.

If the district has not declared its intention to convert the entire project to Priority One status by January 31, 1999, the project shall be deemed withdrawn under the provisions of the LPP and the district must submit a new application under the provisions of the SFP, pursuant to Section 1859.20. If the project is eligible for further funding

under the SFP, the New Construction Adjusted Grant provided under the SFP will be reduced by any previous apportionments, with the exception of apportionments made for site acquisition, made under the LPP.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Section 1859.14. Priority One Modernization.

Priority One modernization projects that have either Phase C approval by the Board prior to November 4, 1998, or have Phase P approval by the Board and DSA plan approval prior to November 4, 1998, may proceed under either (a) or (b). Districts may either:

(a) Receive funding under the provisions of the LPP; or,

(b) By January 31, 1999, withdraw the Priority One modernization LPP project and submit a new application for funding under the provisions of the SFP, pursuant to Section 1859.20. The project approval date under the LPP will be retained for the project approval date under the SFP. If the project is eligible for further funding under the SFP, the Modernization Adjusted Grant provided under the SFP will be reduced by any previous apportionments made under the LPP.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Section 1859.15. Priority Two Modernization.

Districts with Priority Two modernization projects that have either Phase C approval by the Board prior to November 4, 1998, or have Phase P approval by the Board and DSA plan approval prior to November 4, 1998, must declare to the Board that it intends to convert the entire project to Priority One status by January 31, 1999 to receive funding for all remaining costs in accordance with the LPP provisions.

If the district has not declared its intention to convert the entire project to Priority One status by January 31, 1999, the project shall be deemed withdrawn under the provisions of the LPP and the district must submit a new application under the provisions of the SFP pursuant to Section 1859.20. The project approval date under the LPP will be retained for the project approval date under the SFP. If the project is eligible for further funding under the SFP, the Modernization Adjusted Grant provided under the SFP will be reduced by any previous apportionments made under the LPP.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Section 1859.15.1. Application Deadline.

Districts with LPP or SFP conversions from LPP new construction and modernization projects that meet the provisions of Sections 1859.12, 1859.13, 1859.14 or 1859.15 shall receive first funding priority upon submittal of a complete eligibility and funding application through July 5, 1999. After this date, LPP or SFP conversions from LPP new construction and modernization projects shall be funded in the order of the date of receipt of a complete application which complies with all pertinent LPP and SFP statutes and regulations.

Note: Authority cited: Section 17070.35, Education Code and Section 15503, Government Code.

Reference: Sections 17009.3 and 17009.5, Education Code.

Section 1859.16. Projects Not Eligible for Further LPP Funding.

A district with projects not meeting the requirements of Sections 1859.11, 1859.12, 1859.13, 1859.14 and 1859.15 must submit a new application under the provisions of the SFP pursuant to Section 1859.20 in order to receive funding. If the project is eligible for further funding under the SFP, the

(a) New Construction Adjusted Grant provided under the SFP will be reduced by any previous apportionments, with the exception of apportionments made for site acquisition, made under the LPP.
(b) Modernization Adjusted Grant provided under the SFP will be reduced by any previous apportionments made under the LPP.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

Article 3. SFP Application Procedure

Section 1859.20. SFP Application for Determination of Eligibility.

A School District seeking a determination of eligibility for a SFP project shall complete and file the following documents with the OPSC:
(a) For new construction, either districtwide, HSAA, or Super HSAA, or for modernization projects, the Form SAB 50-03.
(b) For new construction projects, either districtwide, HSAA or Super HSAA, the Form SAB 50-01.
(c) For new construction projects, the Form SAB 50-02.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17070.80, 17071.10, 17071.25, 17073.10 and 17073.25, Education Code.

Section 1859.21. SFP Application for Funding.

A School District seeking funding for a modernization or new construction project shall complete and file with the OPSC, the Form SAB 50-04.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.63, 17072.30 , 17073.25 and 17074.15, Education Code.

Section 1859.22. SFP Application for Funding on Leased Land.

In addition to meeting the requirements of Sections 1859.20 and 1859.21 or 1859.120, a district may receive SFP funds for facilities that are or will be located on real property leased by the district provided all the following are met:
(a) The real property is leased from a governmental agency.
(b) The term of the lease for the land for which the district is requesting SFP funding at the time the Approved Application is accepted is one of the following:
(1) At least 25 years if the lease is for real property owned by the federal government.
(2) At least 40 years if the lease is for real property owned by a governmental agency other than the federal government.
(3) At least 30 years if the lease is for real property owned by a governmental agency other than the federal government and the district has certified to all the following:
(A) There are no other educationally adequate sites for new construction available under a 40-year lease.
(B) The cost per year to lease the real property for no less than 30 years is no greater than the cost per year to lease the real property for 40 years.
(4) At least 30 years if the lease is for real property owned by a governmental agency other than the federal government and the district has provided other evidence satisfactory to the Board that a shorter lease term is necessary.

A district seeking modernization funding on land or facilities leased by the district pursuant to this Section is subject to the adjustment in the district's baseline eligibility pursuant to Section 1859.51(c).

A district seeking new construction funding on land or facilities leased by the district pursuant to this Section is subject to the adjustment in the district's baseline eligibility pursuant to Section 1859.51(a) and (i).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.71, Education Code.

Regulation Section 1859.23. SFP Application for Funding on District-Owned Land.

Prior to the district requesting SFP funds for facilities, the district must hold title to the real property where the facilities will be located, unless the project meets the requirements of Regulation Section 1859.22.

Note: Authority cited: Sections 17070.35 and 17070.70, Education Code.

Reference: Section 17070.70, Education Code.

Article 4. Determining Existing School Building Capacity

Section 1859.30. Calculations to Determine Existing School Building Capacity.

For new construction projects the district shall complete, on a one-time basis, the classroom inventory pursuant to Sections 1859.31 and 1859.32 and report that inventory on the Form SAB 50-02. Completion of the calculations made on this Form shall represent the district's new construction Existing School Building Capacity.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17071.10, Education Code.

Section 1859.31. Gross Classroom Inventory.

The district shall prepare a gross inventory consisting of all classrooms owned or leased in the district, the HSAA or Super HSAA as appropriate. For the purpose of this gross classroom inventory, the following shall be considered a classroom. Any classroom:

(a) for which a contract was signed for the construction or acquisition of facilities or for which construction work has commenced at the time the SFP application for determination of eligibility is submitted to the OPSC;
(b) constructed with funds from the LPP;
(c) used for Special Day Class or Resource Specialist Programs;
(d) that are standard classrooms, shops, science laboratories, computer laboratories, or computer classrooms;
(e) acquired or created for Class Size Reduction purposes;
(f) used for preschool programs;
(g) converted to any non-classroom purpose including use by others;
(h) with Housing and Community Development or Department of Housing insignia;
(i) acquired for interim housing for a modernization project;
(j) leased or purchased under the State Relocatable Program pursuant to Chapter 14 of Part 10 of the Education Code;
(k) that have a waiver for continued use by the Board for Field Act exemptions;
(l) used for Community School purposes;
(m) included in a closed school.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.25 and 17071.30, Education Code.

Section 1859.32. Adjustments to Gross Classroom Inventory.

After the gross classroom inventory has been prepared pursuant to Section 1859.31, it will be reduced by the following. Any classrooms:

(a) abandoned and approved for replacement as a hardship under the provisions of the LPP;
(b) at a school operated on a year-round schedule that has been used continuously for at least 50 percent of the time for preschool programs in the five years preceding the receipt of the application for determination of eligibility;
(c) included in any new construction LPP project that has not received a Phase C apportionment;
(d) that is portable and owned or leased by the district for 20 years or more that was approved for abandonment in a LPP project and the plans for the project had DSA approval prior to November 4, 1998;

(e) that is a trailer and is transported/towed on its own wheels and axles;
(f) used exclusively for regional occupational centers, regional occupational programs, child care, preschool and/or Adult Education Programs, and was built or acquired with funds specifically available for those purposes;
(g) of less than 700 interior square feet;
(h) originally built for instructional use, but converted to one of the following:
(1) used continuously for school administration for at least five years prior to the submittal of the application to the OPSC for determination of eligibility.
(2) used continuously for central or main district administration for at least five years prior to the submittal of the application to the OPSC for determination of eligibility.
(3) used for school library purposes during the previous school year.
(i) owned but leased to another district.
(j) any portable classroom excluded by Education Code Section 17071.30.
(k) that is permanent space and leased for less than five years.
(l) any permanent classroom contained in a project for which the construction contract was signed between August 27, 1998 and November 18, 1998 and for which the district did not have full project eligibility under the LPP.
(m) that was acquired with joint-use funds specifically available for that purpose.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17071.25, 17071.30 and 17077.40, Education Code.

Section 1859.33. Classroom Identification and Determination of Existing School Building Capacity.

The district shall identify by grade level, based on its most typical use for grades K-6, 7-8 or 9-12, or non-severe or severe Special Day Class education, each classroom included in the classroom inventory determined pursuant to Section 1859.31 and not excluded pursuant to Section 1859.32. These classrooms shall be reported on the Form SAB 50-02.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.25, 17071.30, 17071.33, 17071.35 and 17071.40, Education Code.

Section 1859.35. Calculation of Existing School Building Capacity.

The district's existing school building capacity shall be determined by totaling the amount calculated in (a) with the amount determined in (b) or (c), whichever is the greater:
(a) With the exception of classrooms for Special Day Class pupils for which the multiplier is indicated on the Form SAB 50-02, multiply the number of available classrooms in the district, the HSAA or the Super HSAA by the following: 25 for each K-6 classroom and 27 for each 7-12 classroom. Available classrooms shall be determined by the reduction of classrooms identified in Section 1859.32 from the gross classroom inventory prepared pursuant to Section 1859.31 and the inclusion of portable classrooms as provided pursuant to Education Code Section 17071.30 (a) or (b).
(b) Multiply the K-6 pupil capacity of the elementary district, the unified district, the HSAA or the Super HSAA in a unified district as determined by the results of the calculations in (a) at the time of the initial determination of eligibility by six percent. When the elementary or unified district meets the Substantial Enrollment Requirement (SER) or qualifies for a waiver of the SER authorized by Education Code Sections 17017.6 and 17017.7(c), the amount reported in (b) shall be zero. For High School Districts, the amount reported in (b) shall be zero.
(c) A number equal to the number of pupils provided operational grants as indicated in the current report of operational grants made by the CDE pursuant to Education Code Section 42268, less the number of pupils at a school on the MTYRE calendar that has a density of at least 200 or more pupils per acre when the district has at least 40 percent of its enrollment on MTYRE as of the date of determination of the existing school building capacity of the district.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.25, 17071.33, 17071.35 and 17071.40, Education Code

Article 5. Enrollment Projections

Section 1859.40. Enrollment Projections Used to Determine a District's Eligibility for New Construction Grants.

The district shall provide an enrollment Certification and report enrollment data, on the Form SAB 50-01. The information provided on this Form shall serve as the basis for determining a district's eligibility for New Construction funding. The enrollment projections generated by completing the Form SAB 50-01 shall be known as Cohort Projections for purposes of this section.

(a) In addition, a School District that meets the eligibility criteria as specified in Education Code Section 17071.75(a)(1) and has applied for determination of eligibility pursuant to Section 1859.20, may submit a request for review of an Alternative Enrollment Projection to the OPSC and the DRU.
(b) The request must contain all of the following to substantiate the Alternative Enrollment Projection methodology:
(1) provide a description to the OPSC on how the district cannot adequately meet its housing needs at the impacted school sites, after considering all existing eligibility mechanisms available from the Cohort Projections;
(2) a written explanation of the methodology for calculating the enrollment projections;
(3) an electronic copy of the calculations used in determining the enrollment projections;
(4) a disclosure of any assumptions that support the calculations of enrollment projections;
(5) a minimum of three years or more, as determined necessary by the DRU, of historical data used in calculating the enrollment projections. The data must be verifiable, annually based, and geographically organized if the school district's boundaries have changed since the 2000 Census conducted by the United States Census Bureau.
(6) a list of source(s) used to collect all applicable data with contact information for each data source;
(7) a separate enrollment projection for each grade level;
(8) a district-wide enrollment projection for any district that reports district-wide enrollment on the Form SAB 50-01; or HSAA enrollment projection(s) for any district that reports enrollment for one or more HSAA(s) on the Form SAB 50-01; or Super HSAA enrollment projection(s) for any district that reports enrollment for one or more Super HSAA(s) on the Form SAB 50-01.

The eligibility generated by an Alternative Enrollment Projection shall be made available to eligible school districts pursuant to Education Code Section 17071.75(a)(1), that received the OPSC's and the DRU's approval of the Alternative Enrollment Projection, until the combined Apportionments for all funding requests utilizing eligibility available from the Alternative Enrollment Projection reaches $500 million or the Board has no funds to apportion from the Kindergarten-University Public Education Facilities Bond Act of 2004.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

Section 1859.41. High School Attendance Area Reporting.

(a) A district may request that its eligibility determination for a New Construction Grant be based on a HSAA or Super HSAA basis if it meets all the following criteria:
(1) The district demonstrates that the eligibility determination for a New Construction Grant in at least one of the district's HSAA or Super HSAA results in negative eligibility for maximum funding at any grade level within the HSAA or Super HSAA.
(2) The New Construction Grant eligibility determination for the HSAA or Super HSAA is based on the existing boundaries of the HSAA or Super HSAA and the capacity and projected enrollment of the HSAA or Super HSAA as shown on the Form SAB 50-03.
(3) The eligibility determination for the HSAA or Super HSAA includes a currently operated high school that serves any combination of grades nine through twelve and that high school is not a continuation high school or a community school.
(b) If a district meets the criteria in subsection (a) and requests its eligibility determination to be based on an HSAA or Super HSAA, eligibility for a future New Construction Grant, with the exception of community school pupil grants for a county superintendent, in that HSAA or Super HSAA must be filed on the same basis for a period of five years from the date the district received an apportionment that was justified by eligibility under that HSAA or Super HSAA. When

only a portion of the enrollment at a feeder school actually contributes to the HSAA or Super HSAA, the district shall report, as a percentage, only that portion of the enrollment. A county superintendent reporting on the basis of one or more HSAA basis may file applications by utilizing HSAA or Super HSAA boundaries of any district within the county. A county superintendent may report enrollment and file eligibility for a future New Construction Grant separately for special education pupils or for community school pupils.

If a district requests to re-file its eligibility determination from HSAA or Super HSAA to district-wide after the five year time period has elapsed, the existing school building capacity in the district will be determined based on classrooms available in the HSAA or Super HSAA at the time of initial request for eligibility determination and the current classrooms in the remaining portion of the district. Once the baseline eligibility has been determined for the district, it will be adjusted for classrooms constructed, funded or acquired in that HSAA or Super HSAA as provided by Section 1859.51.

Existing boundaries of a HSAA or Super HSAA may only be changed as a result of Section 1859.51(f).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17071.75 and 17071. 76, Education Code.

Section 1859.42. Projecting Non-Special Day Class Enrollment.

The district enrollment, as reported on the Form SAB 50-01, shall be used to calculate the district's projected enrollment other than Special Day Class enrollment. The OPSC shall use the following methodology to determine the districts projected enrollment:

(a) All projected enrollment with the exception of Special Day Class enrollment shall be calculated pursuant to the cohort survival enrollment projection system which is described as follows:

(1) For all grades, determine the numerical change in enrollment between the current grade and the next lower grade in the previous year; determine the numerical change in enrollment between the previous year grade and the next lower grade in the second previous year; determine the numerical change in enrollment between the second previous year grade and the next lower grade in the third previous year. Determine the numerical change of kindergarten enrollment on the second previous and third previous year respectively.

(2) Compute the annual change in enrollment as explained in (1) for each grade. The annual change shall then be weighted by multiplying the most recent annual change in enrollment by three, the next most recent annual change by two, and the earliest annual change by one, and dividing the sum of the annual weighted changes for each grade by six. The result shall be the average annual change.

(3) Progress the latest reported enrollment through the five-year projection period, modifying the grade progression each year by the average annual change for each grade as computed in (2).

(b) The enrollment projection will be augmented based on the number of pupils as reported by the district on Form SAB 50-01, that will reside in dwelling units included in an approved and valid tentative or final subdivision map that exceed the number of pupils projected as a result of the cohort survival method for that tentative or final subdivision map. The augmentation shall be as follows:

(1) Progress the current enrollment as reported on Form SAB 50-01, for one year for each grade level. For kindergarten, the progressed current enrollment shall be the same as the reported current enrollment.

(2) Subtract the current enrollment progressed one year for each grade level from the one-year projection of enrollment for each grade level as determined in (a). If the computation results in a negative number, the number shall be deemed zero.

(3) Divide the current enrollment progressed one year for each grade level by the sum of the current enrollment progressed one year in all grade levels.

(4) Multiply the number of housing units in the approved and valid tentative or final subdivision maps by the pupil yield factor provided on the Form SAB 50-01.

(5) Multiply the number of pupils determined in (4) by the percentages determined in (3) for each grade.

(6) Subtract five times the value determined in (2) from the value determined in (5). If the computation results in a negative number, the number shall be deemed zero.

(7) Add the value in (6) to the fifth year of projected enrollment as computed in (a) to establish the augmented projection of enrollment.

(c) The projected enrollment of a HSAA or Super HSAA shall be computed in the same manner as that set forth in this section, except that the enrollment used in such computation shall be that of the HSAA or Super HSAA

rather than the entire district. Augmentation as provided in (b) of this Section may include only dwelling units located in the HSAA or Super HSAA.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

Section 1859.43. Projecting Special Day Class Enrollment.

The district enrollment, as reported on the Form SAB 50-01, shall be used to calculate the district's projected Special Day Class enrollment. The OPSC shall use the following methodology to determine the district's projected enrollment:

(a) The projected enrollment of each classification of Special Day Class students served by a school district shall be computed by multiplying the reported enrollment of Special Day Class students by the five-year projection of the same grade level of students as determined by Section 1859.42. The resulting value shall be divided by the current enrollment of the same students as provided on Form SAB 50-01.

(b) The projected enrollment of each classification of Special Day Class students served by a county office of education shall be computed as follows:

(1) Determine the percentage change in total Special Day Class enrollment from the previous year to the current year; determine the percentage change in total Special Day Class enrollment in the second previous year to the previous year; determine the percentage change in total Special Day Class enrollment in the third previous year to the second previous year. To determine the average annual change, add the three percentage changes and divide by three.

(2) The current Special Day Class enrollment provided by the county office of education as reported on Form SAB 50-01, shall be adjusted by the average annual percentage change in (1) for each year until the five-year projected enrollment has been determined.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

Article 6. New Construction Eligibility Determination

Section 1859.50. Calculations to Determine New Construction Baseline Eligibility.

The district shall calculate its eligibility determination by completion of the Form SAB 50-03. Eligibility determination for New Construction Grant(s) may be requested on either a district-wide basis, a HSAA or Super HSAA basis.

If a district requests to have its eligibility determination made on a district-wide basis, eligibility for future grants in the district must be filed on the same basis for a period of five years from the date the district received an apportionment that was justified by eligibility determined on a district-wide basis.

If a district requests to re-file its eligibility determination from district-wide to HSAA or Super HSAA after the five year time period has elapsed, the existing school building capacity in the HSAA or Super HSAA will be determined based on the classrooms available in the HSAA or Super HSAA at the time of the initial district-wide request for eligibility determination. Once the baseline eligibility has been determined for the HSAA or Super HSAA, it will be adjusted for classrooms constructed, funded or acquired in that HSAA or Super HSAA as provided by Section 1859.51.

If the district requests to have its eligibility determination made on a HSAA or Super HSAA, it must meet the criteria of Section 1859.41.

The calculated eligibility on the Form SAB 50-03, is the initial eligibility of the district, the HSAA or Super HSAA and shall be referenced as the baseline eligibility for future SFP funding. The baseline eligibility is the basis for filing Form SAB 50-04, for a new construction SFP grant.

If a special education program and the title to the related facilities is transferred between a school district and county office of education after the baseline eligibility was established by the Board, the following shall be required if the title transfer took place after January 1, 2007, or if requested by the school district and county office of education due to a title transfer that took place prior to January 1, 2007:

(a) The sending School District's existing school building capacity shall be adjusted pursuant to Section 1859.51(r).
(b) The receiving School District's existing school building capacity shall be adjusted pursuant to Section 1859.51(i).
(c) The sending School District's enrollment projection shall be adjusted pursuant to Education Code Section 17071.75(f).
(d) The receiving School District shall remit to the State a proportionate share of any financial hardship assistance provided for the project as described in Section 1859.106.

For purposes of this paragraph, the transfer of title to facilities shall also include:

(1) A pre-existing lease, for the duration of more than five years whether in a single lease or cumulative total of several leases, of the receiving School District's facilities by the sending School District that is terminated after transfer of the special education program takes place.
(2) A lease, for the duration of more than five years whether in a single lease or cumulative total of several leases, of the sending School District's facilities by the receiving School District.

There shall not be any further adjustments made as a result of any subsequent transfers of that program for a period of five years from the date of the initial transfer or before all applicable funds have been remitted to the State as a result of the initial transfer. Both School Districts shall submit a Form SAB 50-01 for enrollment changes immediately upon transfer of title.

A district affected by a reorganization election on or after November 4, 1998 may file an application for a determination of new construction baseline eligibility after a successful reorganization election.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.25, 17071.30, 17071.33, 17071.40, 17071.75 and 17071.76, Education Code.

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

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

(a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.
(b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.
(c) Reduced by the number of pupils housed in additional classrooms constructed or purchased based on the loading standards, pursuant to Education Code Section 17071.25(a)(2)(A), in a modernization SFP project.
(d) Adjusted as a result of the audit findings made pursuant to Sections 1859.90 and 1859.105.
(e) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years for all districts except decreases as provided in (j) below.
(f) Adjusted as a result of errors or omissions by the district or by the OPSC.
(g) Adjusted as a result of amendments to these Regulations that affect the eligibility.
(h) Increased by the number of pupils eligible for grants pursuant to Section 1859.82 (a).

(i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any Classroom Provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:
(1) That is a trailer and transportable/towed on its own wheels and axles.
(2) Of less than 700 interior square feet.
(3) That is a portable classroom, leased pursuant to Chapter 14 (commencing with Section 17085) of the Education Code.
(4) That is a portable classroom leased for a period of less than five years, whether in a single lease or cumulative total of several leases.
(5) That is a portable classroom that needs to be leased beyond five years to provide interim housing in a modernization or new construction project provided the cumulative lease term does not exceed a specified time period as determined by the SAB not to exceed three years on each qualifying project. For this purpose, a project means all work contained in a single set of construction plans.
(6) Where the contract for the lease, lease-purchase, purchase, or construction of the classroom was made prior to January 1, 2000.
(7) That is included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.
(8) That was acquired with joint-use funds specifically available for that purpose.
(9) That was acquired with career technical education funds specifically available pursuant to Education Code Section 17078.72.
(10) That was built or acquired exclusively for regional occupational centers, regional occupational programs, child care, preschool and/or Adult Education Programs, and with funds specifically available for those purposes.
(11) That replaces a classroom, previously included in the determination of the district's new construction eligibility pursuant to Education Code Section 17071.75, in a project funded by the district without participation from the State and the district permanently removes the replaced facility from classroom use immediately after the replacement classroom is occupied.
(12) That was constructed with Overcrowding Relief Grant funds specifically available for that purpose.
(j) For Small School Districts, decreased:
(1) By any reduction in projected enrollment that follows a three-year period after the district's eligibility was approved by the Board.
(2) By any increase in the number of pupils included in the latest operational grant report made by the CDE pursuant to Education Code Section 42268 beginning three years after the district's most current eligibility was approved by the Board. The reduction in eligibility shall be determined by the number of pupils included in the latest operational grant report that exceed the number of pupils included in the operational grant report in effect when the district's most current eligibility was approved by the Board or adjusted by a subsequent operational grant report after that date.
(k) Adjusted for any change in classroom inventory as a result of a reorganization election.
(l) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
(m) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.
(n) Increased by the number of pupils that received a Preliminary Apportionment that was rescinded pursuant to Section 1859.148 or a Preliminary Charter School Apportionment that was rescinded pursuant to Section 1859.166.
(o) Adjusted for operational grant changes as determined/provided by the California Department of Education.
(p) For a HSAA district with Preliminary Apportionments within the 2002 or 2004 Critically Overcrowded School Facilities Account as follows:
(1) Decreased by the number of pupils that received a Preliminary Apportionment, distributed proportionately among HSAAs in which the pupils used to justify the conversion of the Preliminary Apportionment were enrolled but did not reside.

(2) In the subsequent enrollment reporting year after verification of Occupancy of a project, increased by the number of pupils equal to the reduction due to Section 1859.51(p)(1), for the project which was occupied.
(3) Increased by the number of pupils equal to the reduction due to Section 1859.51(p)(1), for a Preliminary Apportionment rescinded pursuant to the provisions of Section 1859.148.
(q) Adjusted by the difference between the Alternative Enrollment Projection for the current enrollment reporting year and the projected enrollment determined pursuant to Section 1859.42 for the current enrollment reporting year, or by the eligibility remaining from this calculation that can no longer be utilized if the funds made available pursuant to Education Code Section 17071.75(a)(1)(A) have been exhausted.
(r) Adjusted pursuant to Education Code Section 17071.75(b)(2) by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any classroom(s) where title was relinquished to the School District receiving the transferred classroom(s).

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 and 42268, Education Code.

Section 1859.51.1. Baseline Adjustments for Locally Funded Facilities.

For any pupils that were reduced from the district's New Construction Eligibility in accordance with Section 1859.51(i) due to the construction contract being signed prior to the submission of the Approved Application, the district may request an increase to the new construction baseline eligibility pursuant to one of the following:
(a) By the number of pupils in which the district received a second reduction of pupils due to receiving State funding for classrooms included in a construction contract signed more than 180 days from the date the Approved Application was received by the OPSC. This request may be submitted in writing to the OPSC by the authorized District Representative no later than 120 days after this proposed regulation is in effect.
(b) By the number of pupils previously reduced from the baseline due to the construction contract exceeding 180 days from filing an Approved Application for those classrooms in the project and that are included in a request for State funding pursuant to Section 1859.70.2.
(c) By the number of pupils previously reduced from the baseline due to the District reporting the signing of contracts for construction or acquisition of classrooms prior to filing an Approved Application for those classrooms and where those classrooms are included in a current request for State funding pursuant to Section 1859.70.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51, 17071.25, 17071.75, and 17071.76, Education Code.

Article 7. Modernization Eligibility Determination

Section 1859.60. Calculation to Determine Modernization Baseline Eligibility.

The district shall calculate its modernization eligibility for each school site with the completion of the Form SAB 50-03. The eligibility determination may be made by either identifying all classrooms on the site pursuant to (a) or by the identification of all square footage on the site pursuant to (b), as follows:
(a) Identify all classrooms at the school site that would have been included in the Gross Classroom Inventory pursuant to Section 1859.31 that are:
(1) Permanent and at least 25 years old.
(2) Portable and at least 20 years old.
(3) The remaining classrooms not reported in (1) or (2) above.
(b) Identify all square footage at the school site that is:
(1) Permanent area and at least 25 years old.
(2) Portable classroom area and at least 20 years old.
(3) The remaining square footage on the site not reported in (1) or (2) above.

The age of the classroom or square footage shall begin 12 months after the plans for the building were approved by the DSA; or in the case of permanent or portable classrooms that were previously modernized with State funds or rehabilitated under the Charter School Facilities Program, the 25/20 year period shall begin on the date of its previous apportionment. For purposes of identifying square footage at a school site, include the total enclosed exterior square footage of the school buildings. For multilevel buildings, include the square footage at each level.

Enrollment at the school shall be the latest CBEDS report for K-6, 7-8 and 9-12 pupils. If the school is closed at the time of application for eligibility determination for modernization, and the district intends to reopen it and use it as a school for at least the next five years, the enrollment may be estimated based on district demographic data.

The calculated eligibility determined on the Form SAB 50-03, shall be referred to as the modernization baseline eligibility for the specific school site.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17073.15, 17073.20 and 17074.10, Education Code.

Section 1859.61. Adjustments to the Modernization Baseline Eligibility.

The baseline eligibility for modernization as provided in Section 1859.60 for a specific site will be adjusted as follows:

(a) Reduced by the number of pupils provided grants in a modernization SFP project or a CSFP Rehabilitation project at the specific site.
(b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2), in a modernization LPP project funded under the LPP pursuant to Sections 1859.14 and 1859.15.
(c) Increased by changes in projected enrollment in subsequent enrollment reporting years.
(d) Increased for additional facilities not previously modernized with State funds, that become 25 years old, if permanent, or 20 years old, if portable or as a result of audit findings made pursuant to Sections 1859.90 and 1859.105.
(e) Adjusted as a result of errors or omissions by the district or by the OPSC.
(f) Adjusted as a result of amendments to these Subgroup 5.5 Regulations that affect the eligibility.
(g) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
(h) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.
(i) Increased for facilities previously modernized with State funds, which qualify for an additional modernization apportionment pursuant to Section 1859.78.8.
(j) Adjusted as a result of the Reconfiguration of an existing high school under the provisions of the Small High School Program.
(k) Decreased for facilities that were deemed eligible for modernization pursuant to Sections 1859.60 and 1859.61(d) and subsequently replaced, or will be replaced under a signed contract for construction or acquisition of facilities, in a project funded by the district without participation from the State.
(l) Adjusted as a result of replaced eligible portables funded with the Overcrowding Relief Grant, pursuant to Education Code Section 17079, et seq.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51, 17071.25, 17072.15, 17072.20, 17073.15, 17074.10, 17074.32, and 17079.30, Education Code.

Article 8. New Construction and Modernization Grant Determinations

Section 1859.70. General.

A district seeking New Construction or Modernization funding shall complete and file Form SAB 50-04, concurrently or after completing the applicable requirements in Sections 1859.20 and 1859.40. The Board shall only provide

New Construction funding if the Approved Application was received by the OPSC prior to the date of Occupancy for any classrooms included in the construction contract. After the date of Occupancy of any classroom in the construction contract, a district will be ineligible to seek New Construction funding and the classrooms will be reduced from the baseline eligibility pursuant to Section 1859.51(i) if not previously reduced.

A district affected by a reorganization election on or after November 4, 1998 may not file an application for New Construction funding after the notification of the reorganization election until a new calculation of the district's baseline eligibility has been determined on the Form SAB 50-03, or the district certifies that the reorganization election will not result in a loss of eligibility for the project for which the district is requesting new construction grants.

A district that is newly created as a result of a reorganization election may file an application for funding after approval of the election has been made by the State Board of Education.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.75, 17072.10 and 17074.10, Education Code.

Section 1859.70.1. Available Funding for Energy Efficiency.

(a) The Board shall set aside $20 million pursuant to Education Code Section 100620(e) and $20 million pursuant to Education Code Section 100820(e) for energy conservation adjustments authorized by Education Code Section 17077.35. The $20 million from each set aside shall be transferred to the Energy Efficiency Account from the following sources:
(1) The funds made available by Education Code Section 100620(a)(1) and 100820(a)(1), as appropriate.
(2) The funds made available by Education Code Section 100620(a)(2) and 100820(a)(2), as appropriate.
(b) The funds from each set aside in (a) shall be apportioned for either of the following:
(1) New Construction Additional Grants for Energy Efficiency authorized by Section 1859.71.3.
(2) Modernization Additional Grants for Energy Efficiency authorized by Section 1859.78.5.

If the Board makes a finding that the funds are not needed for the purposes of Sections 1859.71.3 or 1859.78.5, the Board shall transfer the funds back to the original funding source(s) identified in (a)(1) and (a)(2) above.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17077.35, 100620 and 100820, Education Code.

Section 1859.70.2. Funding of Previously Ineligible Projects.

For any classrooms that were previously ineligible for State funding due to the construction contract being signed more than 180 days prior to the submission of the Approved Application, the district may request funding for the project if all the following conditions are met:
(a) The Approved Application for funding must be filed with the OPSC no later than 120 days after this proposed regulation is in effect; and,
(b) The Approved Application meets all requirements of Chapter 12.5, the Leroy F. Greene School Facilities Act of 1998; and,
(c) The contract for the lease, lease-purchase, purchase or construction has been signed on or after January 1, 2000; and,
(d) The grants for the projects funded pursuant to this Section shall be limited to actual eligible expenditures and the funding provided will be calculated based on the grant amounts at the time the construction contract was signed. The project will not be eligible to receive project savings as provided for in Section 1859.103; and,
(e) The district has new construction eligibility for the project. If the capacity of the project is included in the district's baseline, the district may exclude the capacity from its existing school building capacity for purposes of determining eligibility for this project; and,

(f) All project approvals required for a new construction funding application were obtained prior to the construction contract date.

If the Approved Application meets all criteria except (f) above, the district may request a case-by-case approval from the Board.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.75, 17072.10 and, 17072.20, Education Code.

Section 1859.70.3. Available Funding for the Small High School Program.

For purposes of the Small High School Program, the Board shall set aside the funding as follows:
(a) $20 million for the new construction of Small High Schools pursuant to Education Code Section 17072.10(c).
(b) $5 million in modernization funding to assist with the Reconfiguration of large high schools pursuant to Education Code Section 17074.32.

Pursuant to Education Code Section 101012(a)(5), the Board may provide up to $200 million for the purposes set forth in Education Code Sections 17072.10(c) and 17074.32.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.10 and 17074.32, Education Code.

Section 1859.70.4. Available Funding for High Performance.

The Board shall set aside $100 million pursuant to Education Code Section 101012(a)(8) for the costs of designs and materials that promote in new construction and modernization projects, the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning and other characteristics of high performance schools.

Note: Authority cited: Sections 17070.35 and 101012, Education Code.

Reference: Section 101012(a)(8), Education Code.

Section 1859.71. Adjustment to the New Construction Grant.

The new construction per-unhoused-pupil grant amount, as provided by Education Code Section 17072.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.30 and the first adjustment shall be January, 1999.

For any changes or additions to the regulations adopted by the Board in 1999, those changes shall be adjusted in accordance with this Section at the time the regulations are adopted.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.71.1. New Construction Grant for Individuals With Exceptional Needs.

In lieu of the funding provided in Subdivision (a) of Education Code Section 17072.10, the Board shall provide the following grant amounts for each pupil included in an approved project for new construction funding:
(a) $16,573 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(b) $11,084 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.

The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.71. The grant is eligible for any new construction grant augmentation for which the project is otherwise eligible under the law and regulations.

Note: Authority cited: Sections 17070.35, 17072.10 and 17074.10, Education Code.

Reference: Sections 17072.10 and 17074.10, Education Code.

Section 1859.71.2. New Construction Additional Grant for Fire Code Requirements.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the following grant amounts for each pupil included in an application for new construction if the project includes an automatic fire detection and alarm system as described in Education Code Section 17074.52:
(1) $7.12 for each elementary school pupil.
(2) $9.79 for each middle school pupil.
(3) $16.03 for each high school pupil.
(4) $20.42 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $30.41 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) In addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Section 1859.71.1, the Board shall provide the following grant amounts for each pupil included in an application for new construction if the project includes an automatic sprinkler system as required in Education Code Section 17074.52:
(1) $98.83 for each elementary school pupil.
(2) $117.53 for each middle school pupil.
(3) $121.98 for each high school pupil.
(4) $209.77 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $312.40 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(c) Pursuant to Subdivision (c) of Education Code Section 17074.56, the Board shall provide the grant amounts shown in (a) and (b) above, if applicable, in addition to any other funding authorized by these Regulations, for each pupil included in an application for new construction if all the following criteria are met:
(1) The final plans for the new construction project were submitted to the Division of the State Architect for review and approval between September 1, 2001 and June 30, 2002.
(2) The final plans for the new construction project included an automatic fire detection and alarm system and/or an automatic sprinkler system as described in Education Code Section 17074.52 or the project will include the system(s) prior to the completion of the project.
(3) The new construction project did not receive the entire New Construction Adjusted Grant apportionment by June 30, 2002.

The amounts shown in (a) and (b) above shall be adjusted annually in the manner prescribed in Section 1859.71.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.50, 17074.52, 17074.54 and 17074.56, Education Code.

Section 1859.71.3. New Construction Additional Grant for Energy Efficiency.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in (b) if all the following are met:
(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.

(2) The average energy efficiency score of all the buildings in the project, as determined by EnergyPro 3.1 or a similar computer program approved by the State Energy Resources Conservation and Development Commission, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 15 percent.
(3) The DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.
(4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the State Energy Resources Conservation and Development Commission.
(5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).
(b) An amount equal to the lesser of the following:
(1) The New Construction Grant multiplied by one percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is 15 percent, or by one percent plus 0.04 percent for each 0.1 percent increment of increased energy efficiency up to 25 percent. The multiplier may not exceed five percent.
(2) The funds available in the Energy Efficiency Account set aside for this Section.

If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1), the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the new construction project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17077.35, Education Code.

Section 1859.71.4. New Construction Pupil Grant Increase for Labor Compliance Program.

(a) After determining all other funding authorized by these Regulations, the Board shall increase the per-unhoused-pupil grant amount by 50 percent of the following calculation for any project for which the district is required under Labor Code Section 1771.7(a) and (b) to initiate and enforce a LCP:
(1) Using the chart in (b) of this Section, determine the total amount of funding to be provided for the increased costs of a new construction project due to the initiation and enforcement of a LCP.
(2) Divide the amount determined in subsection (a)(1) by the total number of pupils, or by one if no pupils are assigned, in the approved application.
(b) The funding provided for a new construction project to initiate and enforce a LCP shall be calculated on the total project cost, exclusive of site acquisition costs, as follows:

$16,000	For the first $1 million or any part thereof, plus
1.6 percent	Of the next $1 million or any part thereof, plus
0.25 percent	Of the next $1 million or any part thereof, plus
0.15 percent	Of the next $1 million or any part thereof, plus
0.32 percent	Of the next $2 million or any part thereof, plus
0.31 percent	Of the next $2 million or any part thereof, plus
0.46 percent	Of the next $5 million or any part thereof, plus
0.44 percent	Of the next $5 million or any part thereof, plus
0.42 percent	Of the next $30 million or any part thereof, plus
0.4 percent	Of any remaining portion

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.71.5. New Construction Grant Increase for the Small High School Program.

The Board shall provide an increase of 20 percent to the per-pupil grant as identified in Section 1859.70.3(a), for projects receiving funding under the Small High School Program pursuant to Sections 1859.93.2 and 1859.93.3, and shall provide an increase, as appropriate, to any other funding authorized by these Regulations to ensure that the Apportionment represents 60 percent of the total project cost.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.71.6. New Construction Additional Grant for High Performance Incentive.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in Subsection (b) if all the following are met:
(1) The project includes all the prerequisites in each of the five HPRC to include Sustainable Sites, Water, Energy, Materials and Indoor Environmental Quality and related subcategory credits.
(2) Once the prerequisites in (a)(1) have been met, the district may select the criteria and credits it wishes to pursue to determine point award. Category, criteria and associated points are as follows:
(A) Sustainable Sites.
1. Site Selection:
a. Code compliance equals prerequisite.
b. Environmentally sensitive land equals one point;
c. Greenfields equals one point;
d. Central location equals one point;
e. Joint-use of facilities equals one point;
f. Joint-use of parks equals one point;
g. Reduced footprint equals one point.
2. Transportation:
a. Public transportation equals one point;
b. Bicycles equals one point;
c. Minimize parking equals one point.
3. Stormwater Management:
a. Construction site runoff control equals prerequisite.
b. Limit stormwater runoff equals one point;
c. Treat stormwater runoff equals one point.
4. Outdoor Surfaces:
a. Reduce heat islands – landscaping equals one point;
b. Reduce heat islands – cool roofs equals one point.
5. Outdoor lighting: light pollution reduction equals one point.
(B) Water.
1. Outdoor Systems:
a. Create water use budget equals prerequisite.
b. Reduce potable water for landscaping equals one to two points.
2. Indoor Systems:
a. Reduce sewage conveyance from toilets equals one point;
b. Reduce indoor potable water use equals one to two points.
(C) Energy.
1. Energy Efficiency:
a. Minimum energy performance equals prerequisite.
b. Superior energy performance equals one to 13 points;
c. Natural ventilation equals one point;
d. Energy management system equals one point.

2. Alternate Energy Sources: Renewable energy equals one to seven points; one point for each five percent of the site's annual power consumption that is produced on site not to exceed 35 percent.
3. Commissioning and Training:
a. Fundamental building systems testing and training equals prerequisite.
b. Enhanced commissioning equals one to two points.
(D) Materials
1. Recycling: Storage and collection of recyclables equals prerequisite.
2. Construction Waste Management:
a. Construction waste management equals prerequisite.
b. Construction waste management at 75 percent or above diverted equals one to two points.
3. Building Reuse:
a. Reuse of structure or shell equals one to two points;
b. Reuse of interior partitions equals one point.
4. Sustainable Materials:
a. Recycled content equals one to two points;
b. Rapidly renewable materials equals one point;
c. Organically grown materials equals one point;
d. Certified wood equals one point;
e. Salvaged materials equals one to two points.
f. Alternative: environmentally preferable products in lieu of a. through e. above equals one to seven points.
(E) Indoor Environmental Quality.
1. Lighting and Daylighting:
a. Daylighting equals one to four points;
b. View windows equals one point;
c. Electric lighting equals one point.
2. Indoor Air Quality:
a. Minimum requirements equals prerequisite.
b. Thermal displacement ventilation equals two points;
c. Low-emitting materials equals one to four points;
d. Chemical and pollutant source control equals one point;
e. Ducted returns equals one point;
f. Filtration equals one point.
3. Acoustics:
a. Minimum acoustical performance equals prerequisite.
b. Improved acoustical performance equals one to three points.
4. Thermal Comfort:
a. American Society of Heating, Refrigerating and Air-Conditioning Engineers 55 code compliance equals prerequisite.
b. Controllability of systems equals one to two points.
(3) A minimum of four points must come from either (a)(2)(C)1.b. and/or 2.
(4) The project, which includes a complete set of plans, must be submitted to and accepted by the DSA on or after May 20, 2006.
(5) The DSA has reviewed the proposed project and concurs with the points specified in the HPRC.
(6) The project will not receive funding from the Energy Efficiency Account.
(7) For those projects accepted by the DSA prior to October 1, 2007, districts may utilize the *CHPS Best Practices Manual Volume III 2002 Edition*, and the point standard will be in the range of 23 to 72 points. All prerequisites, credits and points obtained must be based on the *2002 Edition* requirements. Criteria and associated prerequisite or points as indicated in (a)(2)(D)2.a. and 4.c. and f. and (E)1.c. and 2.b. and district resolutions are ineligible, and (a)(3) is optional.
(b) To determine the High Performance Incentive grant, multiply the New Construction Grant by the percentage allowance in accordance with the eligible high performance points as follows:
(1) For those projects accepted by the DSA prior to October 1, 2007, pursuant to (a)(7), in which the level of high performance attained, as concurred by the DSA, is a minimum of 23 points, the New Construction Grant will be multiplied by:
(A) Two percent at 23 points plus 0.03 percent for each point attained from 24 through 33 points; or
(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or

(C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or
(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 72 points.
(2) For those projects accepted by the DSA utilizing the *CHPS Best Practices Manual Volume III 2006 Edition*, in which the level of high performance attained as concurred by the DSA is a minimum of 27 points, the New Construction Grant will be multiplied by:
(A) Two percent at 27 points plus 0.050 percent for each point attained from 28 through 33 points; or
(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or
(C) four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or
(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 75 points.

If there are no funds remaining in the High Performance School Account or the funds remaining are insufficient to fully fund the additional grant authorized in Subsection (b), the district may either withdraw its application and resubmit it should additional funds be made available in the High Performance School Account or continue with the new construction project and accept a full and final apportionment without the additional grant authorized by Subsection (b).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 101012(a)(8), Education Code.

Section 1859.72. New Construction Additional Grant for an Individual with Exceptional Needs.

In addition to any other funding authorized by these Regulations, the Board shall provide an additional grant for the area of therapy rooms used by pupils that are Severely Disabled Individuals with Exceptional Needs. The district may request funding for therapy area, not to exceed 3,000 square feet, plus 750 square feet per additional Special Day Class classroom needed for Severely Disabled Individuals with Exceptional Needs. The amount shall be determined by multiplying the eligible square feet by $173.30 per square foot for Toilet Facilities and $96.30 per square foot for all other facilities. The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.71.

Note: Authority cited: Sections 17070.35 and 17072.10, Education Code.

Reference: Sections 17072.10, 17072.15, 17072.25, 17074.56 and 56026, Education Code.

Section 1859.73. New Construction Additional Grant for Multilevel Construction.

In addition to any other funding authorized by these Regulations, the Board shall provide an additional grant for the additional costs resulting from the need to build multilevel facilities. The additional funding is determined by multiplying the New Construction Grant by 12 percent for each pupil housed in a multilevel building that will house pupils in all levels of the building if the useable site acreage for the project is less than 75 percent of the site size recommended by the CDE for the master planned project capacity.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code

Section 1859.73.1. New Construction Additional Grant for Project Assistance.

Excluding Joint-Use Projects, the Board shall provide, in addition to any other funding authorized by these Regulations, $3,750 for Small School Districts for the cost necessary for project assistance.

For Type II Joint-Use Projects, not part of a qualifying SFP Modernization project, the Board shall provide, in addition to any other funding authorized by these Regulations, $3,750 for Small School Districts for the cost necessary for project assistance.

The amount(s) shown will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.37 and the first adjustment shall be January 2001.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.73.2. New Construction Additional Grant for Replaced Facilities.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide funding for the amount(s) in (b) below for the replacement cost of single-story building(s) that are demolished at a school and replaced with multistory building(s) in order to increase pupil capacity of that school if all the following conditions are met:

(1) The site size as determined by the CDE for the existing capacity of the school is less than 75 percent of the recommended CDE site size.

(2) The pupil capacity of the school must be increased by at least the greater of (A) or (B) below:

(A) Twenty percent of the existing permanent single-story pupil capacity (before replacement) of the school. Existing permanent single-story pupil capacity shall be determined by multiplying classrooms contained within single-story permanent buildings intended for grades kindergarten through six by 25, classrooms intended for grades seven through 12 by 27, classrooms intended for Non-Severely Disabled Individuals with Exceptional Needs by 13 and classrooms intended for Severely Disabled Individuals with Exceptional Needs by nine. Classrooms shall not include any classrooms reduced from the Gross Classroom Inventory pursuant to Section 1859.32.

(B) 200 pupils.

(3) The sum of (A) and (B) below is less than the sum of (E) and (F) below:

(A) Determine the estimated cost of demolition of the single-story building(s) to be replaced. The cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Cost Publication.

(B) Multiply the total square footage of the proposed multistory replacement building(s) by the Current Replacement Cost.

(C) Multiply the pupil capacity as determined in (a)(2) by .01775 for K-6, .021 for 7-8 and .02472 for 9-12. For purposes of this calculation, assign Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupil grants requested on Form SAB 50-04 as either K-6, 7-8 or 9-12 based on the type of project selected by the district on Form SAB 50-04.

(D) Determine the average value of land per acre as follows:

1. Previous actual site acquisition costs within the district's boundaries. If unable to reference prior OPSC-reviewed and approved projects at the time of application submittal, the district should submit documentation for review that complies with Section 1859.74.

2. Applications submitted with a separate certification letter, signed by the authorized district representative, certifying there are no site acquisitions as required in 1. above, must use one of the following calculation methods:

a. A complete appraisal or a preliminary appraisal of property in the General Location of the school site made or updated within six months from the Approved Application submittal date to the OPSC, using the guidelines outlined in Section 1859.74.1. The preliminary appraisal may be made without access to the property.

b. The Median Cost of an acre of land in the General Location of the school site using historical information from the General Location. Historical information that may be considered to determine land cost shall include prior real estate sales consummated and documented by the county recorder or pending real estate sales documented by a title insurance company's escrow instructions. For purposes of historical information, include all real estate sales consummated and documented by the county recorder for a minimum of six months and a maximum of up to two years prior to the date the Approved Application was submitted to the OPSC. Relocation expenses, for this method, will be calculated based upon OPSC historical data.

(E) Multiply the sums of the products determined in (C) above by the average value of land per acre determined in (D) above.

(F) Multiply the square footage of the single-story building(s) to be replaced by the Current Replacement Cost, then subtract this product from the amount determined in (a)(3)(B) above.

(4) The CDE has determined that the replacement of the single-story building(s) on the existing site with multistory building(s) would be the best available alternative and will not create a school with an inappropriate number of pupils in relation to the size of the site.

(5) The single-story building(s) to be replaced on the existing site may not be leased facilities and/or classrooms excluded pursuant to Education Code Section 17071.30(b). Portable classrooms that were included in the classroom capacity as identified on Line 1, Part III, of the Form SAB 50-02 may be replaced.

(6) With the exception of portables acquired with Class Size Reduction funds, the single-story building(s) to be replaced on the site may not have been funded for either new construction or modernization with funds from Proposition 1A or subsequent SFP bonds.

(b) If the criteria in (a) are met, the additional funding is determined by multiplying $173.30 per square foot for Toilet Facilities and by $96.30 per square foot for all other facilities included in the single-story building(s) to be replaced adjusted for the following:
(1) The amounts shall be adjusted in the manner prescribed in Section 1859.71.
(2) The amounts shall be increased by the percentage authorized in Section 1859.73, as appropriate.

The district is eligible for site development in accordance with Section 1859.76 including the demolition of the replacement structures as part of the SFP project.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.46 and 17074.56, Education Code.

Section 1859.74. New Construction Additional Grant for Site Acquisition Cost.

With the exception of projects that received site acquisition funds under the LPP or projects that qualify for site acquisition funds under Section 1859.74.5, the Board shall provide funding, in addition to any other funding authorized by these Regulations, for the lesser of one half of the actual cost of the site or one-half of the appraised value of the site acquired as described in (a) and (b) of this Section.
(a) Actual Site Cost
The actual cost of the site shall be the purchase price as shown on the escrow documents or other appropriate documents such as court orders in condemnation or as specifically identified in agreements when the site is transferred in lieu of other legally required payments or fees due to the district. The actual cost shall be adjusted for the following:
(1) Increased by the approved relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
(2) Increased by four percent of the actual amount determined in (a) above, but not less than $50,000. This amount shall provide an allowance for any appraisal, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
(3) Increased by the DTSC costs for review, approval, and oversight of the POESA and the PEA.
(b) Appraised Value of the Site
The value determined by an appraisal made or updated no more than six months prior to application submittal to the OPSC for funding. A SFP project which had the site funded as a LPP project shall use the appraised value determined under the LPP. The appraisal may be reviewed by the OPSC for conformance with Section 1859.74.1. The approved appraised value shall be adjusted for the following:
(1) Increased by the approved relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
(2) Increased by four percent of the appraised value determined in (b) above, but not less than $50,000. This amount shall provide an allowance for appraisals, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
(3) Increased by the DTSC costs for review, approval, and oversight of the POESA and the PEA.

The actual site cost or the appraised value of the site shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the master plan site acreage approved by the CDE.

For the purposes of the Small High School Program, the actual site cost or the appraised value of the site shall be reduced, on a prorated basis, by the amount that exceeds the recommended site size for 500 pupils as determined by the CDE.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.10, 17072.12 and 17251, Education Code.

Section 1859.74.1. Site Acquisition Guidelines.

To receive the funding authorized by Section 1859.74, the district must certify on the Form SAB 50-04, that the appraisal of the property was made utilizing the following criteria:

(a) The land improvements and appurtenances, excluding fixtures, equipment and personal property, were appraised in an as is condition with the following exceptions:

(1) The site shall be appraised as if it were a clean site, safe of all toxic contaminants in accordance with CDE guidelines and pursuant to Title 5, California Code of Regulations commencing with Section 14001.

(2) The site valuation included only proposed site improvements associated with grading the site to a mass graded or super pad condition, defined as a site graded to construction readiness without foundation or paving and proposed utilities stubbed to the site. Any proposed site improvements or utilities not covered by a performance bond equal to 100 percent of the estimated cost of the site improvements and utilities must be completed prior to the close of escrow and detailed separately in the report.

(b) Consideration in the appraisal was made for net useable acreage and severance damages.

(c) The district or its legal counsel has contracted for appraisal services.

(d) The appraiser has certified to the district that the appraisal complies with the Uniform Standards of Professional Appraisal Practices as promulgated by the Appraisal Standards Board of the Appraisal Foundation.

(e) The amount of a court award for a site acquired in condemnation may be used in lieu of the appraised value determined in (a) through (d) above, when specifically approved by the Board.

The district shall be required to submit one appraisal. If the application includes a request for financial hardship as provided in Section 1859.81, the OPSC will review the appraisal for conformance with (a), (b), (c) and (d) prior to a recommendation for SFP funding to the Board.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35 and 17072.12, Education Code.

Section 1859.74.2. New Construction Additional Grant for Hazardous Waste Removal.

With the exception of projects that received site acquisition funds under the LPP, the Board shall provide funding, in addition to any other funding authorized by these Regulations for the allowable costs of hazardous materials/waste removal and/or remediation costs. The allowable site costs shall not exceed 50 percent of one and one half times the value of an appraisal that conforms to Section 1859.74.1 for the costs in subsections (a), (a)(1) and (a)(2) plus the additional costs included in (b) and (c). The costs in (b) and (c) are in addition to 50 percent of one and one half times the appraisal value cap:

(a) The costs associated with the site acquisition and to implement the RA as determined necessary in the PEA that has been approved by the DTSC subject to the following:

(1) The costs for preparation of the RA.

(2) The DTSC costs for review and oversight of the preparation and implementation of the RA. The costs may not include continuous operational and maintenance costs associated with the RA.

(b) Fifty percent of the approved relocation expenses that conform to Title 25, Division 1, Chapter 6, Subchapter 1, California Code of Regulations, (Section 6000, et seq.). The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.

(c) Not less than 50 percent of $50,000 or 50 percent of four percent of the appraised value. This amount shall provide an allowance for any appraisal, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.

(d) The limitation of 50 percent of one and one half times the value of an appraisal for costs in subsections (a), (a)(1), and (a)(2) may be exceeded when the Board finds that unforeseen circumstances exist, and when both of the following exist:

(1) CDE determines that the site is the best available site for meeting the educational and safety needs of the School District.

(2) Substantiation that the costs are limited to the minimum required to complete the evaluation and RA approved by the DTSC.

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

Reference: Sections 17072.12 and 17251, Education Code.

Section 1859.74.3. New Construction Additional Grant for Incidental Site and Hazardous Waste Removal for Leased Sites.

When a district has requested funding on a vacant leased site pursuant to Section 1859.22 that was never used for school purposes and a site evaluation requires a RA, the Board shall provide funding, in addition to any other funding authorized by these Regulations for one and one half times the appraised valuation that conforms to Section 1859.74.1. The allowable site costs shall not exceed 50 percent of one and one half times the value of an appraisal that conforms to Section 1859.74.1 for the costs in subsections (a), (a)(1) and (a)(2) plus the additional costs included in (b) and (c). The costs in (b) and (c) are in addition to 50 percent of one and one half times the appraisal value cap:

(a) The costs associated with the site acquisition and to implement the RA as determined necessary in the PEA that has been approved by the DTSC subject to the following:

(1) The costs for preparation of the RA.

(2) The DTSC costs for review and oversight of the preparation and implementation of the RA. The costs may not include continuous operational and maintenance costs associated with the RA.

(b) Fifty percent of the approved relocation expenses that conform to Title 25, Division 1, Chapter 6, Subchapter 1, California Code of Regulations, (Section 6000, et seq.). The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.

(c) Not less than 50 percent of $50,000 or 50 percent of four percent of the appraised value. This amount shall provide an allowance for any appraisal, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.

(d) The limitation of 50 percent of one and one half times the value of an appraisal for costs in subsections (a), (a)(1) and (a)(2) may be exceeded when the Board finds that unforeseen circumstances exist, and both of the following exist:

(1) CDE determines that the site is the best available site for meeting the educational and safety needs of the School District.

(2) Substantiation that the costs are limited to the minimum required to complete the evaluation and RA approved by the DTSC.

(e) If the toxics evaluation of the leased site does not require a RA, then the allowable site costs shall not exceed the lesser of one half the appraised or actual purchase price plus the additional amounts provided in Section 1859.74.

The appraised value of the site shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the master plan site acreage approved by the CDE.

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

Reference: Sections 17072.12, 17251 and 17070.71, Education Code.

Section 1859.74.4. New Construction Additional Grant for Hazardous Waste Removal Required on an Existing School Site.

(a) With the exception of projects that received initial site acquisition funds under the SFP, the Board shall provide funding, in addition to any other funding authorized by these Regulations for the necessary hazardous waste materials/waste removal and/or remediation costs on an existing school site where the New Construction Grants will be used if all the following are met:

(1) The New Construction Grant request is for additional school facilities on an existing school site.

(2) The New Construction Grant request does not include a funding request for initial site acquisition costs allowed pursuant to Sections 1859.74 or 1859.74.2.

(3) The existing school site where the New Construction Grant will be expended has a functioning school on the site or the site had a closed school that will again be used as a functioning school.

(4) The hazardous material cleanup costs are required by the DTSC.

(b) If all the criteria in subsection (a) are met, the allowable hazardous waste removal cleanup costs shall be one half of all the following:
(1) The costs for preparation of the POESA, the PEA and the RA.
(2) The costs to implement the RA as determined necessary in the PEA that has been approved by the DTSC subject to the following:
(A) The costs may include the DTSC costs for review and oversight of the preparation and implementation of the RA.
(B) The costs may not include continuous operational and maintenance costs associated with the RA.
(c) In advance of the New Construction Adjusted Grant, districts performing a RA on additions to existing school sites shall be eligible for the costs associated with evaluation and RA required by the DTSC.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.18, Education Code.

Section 1859.74.5. New Construction Additional Grant for District-Owned Site Acquisition Cost.

(a) As an alternative to site acquisition funding provided by Sections 1859.74, 1859.74.2, 1859.74.3 and 1859.74.4, the Board shall provide an additional grant, in addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71 and 1859.71.1 for one half of the value of the district-owned site as determined in (b) provided all the following criteria are met:
(1) The site has been owned by the applicant district for a period of at least five years from the date the Approved Application is received by the OPSC. The district may demonstrate ownership of the site by any of the following:
(A) A grant deed.
(B) Escrow closing statement.
(C) Order of immediate possession.
(D) Other evidence satisfactory to the Board.
(2) The district-owned site was not purchased with funds made available from the LPP, the SFP or Proposition 1A.
(3) The district-owned site has been productively used by the applicant district for the entire five-year period immediately proceeding the date the Approved Application is submitted to the OPSC for any of the following:
(A) The applicant's district administrative facility.
(B) A childcare or preschool program operated by the applicant district.
(C) An adult education program operated by the applicant district.
(D) Any other non-school productive use as determined by the Board.
(4) At least 75 percent of the useable acres of the district-owned site contained buildings and/or General Site Development that was used for the entire five year period for the qualifying purpose identified in (a)(3).
(5) The CDE has determined that the district-owned site is not otherwise available as a school site.
(6) The district has completed a cost benefit analysis as described in Section 1859.74.6 which indicates the current estimated value of the district-owned site is less than the current estimated value of an alternative site in the district.
(7) The district-owned site is approvable by the CDE for school purposes.

If all the criteria in items (a)(1) through (a)(7) are met, the OPSC will recommend to the Board that it make a finding that the non-school function on the site must be discontinued or relocated in order to utilize the site as a school site.

A district may request the Board make a finding that the non-school function on the district-owned site must be discontinued or relocated in advance of submittal of a funding application provided it meets all the criteria in (a).

(b) The value of the district-owned site shall be the sum of all the following:
(1) The value of the district-owned site determined by an appraisal made or updated no more than six months prior to submittal of the Approved Application to the OPSC. The appraisal shall include any buildings on the site and shall be made using the guidelines in Section 1859.74.1.
(2) The approved relocation expense of the district-owned site that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance. Do not include

relocation expense applicable to the relocation of district personnel, district buildings/furnishings or district equipment.

(3) Four percent of the appraised value determined in (b)(1), but not less than $50,000. This amount shall provide an allowance for appraisals, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.

(4) The estimated DTSC costs for review, approval, and oversight of the POESA and the PEA applicable to the district-owned site.

The amounts above shall be reduced, on a prorated basis, by the percentage of any excess acreage of the district-owned site that exceeds the master plan site acreage approved by the CDE.

If the acreage of the district-owned site is less than the site size recommended by the CDE for the master planned project capacity and the district plans on acquiring additional acreage as part of the project, the additional acreage, up to the CDE recommended site size, may be funded under the provisions of Section 1859.74.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12 and 17251, Education Code.

Section 1859.74.6. District-Owned Site Cost Benefit Analysis.

Pursuant to Subdivision (d) of Education Code Section 17072.12, a cost benefit analysis must be made to determine if it is more economical to utilize the existing district-owned site currently used for a non-school function as a school site rather than acquire an alternative site in the district. A determination that it is more economical to use the existing district-owned site as a school site will be made if the current estimated value of the district-owned site as determined in (a)(3) is less than the current estimated value of an alternative site as determined in (b)(5).

(a) Current Estimated Value of District-Owned Site.

(1) Determine the value of the district-owned site by a preliminary appraisal or an appraisal made or updated no more than six months prior to submittal of the Approved Application to the OPSC. The appraisal shall include any buildings on the site and shall be made using the guidelines in Section 1859.74.1. The appraised value shall be increased for the following:

(A) The relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance. Do not include relocation expenses applicable to the relocation of district personnel, district buildings/furnishings or district equipment.

(B) Four percent of the appraised value determined in (a)(1), but not less than $50,000. This amount shall provide an allowance for appraisals, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.

(C) The estimated DTSC costs for review, approval, and oversight of the POESA and the PEA.

(2) Determine the estimated current site development cost that would be necessary on the district-owned site if it were to be used as a school site pursuant to Section 1859.76. Estimated cost for demolition of existing buildings on the site may be included as a site development cost.

(3) Add the amount determined in (a)(1) to the amount determined in (a)(2).

(b) Current Estimated Value of Alternative Site.

(1) The district must identify an alternative site within the boundaries of the district that meet all the following:

(A) The alternative site is an approvable site by the CDE.

(B) The alternative site is located no more than three miles from the district owned site if the project is for a high school, no more than two miles from the district owned site if the project is for a middle school and no more than one mile from the district owned site if the project is for an elementary school.

(2) Determine the value of the alternative site selected in (b)(1) by a preliminary appraisal or an appraisal made or updated no more than six months prior to submittal of the Approved Application to the OPSC. The appraisal shall include any buildings on the alternative site and shall be made using the guidelines in Section 1859.74.1. The appraised value shall be increased for the following:

(A) The relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
(B) Four percent of the appraised value determined in (b)(2), but not less than $50,000. This amount shall provide an allowance for appraisals, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
(C) The estimated DTSC costs for review, approval, and oversight of the POESA and the PEA.
(D) The estimated current site development cost that would be necessary on the alternative site if it were to be used as a school site pursuant to Section 1859.76. Estimated cost for demolition of existing buildings on the alternative site may be included as a site development cost.
(3) Determine the average appraised value per acre by dividing the appraised value of the alternative site determined in (b)(2) by the number of acres of the alternative site.
(4) Multiply the average appraised value per acre of the alternative site determined in (b)(3) by the number of acres of the district-owned site identified in (a).
(5) Multiply the quotient determined in (b)(4) by 110 percent.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12 and 17251, Education Code.

Section 1859.75. Alternative District-Owned Site.

In order to receive funding authorized by Sections 1859.74 or 1859.74.2, the district must:
(a) certify there is no available Alternative District-Owned Site for that project deemed useable for school purposes by the CDE; or,
(b) certify that it intends to sell an available Alternative District-Owned Site and use the proceeds for the purchase of the new site. In this event, the Board will recognize either (1) or (2):
(1) one-half of the actual cost or the appraised value of the available Alternative District-Owned Site as determined in Section 1859.74, whichever is the lesser, or
(2) fifty percent of one and one-half times the value of the site purchased for the project as determined in Section 1859.74.2.

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

Reference: Section 17072.12, Education Code.

Section 1859.75.1. Separate Site Apportionment for Environmental Hardship.

(a) A district is eligible for a separate apportionment for site acquisition even if it does not meet the financial hardship criteria contained in Section 1859.81 with the exception of qualifying projects pursuant to the Overcrowding Relief Grant, Section 1859.180, when all the following requirements are met:
(1) The district has eligibility for grants that equal at least 50 percent of the CDE master plan capacity of the site.
(2) The district has received a contingent site approval letter from the CDE indicating that the proposed site is the best available.
(3) The district has obtained a preliminary appraisal or an appraisal of the property by a qualified appraiser utilizing criteria outlined in Section 1859.74.1. The preliminary appraisal report may be made without access to the site.
(4) The district has provided a letter from the DTSC pursuant to Education Code Section 17072.13 that indicates the time necessary to complete the remediation removal of any hazardous materials/waste on the proposed site as determined necessary by the PEA and required in the RA, will take at least 180 calendar days to complete.
(b) If the conditions in (a) are met, the district is eligible for a separate site apportionment not to exceed 50 percent of one and one half times the value of an appraisal that conforms to Section 1859.74.1 for the costs included in (b)(1) and (b)(4) plus the additional costs included in (b)(2) and (b)(3). The costs included in (b)(2) and (b)(3) are in addition to 50 percent of one and one half times the appraisal value cap:
(1) The cost of the site as determined in Section 1859.74.1 and the amount the district reasonably expects to pay for any hazardous materials/waste removal and/or remediation costs for the site.

(2) Fifty percent of the estimated relocation expenses that will conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment, and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
(3) Fifty percent of four percent of the lesser of the appraised value of the site or the amount the district reasonably expects to pay for the site acquisition including any hazardous materials/waste removal and/or remediation costs for the site, but not less than 50 percent of $50,000.
(4) The estimated DTSC costs for review, approval and oversight of the POESA and the PEA.

The amount provided in (b) as a separate site apportionment shall be offset from the New Construction Grant amount the district would otherwise be eligible for pursuant to Section 1859.70. A district seeking a separate apportionment for site acquisition shall submit Form SAB 50-04.

(c) The limitation of 50 percent of one and one half times the value of an appraisal for costs in subsections (b), (b)(1) and (b) (4) may be exceeded when the Board finds that unforeseen circumstances exist, and when both of the following exist:
(1) CDE determines that the site is the best available site for meeting the educational and safety needs of the School District.
(2) Substantiation that the costs are limited to the minimum required to complete the evaluation and RA approved by the DTSC.

Note: Authority cited: Section 17072.13, Education Code.

Reference: Sections 17072.13, 17076.10, and 17079.20, Education Code.

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:
(1) Site clearance including the removal of trees, brush, and debris.
(2) Demolition and removal of existing buildings and site improvements which lie in the footprint of a proposed building or proposed site development.
(3) Removal and rerouting of existing utility service which lie in the footprint of a proposed building or proposed site development.
(4) Rough grading including cut and fill, and leveling and terracing operations required in the design of the project.
(5) Soil compaction adhering to common engineering practices and engineered fill that is required by a soils report that is available for review by the OPSC.
(6) On-site drainage facilities including inlets below grade drainage facilities and retention basins.
(7) Erosion control improvements such as plant material, temporary sprinkler systems, jute mesh and straw, due to embankments having a slope of at least two to one and a vertical height greater than six feet.
(8) Outside stairways, handicap ramps and retaining walls due to embankments having a slope of at least two to one and a vertical height greater than six feet.
(9) Relocation of existing portable buildings which lie in the footprint of a proposed building or proposed site development including the cost for set-up and utilities if the portable will be relocated on the same site. If the portable will be moved to another site, only the costs to move the portable to the new location.
(10) Fire code requirements on site that are not a part of the building.
(11) Funding for parking structures on a new construction project when all the following have been met:
(A) The new construction project will be located on site acreage that is less than 50 percent of the site size recommended by the CDE for the master planned project capacity.
(B) The number of parking stalls to be funded does not exceed 2.25 for each classroom constructed in an elementary or middle school project.
(C) The number of parking stalls to be funded does not exceed six for each high school classroom constructed in a high school project that will serve 9-12 pupils.
(D) The state grant does not exceed $7,500 per parking stall. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71.
(E) The parking structure is any of the following:

1. It is multilevel and has at least two floors of parking space.
2. It is single level with site development above the single level parking space.
3. It is single level that is subterranean or below ground level with site development above the single level parking space.
4. It is single level with buildings above the single level parking space.

(12) Removal and relocation of portable classrooms on a site eligible for replacement pursuant to Section 1859.82(a) that are available for housing pupils pursuant to Section 1859.35(a).

(b) Off-site development cost on up to two immediately adjacent sides of the site, for the following:

(1) Curbs, gutters and paving of streets not to exceed one-half the mandated local street code requirements. When the existing streets are to be widened inward toward the property line from the existing face of the curb, all new street improvements lying within the one-half of mandated street width adjacent to the project.

(2) Sidewalks mandated by local ordinances.

(3) Street lighting, planting areas, street signs, traffic signals, trees or other costs mandated by local ordinances.

(4) City and/or county or special district fees pursuant to active ordinances.

(5) Reasonable cost for storm drains to point of connection.

(6) Funding for safety paths for pedestrian use beyond two immediately adjacent sides of the site necessary for a safe route to the new school site when the following conditions are met:

(A) The school district governing board has made a finding at a public hearing that pedestrian safety concerns require improvements in the form of safety paths to provide access to the school site, and the Department of Education concurs with that finding.

(B) The improvements are limited to the work necessary to install concrete, asphalt, gravel or other paving necessary to provide the safe paths.

(C) The state grant does not exceed $50,000.

(D) The improvements do not include any cost for the acquisition of land, easements or other rights-of-way.

(E) The SAB has determined that development of additional pedestrian paths is reasonable.

(c) Utility service costs associated with the CDE approved site size that are necessary to serve the master planned capacity of the site as follows:

(1) Water: Installation of water supply line(s) and connection fees from the utility company connection to the meter, meters not provided by the serving utility, or installation of a domestic water system (i.e. well, pump, tank).

(2) Sewage: Installation of main sewage disposal line from the utility company connection to the first building lateral and if applicable, connection fees. Installation of a sewage treatment/disposal system and a main disposal line from the treatment system to the nearest building lateral of the collection system.

(3) Gas: Installation of main supply line and connection fees from utility company to meter and connection fee if applicable. Installation of meters not provided by the utility. Connection of a liquefied petroleum system (and tank) from the main supply line to the first building lateral.

(4) Electric: Installation of service from the utility to the building switchboard. Primary electric service runs from the utility company's point of connection to the transformer. Secondary electric service runs from the transformer to the switchboard. Connection fee, transformer pads and protective devices.

(5) Communication systems: Installation of service from the company to the nearest distribution center.

(d) General Site Development costs within school property lines for an addition to an existing school site project wherein additional acreage is acquired, with the exception of existing school site acreage that is leased pursuant to Section 1859.22, or a new school project, determined as follows:

(1) $19,200 per Useable Acre as approved by the CDE. This sum may be increased by the percentage identified in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.

(2) 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 New Construction Grant. For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the district on the Form SAB 50-04.

(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, 1859.83(a), (b) and (c) and 1859.125(a)(1) through (a)(2).

Subsection (d) of this section shall be suspended no later than January 1, 2009, unless otherwise extended by amendments as adopted by the Board.

The district must submit a detailed cost estimate for all requests for site development work, with the exception of General Site Development, and any justification documents that will support the work with the Form SAB 50-04.

The Board will approve reasonable and appropriate site development work which meet common engineering practices and industry standards that are consistent with the specific site conditions if the site development costs are consistent with the most current edition of the Saylor Current Construction Costs. The design professional must certify to the district that the site development work does not exceed the minimum requirements to develop the site to meet educational needs and/or standards.

General Site Development provided pursuant to 1859.76(d)(1), service site and off-site development costs shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the master plan site acreage approved by the CDE.

Note: Authority cited: Section 17070.35, Education Code.

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

Section 1859.77. Reduction in the New Construction Grant.

After the determination of the district's New Construction Adjusted Grant and financial hardship funding pursuant to Section 1859.81 have been made, the New Construction Adjusted Grant and any financial hardship funding provided pursuant to Section 1859.81 will be reduced by the alternative fee collected pursuant to Government Code Section 65995.7(a), if a reimbursement election or agreement pursuant to Government Code Section 65995.7 is not in effect.

Any reduction to the New Construction Adjusted Grant amount and any funding provided by Section 1859.81 made pursuant to this Section shall only include those alternative fees collected from residential units to be served by the facilities associated with the New Construction Grant. If the reduction is greater than the New Construction Adjusted Grant and the funding provided by Section 1859.81, the pupils to be housed in the proposed project will be reduced from the district's baseline eligibility and no SFP grants will be made to the district for that project. Any remaining off-set of the alternative fees collected shall be off-set on the next request for a New Construction Grant for other facilities to serve those residential units.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.20(b), Education Code and Section 65995.7, Government Code.

Section 1859.77.1. New Construction District Matching Share Requirement.

Any funding provided by these Regulations shall require a district matching share contribution on a dollar-for-dollar basis with the exception of the following:

(a) Financial hardship provided by Section 1859.81 or any additional grant provided for a district-owned site acquisition cost pursuant to Sections 1859.74.5 or 1859.81.2.
(b) If the Approved Application is funded under the Small High School Program, a district matching share equal to at least 40 percent of the total project cost shall be required.

The district may include as its district matching share any amounts expended on the project for an energy audit made pursuant to Education Code Section 17077.10 and any amounts applied to the project for incentive grants or rebates received by the district from a program funded pursuant to Public Utilities Code Section 381.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.30, 17074.32 and 17077.10, Education Code.

Section 1859.77.2. Use of New Construction Grant Funds for Projects Accepted by the DSA on or before January 22, 2003.

New Construction Grant funds and any other funds provided by these Regulations shall be expended as set forth in Education Code Section 17072.35; and may also be utilized for the cost incurred by the district for the development and implementation of remedial action plan approved by the DTSC pursuant to Education Code Section 17213.

Authorization for use of New Construction Grants for which the final plans and specifications for the project were accepted by the DSA on or before January 22, 2003 may be requested as follows:

(a) A district may request new construction grants that do not to exceed 135 percent of the number of pupils that will be housed in the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations if the grant requests above 100 percent of the number of pupils to be housed do not include eligibility based on Special Day Class pupils and if the district has adopted a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the district's governing board on a date preceding the Application filing that includes the following:

(1) A plan that identifies how the district has housed or will house the excess pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan may not include housing the excess pupils in portables excluded from existing school building capacity pursuant to Education Code Section 17071.30 or housing in facilities to be constructed with district funds if the district has received financial hardship approval pursuant to Section 1859.81. The plan shall not utilize Multi-track Year Round Education schedules for the purposes of housing excess pupils.

(2) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.

(3) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.

(b) A district may request new construction grant eligibility determined at a different grade level than the proposed project that does not exceed 135 percent of the number of pupils that will be housed in the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations subject to all the following:

(1) The district has adopted a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the district's governing board on a date preceding the Application filing that includes the following:

(A) A plan that identifies how the district has housed or will house the excess pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan may not include housing the excess pupils in portables excluded from existing school building capacity pursuant to Education Code Section 17071.30 or housing in facilities to be constructed with district funds if the district has received financial hardship approval pursuant to Section 1859.81. The plan shall not utilize Multi-track Year Round Education schedules for the purposes of housing excess pupils.

(B) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.

(C) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.

(2) Only New Construction Grant eligibility for grades Kindergarten through 12 can be requested pursuant to this subsection (b), and the district must use its New Construction Grant eligibility, pursuant to subsection (b) in the following order:

(A) At the grade level of the proposed project.

(B) At the lowest grade level other than the proposed project.

(C) At the next highest grade level other than the proposed project.

(c) A district may request new construction eligibility based on the SFP Regulation Section 1859.77.2 in place as of the date of a local bond election provided that clear language was included in the local bond that specifically identified the proposed project, and provided that the project meets all laws and regulations of the SFP.

If a district wishes to amend its Approved Application to include or increase its use of grants request after the submittal to the OPSC, the district must request in writing that the Approved Application be withdrawn and removed from the OPSC workload list. The resubmitted application will receive a new processing date by the OPSC.

The New Construction Grant amount provided shall be determined based on the grant amount provided in Education Code Section 17072.10 for the grade level that generated the eligibility and any New Construction Additional Grant or New Construction Excessive Cost Hardship Grant the district qualifies for as provided by these regulations.

Note: Authority cited: Section 17072.13, Education Code.

Reference: Sections 17072.13 and 17072.35, Education Code.

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

New Construction Grant funds and any other funds provided by these Regulations shall be expended as set forth in Education Code Section 17072.35; and may also be utilized for the cost incurred by the district for the development and implementation of remedial action plan approved by the DTSC pursuant to Education Code Section 17213.

Authorization for use of New Construction Grants for which the final plans and specifications for the project were accepted by the DSA after January 22, 2003 may be requested as follows:

(a) A district may request new construction grants that exceed the capacity of the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations if the project is to construct a multipurpose, gymnasium and/or library, or for an Alternative Education school to construct a multipurpose/gymnasium, library, counseling offices, and/or conference rooms, at an existing site that does not have an existing or adequate facility of the type being requested when all of the following is met:

(1) The district must adopt a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the district's governing board on a date preceding the application filing that includes the following:

(A) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.

(B) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.

(C) A plan outlined in the resolution that identifies how the district has housed or will house the pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan must certify one of the following methods:

1. The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB, and the district must identify the source of the funds; or
2. The district will utilize higher district loading standards providing the loading standards are within the approved district's teacher contract and do not exceed 33:1 per classroom.

(2) The existing school site was not constructed under the SFP.

(3) The proposed project includes no more than eight classrooms.

(4) Grants requests, above 100 percent of the number of pupils to be housed, based on Special Day Class pupil eligibility are only permitted under this subsection (a) when building a Special Day Class facility.

(5) 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 Section 1859.82(b), except for Alternative Education Schools. For Alternative Education Schools, refer to the following:

ALTERNATIVE EDUCATION*			
Support Facility	Existing Site Plus Proposed Project Contain 1 or 2 Classrooms	Existing Site Plus Proposed Project Contain 3 to 10 Classrooms	Existing Site Plus Proposed Project Contain 11 or More Classrooms
Multipurpose Facility or Gymnasium (includes food service)	2,500 sq. ft.	6.3 sq. ft. per pupil minimum 4,000 sq. ft.	6.3 sq. ft. per pupil minimum 7,200 sq. ft., maximum of 18, 000 sq. ft.
Counseling Offices, and/or Conference Rooms	1,000 sq. ft. Combined Total	1,000 sq. ft.	1,000 sq. ft.
Library/Media Space		4.3 sq. ft. per pupil plus 600 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft.

*The proposed project cannot include more than eight classrooms.

(6) The maximum excess pupil amount being requested for this type of use of grants request, is calculated by the following:

(A) Multiply the current CBEDS for the site plus the Net School Building Capacity for the proposed project by the square footage for the type of facility being requested, pursuant to Section 1859.82(b), except for Alternative Education Schools. For Alternative Education Schools, refer to the chart above.

(B) Multiply the product in (a)(6)(A) above by the per square foot grant amount for multipurpose, gymnasium or library facilities pursuant to Section 1859.82(b); utilize the same per square foot grant amount for the Alternative Education school facilities as shown in Section 1859.82(b).

(C) Divide the product in (a)(6)(B) above by the New Construction Grant amount for the project grade level, rounded up to the nearest whole number.

(b) A district may request new construction grant eligibility determined at a different grade level than the proposed project that does not exceed the capacity of the project, unless the project includes a request as indicated in Section 1859.77.3(a), based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations when all of the following is met:

(1) The district must adopt a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the district's governing board on a date preceding the application filing that include the following:

(A) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.

(B) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.

(C) A plan outlined in the resolution that identifies how the district has housed or will house the pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan must certify one of the following methods:

1. The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB, and the district must identify the source of the funds; or
2. The district will utilize higher district loading standards providing the loading standards are within the approved district's teacher contract and do not exceed 33:1 per classroom; or
3. The pupils requested from a different grade level will be housed in classrooms at an existing school in the district which will have its grade level changed, to the grade level requested, at the completion of the proposed SFP project.

(2) Only New Construction Grant eligibility for grades Kindergarten through 12 can be requested pursuant to this subsection (b), and the district must use its New Construction Grant eligibility, pursuant to subsection (b), in the following order:

(A) At the grade level of the proposed project, if available.
(B) At the lowest grade level other than the proposed project, if available.
(C) At the next highest grade level other than the proposed project.
(c) A district may request new construction eligibility based on the SFP Regulation Section 1859.77.2 or 1859.77.3, as appropriate, in place as of the date of a local bond election provided that clear language was included in the local bond that specifically identified the proposed project, and provided that the project meets all laws and regulations of the SFP.

If a district wishes to amend its Approved Application to include or increase its use of grants request after the submittal to the OPSC, the district must request in writing that the Approved Application be withdrawn and removed from the OPSC workload list. The resubmitted application will receive a new processing date by the OPSC.

The New Construction Grant amount provided shall be determined based on the grant amount provided in Education Code Section 17072.10 for the grade level that generated the eligibility and any New Construction Additional Grant or New Construction Excessive Cost Hardship Grant the district qualifies for as provided by these regulations.

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

Reference: Sections 17072.13 and 17072.35, Education Code.

Section 1859.77.4. Addition to a Site and Modernization Grant for High Performance Incentive.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in Subsection (b) if all the following are met:
(1) The project includes all the prerequisites in each of the five HPRC to include Sustainable Sites, Water, Energy, Materials and Indoor Environmental Quality, that are within the scope of the project, and related subcategory credits.
(2) Once the prerequisites in (a)(1) have been met, the district may select the criteria and credits it wishes to pursue to determine point award. The category, criteria and associated points are as indicated in Section 1859.71.6 (a), with the exception of (a)(2)(C) 2. that has an amended point allowance that equals three to nine points; three points for the first five percent plus one point for each additional five percent thereafter of the site's annual power consumption that is produced on site not to exceed 35 percent.
(3) A minimum of four points must come from either Section 1859.71.6 (a)(2)(C)1.b. and/or 2.
(4) The project, which includes a complete set of plans, must be submitted to and accepted by the DSA on or after May 20, 2006.
(5) The DSA has reviewed the proposed project and concurs with the points specified in the HPRC.
(6) The project will not receive funding from the Energy Efficiency Account.
(7) For those projects accepted by the DSA prior to October 1, 2007, districts may utilize the *CHPS Best Practices Manual Volume III 2002 Edition*, and the point standard will be in the range of 23 to 72 points. All prerequisites, credits and points obtained must be based on the *2002 Edition* requirements. Criteria and associated prerequisite or points as indicated in Section 1859.71.6 (a)(2)(D)2.a. and 4.c. and f. and (E)1.c. and 2.b. and district resolutions are ineligible, and (a)(3) is optional.
(b) To determine the High Performance Incentive grant, multiply the New Construction or Modernization Grant, as appropriate, by the percentage allowance in accordance with the eligible high performance points as follows:
(1) For those projects accepted by the DSA prior to October 1, 2007, pursuant to (a)(7), in which the level of high performance attained, as concurred by the DSA, is a minimum of 23 points, the New Construction or Modernization Grant, as appropriate, will be multiplied by:
(A) Two percent at 23 points plus 0.03 percent for each point attained from 24 through 33 points; or
(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or
(C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or
(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 72 points.

(2) For those projects accepted by the DSA utilizing the *CHPS Best Practices Manual Volume III 2006 Edition*, in which the level of high performance attained as concurred by the DSA is a minimum of 20 points, the New Construction or Modernization Grant, as appropriate, will be multiplied by:
(A) Two percent at 20 points plus 0.025 percent for each point attained from 21 through 33 points; or
(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or
(C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or
(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 77 points.

If there are no funds remaining in the High Performance School Account or the funds remaining are insufficient to fully fund the additional grant authorized in Subsection (b), the district may either withdraw its application and resubmit it should additional funds be made available in the High Performance School Account or continue with the addition to an existing site/modernization project and accept a full and final apportionment without the additional grant authorized by Subsection (b).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 101012(a)(8), Education Code.

Section 1859.78. Adjustment to the Modernization Grant.

The modernization per-unhoused-pupil grant amount, as provided by Education Code Section 17074.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.30 and the first adjustment shall be January, 1999.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.10, Education Code

Section 1859.78.1. Modernization Pupil Grant Increase for Labor Compliance Program.

(a) After determining all other funding authorized by these Regulations, the Board shall increase the per-pupil grant amount by the following calculation, less the district matching share required in Section 1859.79, for any project for which the district is required under Labor Code Section 1771.7(a) and (b) to initiate and enforce a LCP:
(1) Using the chart in Section 1859.71.4(b), determine the total amount of funding to be provided for the increased costs of a modernization project due to the initiation and enforcement of a LCP.
(2) Divide the amount determined in subsection (a)(1) by the total number of pupils, or by one if no pupils are assigned, in the approved application.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.10, Education Code

Section 1859.78.2. Modernization Additional Grant for Project Assistance.

In addition to any other funding authorized by these Regulations, the Board shall provide $2,000 for Small School Districts for the cost necessary for project assistance. The amount will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.37 and the first adjustment shall be January 2001.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.10, Education Code.

Section 1859.78.3. Modernization Grant for Individuals With Exceptional Needs.

In lieu of the funding provided by Subdivision (a) of Education Code Section 17074.10 and Section 1859.78.6, the Board shall provide the grant amounts in subsections (a) and (b) for each pupil included in an approved project for modernization funding and shall provide the grant amount in subsections (c) and (d) for the CDE on behalf of the California Schools for the Deaf and Blind for each pupil included in an approved project for modernization funding. The amounts in subsections (c) and (d) represent 100 percent State funding, pursuant to Education Code Section 17073.25.

(a) $7,158 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(b) $4,788 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(c) $11,930 for each pupil that meets Education Code Section 59020 and attends the California Schools for the Deaf and Blind and has facilities under 50 years old.
(d) $16,573 for each pupil that meets Education Code Section 59020 and attends the California Schools for the Deaf and Blind and has facilities 50 years old and older.

For purposes of subsections (c) and (d) above, 25 percent of the Modernization Grant shall be apportioned and released upon approval by the Board of a Separate Apportionment for Design Costs.

The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.78. The grant is eligible for any modernization grant augmentation for which the project is otherwise eligible under the law and regulations.

Note: Authority cited: Sections 17070.35, 17072.10 and 17074.10, Education Code.

Reference: Sections 17072.10, 17073.25, 17074.10 and 17074.26, Education Code.

Section 1859.78.4. Modernization Additional Grant for Fire Code Requirements.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the following grant amounts for each pupil included in an application for modernization if the project includes an automatic fire detection and alarm system as described in Education Code Section 17074.52 or the fire detection and alarm system is deferred as authorized by Subdivision (b) of Education Code Section 17074.50:
(1) $72.12 for each elementary school pupil.
(2) $72.12 for each middle school pupil.
(3) $72.12 for each high school pupils.
(4) $134.14 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $200.49 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) Pursuant to Subdivision (c) of Education Code Section 17074.56, the Board shall provide the grant amounts shown in (a) above, in addition to any other funding authorized by these Regulations, for each pupil included in an application for modernization if all the following criteria are met:
(1) The final plans for the modernization project were submitted to the Division of the State Architect for review and approval between September 1, 2001 and June 30, 2002.
(2) The final plans for the modernization project included an automatic fire detection and alarm system as described in Education Code Section 17074.52 or the project will include the system prior to the completion of the project.
(3) The modernization project did not receive the entire modernization Adjusted Grant apportionment by June 30, 2002.

The amounts shown in (a) above shall be adjusted annually in the manner prescribed in Section 1859.78.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.50, 17074.52, 17074.54 and 17074.56, Education Code.

Section 1859.78.5. Modernization Additional Grant for Energy Efficiency.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in (b) if all the following are met:
(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.

(2) The average energy efficiency score of all the buildings in the project, as determined by EnergyPro 3.1 or a similar computer program approved by the State Energy Resources Conservation and Development Commission, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 10 percent.
(3) The DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.
(4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the State Energy Resources Conservation and Development Commission.
(5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).
(b) An amount equal to the lesser of (b)(1) or (b)(2):
(1) The Modernization Grant multiplied by one percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is 10 percent, or by one percent plus 0.1 percent for each 0.1 percent increment of increased energy efficiency up to 14 percent. The multiplier may not exceed five percent.
(2) The remaining funds available in the Energy Efficiency Account set aside for this Section.

If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1), the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the modernization project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17077.35, Education Code.

Section 1859.78.6. Modernization Grant for 50 Year or Older Permanent Buildings.

(a) In lieu of the funding provided by Subdivision (a) of Education Code Section 17074.10 and Section 1859.78.3, the Board shall provide the amounts shown below for each pupil housed in permanent school buildings that are 50 years or older as follows:
(1) $3,120 for each elementary pupil.
(2) $3,300 for each middle school pupil.
(3) $4,320 for each high school pupil.
(4) $9,944 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $6,650 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) If the eligibility at the school site includes permanent buildings both over and under 50 years old, the number of pupils housed in 50 years or older permanent buildings, for purposes of (a) above, shall be determined by either of the following, at the district's option:
(1) A percentage of permanent classrooms that are 50 years or older to the total number of classrooms eligible for Modernization at the site determined as follows:
(A) Calculate the total number of classrooms eligible for Modernization at the site that were included in the Gross Classroom Inventory pursuant to Section 1859.31.
(B) Calculate the total number of permanent classrooms that are at least 50 years old and were not previously modernized with State funds.
(C) Divide the classrooms calculated in (b)(1)(B) by the total classrooms calculated in (b)(1)(A). Round up to the nearest one tenth of one percent.
(D) Multiply the percentage determined in (b)(1)(C) by the total modernization eligibility as determined in Option A or B on the Form SAB 50-03, for each grade group. Round up, or;
(2) A percentage of the permanent building area Square Footage that is 50 years or older to the total Square Footage eligible for Modernization at the site determined as follows:
(A) Calculate the total Square Footage building area eligible for Modernization at the site.
(B) Calculate the total permanent Square Footage of building area that is at least 50 years old and was not previously modernized with State funds.

(C) Divide the Square Footage of building area calculated in (b)(2)(B) by the total Square Footage of building area calculated in (b)(2)(A). Round up to the nearest one tenth of one percent.
(D) Multiply the percentage determined in (b)(2)(C) by the total modernization eligibility as determined in Option A or B on the Form SAB 50-03, for each grade group. Round up.

The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.78. The grant is eligible for any modernization grant augmentation for which the project is otherwise eligible under the law and regulations.

For purposes of determining the age of the building, the 20 year, 25 year and the 50 year period shall begin 12 months after the original plans for the construction of the building were approved by the DSA or in the case of permanent or portable classrooms previously modernized with State funds, the 25/20 year period shall begin on the date of its previous modernization apportionment.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.26, Education Code.

Section 1859.78.7. Modernization Additional Grant for Site Development Necessary for 50 Years or Older Permanent Buildings.

In addition to any other funding authorized by these Regulations, the Board shall provide funding for upgrading existing site development (utilities) work as necessary for the modernization of 50 years or older permanent buildings equal to the lesser of (a) or (b):
(a) 60 percent of the costs necessary to upgrade utility service to 50 year or older permanent building(s) on the site as follows:
(1) Water: Replacement or repair of main water service line(s) between the utility company connection and to five feet of the 50 years or older building(s) on the site, connection fees if applicable, meter (if not provided by the serving utility), and replacement or repair of a domestic water appurtenances (i.e., well, pump, tank) as needed for the proper operation of the system.
(2) Sewage: Replacement or repair of main sewer line between the utility company connection and to five feet of the 50 years or older building(s) on the site and connection fees, if applicable. Replacement or repair of sewage appurtenances (i.e., treatment/disposal system) as needed for the proper operation of the system and a main disposal line from the treatment system to five feet of the 50 years or older building(s) on the site.
(3) Gas: Replacement or repair of main gas service line between the utility company connection and to five feet of the 50 years or older building(s) on the site, connection fee (if applicable), meter (if not provided by serving utility) or replacement or repair of gas service appurtenances (i.e., liquefied petroleum system and tank) as needed for proper operation of the system and a new main supply line from the tank to five feet of the 50 years or older building(s) on the site.
(4) Electric: Replacement or repair of electrical service between the utility company connection and the building main switchboard. Primary electric service runs between the utility company's point of connection and the transformer. Secondary electric service runs between the transformer and the main switchboard. Connection fee, transformer pads and protective devices (i.e., bollards) as required by the utility company.
(5) Communication systems (i.e., cable television and telephone): Replacement or repair of service between the utility company connection and the nearest distribution center.
(b) Twenty percent of the funding authorized by Section 1859.78.6.

The district must submit a detailed cost estimate and appropriate DSA approved plans with Form SAB 50-04 for all requests for the site development work. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the modernization of the 50 years or older building(s) that will be modernized as part of the project.

The Board will approve reasonable and appropriate site development (utilities) work that meets common engineering practices and industry standards and are consistent with the specific site conditions, if the site development costs are consistent with the most current edition of the Saylor Remodeling/Repair Construction Costs. The design professional must certify that the site development (utilities) work does not exceed the minimum requirements to develop the site to meet educational needs and/or standards.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the 50 year or older permanent building(s).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.26, Education Code.

Section 1859.78.8. Modernization Grant for Facilities Previously Modernized with State Funds.

The Board shall provide an additional apportionment provided by Education Code 17074.10(a) and Section 1859.78.3, for facilities previously modernized with State funds as follows:

(a) An additional apportionment will be provided for the modernization of a permanent school building every 25 years following the date of its previous State modernization apportionment.

(b) In the case of portable classrooms, an additional apportionment will be permitted every 20 years after the date of its previous State modernization apportionment provided the modernization funds will be used to replace the portable classroom(s) and the school district must certify that the portable classrooms will be removed from any classroom use unless acceptable documentation is provided by the district indicating that the modernization of the portable classrooms is a better use of public resources.

If the previous SFP modernization apportionment includes both permanent and portable facilities, the number of pupil grants that will be added to the site's baseline eligibility shall be determined by the percentage of permanent or portable facilities identified on the Form SAB 50-03 that generated the initial eligibility.

The capacity and eligibility of the school district will not be adjusted for the replacement of the portable classroom pursuant to Education Code Sections 17074.10(f) and 17073.15.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.10 and 17073.15, Education Code.

Section 1859.78.9. Separate Apportionment for Modernization Reconfiguration under the Small High School Program.

(a) The Board shall provide an additional apportionment pursuant to Education Code Section 17074.32 for Modernization Reconfiguration work on an existing high school site, not to exceed $500,000 for each new Small High School created from the reconfiguration, subject to OPSC verification, if all of the following criteria are met:

(1) A district shall submit an Approved Application by September 30, 2007.

(2) The current enrollment at the existing high school must be at least 1,000 pupils.

(3) At least two new Small High Schools must be created as a result of Reconfiguration.

(4) The district must obtain a county-district-school code from the Department of Education for the resulting new school sites.

(5) Funds provided under this Section shall be used only for work included in the Reconfiguration.

(b) The State funding pursuant to this Section shall continue for projects that meet subsection (a) until all available funds are exhausted. In the event that remaining funds are insufficient to fund a Reconfiguration project in its entirety, the district will have the following options:

(1) Accept the remaining funds as a full and final apportionment; or,

(2) Refuse the funding in its entirety. If the district wishes to proceed with the Modernization portion of the application, the application will retain its received date and proceed without the Modernization Grant Separate Apportionment for Reconfiguration.

The district must maintain an enrollment, not to exceed 500 pupils, for a minimum of two complete school years after the Occupancy of the new Small High Schools.

Any additional Classrooms Provided to the campus, beyond the existing number of classrooms prior to the Reconfiguration work, shall be reduced from the district's New Construction Eligibility pursuant to Section 1859.51.

At the conclusion of the Reconfiguration project, a new Modernization Eligibility will be established at any resulting new Small High Schools.

After all qualifying projects pursuant to this Section have been apportioned, any remaining funds pursuant to Education Code Section 17074.32 shall be made available for eligible modernization projects pursuant to this Act.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.32, Education Code.

Section 1859.79. Modernization Matching Share Requirement.

Except in the case of financial hardship as provided in Section 1859.81, or the modernization grant for Reconfiguration as provided in Section 1859.78.9, a district matching share for a modernization project shall be required as follows:

(a) If the Approved Application is received on or before April 29, 2002, any Modernization Grant plus any other funding provided by these Regulations shall require a district matching share equal to at least 20 percent of those amounts which, combined with the State's Modernization Adjusted Grant, shall represent 100 percent of the total project cost.

(b) If the Approved Application is received after April 29, 2002, any Modernization Grant, plus any other funding authorized by these Regulations shall require a district matching share equal to at least 40 percent of those amounts which, combined with the State's Modernization Adjusted Grant, shall represent 100 percent of the total project cost.

The district may include as its district matching share any amounts expended on the project for an energy audit made pursuant to Education Code Section 17077.10 and any amounts applied to the project for incentive grants or rebates received by the district from a program funded pursuant to Public Utilities Code Section 381.

The district's modernization matching share shall not be expended on costs included in a Reconfiguration project pursuant to Section 1859.78.9.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.15, 17074.16, 17074.32 and 17077.10, Education Code.

Section 1859.79.1. Modernization Reimbursement.

The Board will not provide Modernization funding for a project if the district entered into a construction contract for that project before August 27, 1998 unless:

(a) The project met the provisions for funding under the LPP pursuant to Sections 1859.14 or 1859.15; or

(b) The project was approved on the Year-Round Schools Air Conditioning/Insulation Program unfunded approval list pursuant to Education Code Section 42250.1.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17074.10 and 42250.1, Education Code.

Section 1859.79.2. Use of Modernization Grant Funds.

The Modernization Grant plus any other funds provided by these Regulations shall be expended as set forth in Education Code Sections 17074.25, 17074.10(f) and 17070.15(f) and may also be utilized for other purposes as set forth in Education Code Section 100420(c). Modernization funding may also be used for the costs incurred by the district directly or through a contract with a third party provider for the initiation and enforcement of a LCP. Modernization funding, with the exception of savings, is limited to expenditure on the specific site where the modernization grant eligibility was generated. The grant may not be used for the following:

(a) New building area with the exception of the following:

(1) Replacement building area of like kind. Additional classrooms constructed within the replacement area will reduce the new construction baseline eligibility for the district.

(2) Building area required by the federal Americans with Disabilities Act (ADA) or by the Division of the State Architect's (DSA) handicapped access requirements.

(b) New site development items with the exception of:
(1) Replacement, repair or additions to existing site development.
(2) Site development items required by the federal ADA Act or by the DSA's handicapped access requirements.
(c) the evaluation and removal of hazardous or solid waste and/or hazardous substances when the Department of Toxic Substance Control has determined that the site contains dangerous levels of a hazardous substance, hazardous waste, or both that exceed ten percent of the combined adjusted grant and the district matching share for the project.
(d) Leased facilities not owned by another district or a county superintendent.
(e) Costs associated with Reconfiguration pursuant to Section 1859.78.9.

Modernization Grant funds may be used on any school facilities on the site, with the exception of portable classroom facilities eligible for an additional apportionment pursuant to Education Code Sections 17073.15 and 17074.10(f) and as defined in Section 1859.78.8. If the classroom facilities on the site include areas that are currently ineligible for modernization, it will not disqualify those facilities from future modernization funding.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.15, 17074.25, 17074.32 and 100420(c), Education Code.

Section 1859.79.3. Minimal Requests for Modernization Grant Funds.

With the exception of Approved Applications that meet the requirements of Section 1859.107(a), districts seeking a Modernization Grant must submit Form SAB 50-04 for at least 101 grants, or the remaining modernization eligibility at the school site if less than 101 grants.

Form SAB 50-04 requesting Modernization Grant funds that do not meet the above criteria will not be accepted by the SAB.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.15, 17074.16, 17074.25 and 100420(c), Education Code.

Article 9. Hardship Assistance

Section 1859.80. General.

A district shall qualify for hardship assistance by demonstrating one or more of the following:
(a) A financial hardship, as provided in Section 1859.81, which prevents the district from funding all or a portion of the matching share requirement for a SFP grant.
(b) A facility Hardship Grant as provided in Section 1859.82.
(c) An Excessive Cost Hardship Grant as a result of added construction costs due to unusual circumstances as provided in Section 1859.83.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17075.10 and 17070.15, Education Code.

Section 1859.81. Financial Hardship.

Except for Joint-Use Projects and Career Technical Educational Facilities Projects, a district is eligible for financial hardship to fund all or a portion of its matching share requirement after demonstrating the requirements of (a), (c), and (d) below:
(a) The district is financially unable to provide all necessary matching funds for an eligible project. To determine this, an analysis shall be made of the district's financial records by the OPSC including data and records maintained by the CDE and the County Office of Education. The analysis shall consist of a review of the district's latest Independent Audit regarding funds available from all capital facility accounts, including, but not limited to, developer fees, funds generated from capital facility certificates of participation, federal grants, redevelopment funds, sale proceeds from surplus property, the appraised value of facilities approved for replacement pursuant to Section 1859.82, bond funds either encumbered, unencumbered or authorized but

unsold, and savings from other SFP projects. All funds thus identified that have not been expended or encumbered by a contractual agreement for a specific capital outlay purpose prior to the initial request for financial hardship status shall be deemed available as a matching contribution.

After the initial request for financial hardship status is granted, no further encumbrances will be approved by the OPSC and all prospective revenue made available to the district's capital facility accounts shall be deemed available as matching contribution on the subsequent financial hardship review, with the exception of:

(1) Approved interim housing expenditures.
(2) Funding to pay for previously recognized multi-year encumbrances approved at the initial financial hardship approval.
(3) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the Federal Renovation Program when the amount expended out of that fund does not exceed the maximum Federal Renovation Grant amount.
(4) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the School Facilities Needs Assessment Grant Program or Emergency Repair Program when the amount expended out of that fund does not exceed the maximum grant amount apportioned.
(5) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the Career Technical Education Facilities Program when the amount expended out of that fund does not exceed the applicant's share of the maximum grant amount apportioned.
(6) Funding that is transferred into a Special Reserve Fund and used for the express purpose of the Overcrowding Relief Grant when the amount expended out of that fund does not exceed the amount of the site acquisition and design costs of the project and the district has submitted an approved Form SAB 50-11.
(7) Funding that is used for the express purpose of reimbursing the State a proportionate share of financial hardship received when there has been a transfer of a special education program and title to the facility. In addition, the funding was used within five years of the title transfer.
(8) All other capital facility funding for a period of three years when no subsequent financial hardship request is made during this period, with the exception of the funding identified in (6). The three-year period begins with the date of the most recent financial hardship new construction or modernization adjusted grant funding apportionment.

When Overcrowding Relief Grant funding is set aside pursuant to (6) and the School District has not submitted, or the OPSC has not accepted, a Form SAB 50-04 for an Overcrowding Relief Grant within three years from the date of deposit into the Special Reserve Fund, or the School District has not met the requirements in Sections 1859.90 or 1859.105, remaining funds plus interest accrued at the Pooled Money Investment Board rate at that time period shall be deemed available as matching contribution on a subsequent financial hardship project or be captured through an audit adjustment pursuant to Section 1859.106.

The financial hardship analysis is subject to approval by the Board.

(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 portable toilet unit in each reporting period for the cost to provide necessary interim toilet facilities 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 toilet facilities needed for interim housing shall be the sum of the positive numbers determined in (b)(7) divided by eight rounded up to the nearest whole number.

If the district's available funds, as determined by the OPSC analysis less costs for interim housing, is less than its matching share, the district will be deemed to have met the requirements of this Subsection.

(c) The district has made all reasonable efforts to fund its matching share of the project by demonstrating it is levying the developer fee justified under law or an alternative revenue source equal to or greater than the developer fee otherwise justified under law at the time of request for hardship and the district meets at least one of the following:

(1) The current outstanding bonded indebtedness of the district issued for the purpose of constructing school facilities in accordance with Education Code Section 17072.35 or 17074.25 as appropriate, at the time of request for financial hardship status, is at least 60 percent of the district's total bonding capacity. Outstanding bonded indebtedness includes that part of general obligation bonds, Mello-Roos Bonds, School Facility Improvement District Bonds and certificates of participation which the district is paying a debt service that was issued for capital outlay school facility purposes.

(2) The district had a successful registered voter bond election for at least the maximum amount allowed under Proposition 39 within the previous two years from the date of request for financial hardship status. The proceeds from the bond election that represent the maximum amount allowed under the provisions of Proposition 39 must be used to fund the district's matching share requirement for SFP project(s).

(3) It is a County Superintendent of Schools.

(4) The district's total bonding capacity at the time of the request for financial hardship status is $5 million or less.

(5) Other evidence of reasonable effort as approved by the SAB.

(d) The district has not signed a contract for acquisition or construction of classrooms that replace existing facility(ies), which were included in the determination of the district's new construction eligibility pursuant to Education Code Section 17071.75, in a locally funded project during the five-year period immediately preceding the district's application for financial hardship assistance. This restriction may be lifted if the Board finds that unforeseen and extenuating circumstances existed that required the district to use local funds to replace the facility(ies).

If the district's request for financial hardship status is denied by the Board, the district may be deemed eligible for rental payments of $2,000 per year per classroom under the Emergency School Classroom Law of 1979 for a two year period when relocatable classroom buildings are available and the district provides financial documentation that it is unable to afford the full rental amount and any other information satisfactory to the Board that the rental reduction is necessary. The number of classrooms eligible for the $2,000 rental payments shall be the sum of the numbers determined in (c)(5)(B) as follows:

(A) Determine the number of pupils by grade level that the district requested a New Construction Grant on the Form SAB 50-04 that were denied financial hardship status.

(B) Divide the number by grade level determined in (c)(5)(A) 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.

If the district meets the financial hardship requirements in this Section, the amount of financial hardship is equal to the district's matching share less funds deemed available in (a).

Once a district has been notified by the OPSC that it meets the requirements of financial hardship in this Section, the district may file Form SAB 50-04 under the provisions of financial hardship anytime within a period of 180 calendar days from the date of the OPSC notification.

If the district does not submit Form SAB 50-04 under the provisions of financial hardship within 180 calendar days of the OPSC notification of approval of financial hardship status, the district must re-qualify for financial hardship status under the provisions of this Section by submittal of a new request for financial hardship status.

If the district submits Form SAB 50-04 within 180 calendar days of the OPSC notification of approval of financial hardship and the project(s) has been included on an unfunded list for more than 180 calendar days, a review of the district's funds pursuant to (a) will be made to determine if additional district funds are available to fund the district's matching share of the project(s).

Financial hardship approval status by the OPSC for a separate design and/or site apportionment does not apply to any subsequent funding for the project(s).

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

Reference: Sections 17071.75, 17075.10, 17075.15, and 17079.20, Education Code.

Section 1859.81.1. Separate Apportionment for Site Acquisition and Design Costs.

A district that meets the financial hardship criteria in Section 1859.81 is eligible for the following:

(a) For a new construction project, a separate apportionment for site acquisition, with the exception of site acquisition funding authorized by Section 1859.81.2 or for projects receiving funding pursuant to the Overcrowding Relief Grant, Section 1859.180, when all the following requirements are met:

(1) The district has eligibility for grants that equal at least 50 percent of the CDE master plan capacity of the site.

(2) The district has received a contingent site approval letter from the CDE indicating that the proposed site is the best available.

(3) The district has obtained a preliminary appraisal of the property by a qualified appraiser utilizing criteria outlined in Section 1859.74.1. This report may be made without access to the site.

(b) If the conditions in (a) are met on a site that does not require a RA, the Board will apportion all of the following less any district funds available for the project pursuant to Section 1859.81(a):

(1) An amount not to exceed 100 percent of the lesser of the preliminary appraised value of the site as determined by Section 1859.74.1 or the amount the district reasonably expects to pay for the site including any hazardous material clean-up.

(2) The estimated relocation expenses that will conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment, and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.

(3) Four percent of the lesser of the preliminary appraised value of the site or the amount the district reasonably expects to pay for the site acquisition including any hazardous material clean-up but not less than $50,000.

(4) The estimated DTSC costs for review, approval, and oversight of the POESA and the PEA.

(c) If the conditions in (a) are met on a site that will require a RA, the district is eligible for a separate site apportionment not to exceed 50 percent of one and one half times the value of an appraisal that conforms to Section 1859.74.1 for the costs included in (c)(1) and (c)(4) plus the additional costs included in (c)(2) and (c)(3). The costs included in (c)(2) and (c)(3) are in addition to 50 percent of one and one half times the appraisal value cap.

(1) The cost of the site as determined in Section 1859.74.1 and the amount the district reasonably expects to pay for any hazardous materials/waste removal and/or remediation costs for the site.

(2) Fifty percent of the estimated relocation expenses that will conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment, and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.

(3) Fifty percent of four percent of the lesser of the appraised value of the site or the amount the district reasonably expects to pay for the site acquisition including any hazardous materials/waste removal and/or remediation costs for the site, but not less than 50 percent of $50,000.

(4) The estimated DTSC costs for review, approval and oversight of the POESA and the PEA.

(d) The limitation of 50 percent of one and one half times the value of an appraisal for costs in subsections (c), (c)(1) and (c)(4) may be exceeded when the Board finds that unforeseen circumstances exist, and when both of the following exist:

(1) CDE determines that the site is the best available site for meeting the educational and safety needs of the School District.

(2) Substantiation that the costs are limited to the minimum required to complete the evaluation and RA approved by the DTSC.

(e) For new construction projects, 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). For modernization projects, the Board will apportion an amount not to exceed the following:
(1) If the Approved Application is received on or before April 29, 2002, 20 percent of the modemization grant less any district funds available for the project pursuant to Section 1859.81(a).
(2) If the Approved Application is received after April 29, 2002, 25 percent of the modernization grant less any district funds available for the project pursuant to Section 1859.81(a).

The amount apportioned 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 new construction project. Those projects requesting an Overcrowding Relief Grant, pursuant to Section 1859.180, do not qualify for these separate apportionments.

The amount provided as a separate apportionment shall be offset from the New Construction Adjusted Grant or the Modernization Adjusted Grant amount the district would otherwise be eligible for pursuant to Sections 1859.70 and 1859.81 when the district submits Form SAB 50-04. A district seeking a separate apportionment for site acquisition or design costs shall submit Form SAB 50-04. If a new construction project received a previous design apportionment, the district may request an additional design apportionment for that project up to the 40 percent maximum design apportionment allowed pursuant to this Section.

The Form SAB 50-04 that is subsequently submitted for the New Construction Adjusted Grant must be for at least 50 percent of the New Construction Grant the district requested as a separate design apportionment.

The Form SAB 50-04 that is subsequently submitted for the Modernization Adjusted Grant must be for at least 80 percent of the Modernization Grant the district requested as a separate design apportionment that was received on or before April 29, 2002.

The Form SAB 50-04 that is subsequently submitted for the Modernization Adjusted Grant must be for at least 60 percent of the Modernization Grant the district requested as a separate design apportionment that was received after April 29, 2002.

When the Board is accepting applications pursuant to Section 1859.95, the funding of the new construction or modernization grant may be made from funds set aside by the Board for financial hardship. The amount provided as a separate apportionment shall be adjusted at a future date to assure that hardship funding for the project does not exceed the amount the district was otherwise eligible to receive.

Note: Authority cited: Sections 17070.35, 17072.13 and 17075.15, Education Code.

Reference: Sections 17072.12, 17072.20, 17072.33, 17074.15, 17074.16 and 17079.20, Education Code.

Section 1859.81.2. Separate Apportionment for District-Owned Site Acquisition Costs.

A district that meets the financial hardship criteria in Section 1859.81, with the exception of those projects requesting an Overcrowding Relief Grant pursuant to Section 1859.180, is eligible for the following:
(a) A separate apportionment for district-owned site acquisition cost authorized by Section 1859.74.5 when all the following are met:
(1) The district has eligibility for new construction grants that equal at least 50 percent of the CDE master plan capacity of the site.
(2) All the criteria in Section 1859.74.5(a)(1) through (a)(7) are met.
(b) If the conditions in (a) are met, the Board will apportion one half of the value of the district-owned site as determined in Section 1859.74.5(b).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.13, 17072.20, and 17079.20, Education Code.

Section 1859.81.3. Use of District-Owned Site Acquisition Apportionment.

Any funds authorized by Sections 1859.74.5 or 1859.81.2 shall be expended in accordance with Education Code Section 17072.35 and may also be used for the relocation of district facilities necessary as a result of Subdivision (b) of Education Code Section 17072.12.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.20 and 17072.35, Education Code.

Section 1859.82. Facility Hardship.

A district is eligible for facility hardship funding to 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) 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 Division of the State Architect to be repaired, 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.

If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to the OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of 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. If the cost to remain in the classroom or related facility is less than 50 percent of the Current Replacement Cost, the district may qualify for a Modernization Excessive Cost Hardship Grant for rehabilitation costs pursuant to Section 1859.83 (e).

If the request is for replacement facilities that included structural deficiencies, the cost/benefit analysis must also include a report from a licensed design professional identifying the minimum work necessary to obtain Division of the State Architect approval. The report must contain a detailed cost estimate of the repairs. The report and cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Construction Cost Publication and, at the OPSC's discretion, the Division of the State Architect.

(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 (1) or (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 replacement facilities on the same site pursuant to either (1) or (2) above, the district is eligible for funding as a new construction project. Replacement facilities 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. 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 and project assistance pursuant to

Section 1859.73.1. The amounts shown will be adjusted in the manner prescribed in Section 1859.71. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.

Any grants provided pursuant to either (1) or (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.

(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 and project assistance pursuant to Section 1859.73.1. The amounts shown will be adjusted in the manner prescribed in Section 1859.71. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.

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:

Facility	*Elementary School Pupils*	*Middle School Pupils*	*High School Pupils*
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.

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 and 17075.15, Education Code.

Reference: Sections 17074.56, 17075.10 and 17075.15, Education Code.

Section 1859.83. Excessive Cost Hardship Grant.

In addition to any other funding authorized by these Regulations, a district is eligible for funding as a result of unusual circumstances that created excessive project costs beyond the control of the district. The Excessive Cost Hardship Grant shall be based on any of the following:

(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(a) and (b), 1859.83(b), (c), (d) and (f) and 1859.125(a)(1) through (a)(2).

GEOGRAPHIC PERCENTAGE CHART

COUNTY	% FACTOR	DESCRIPTION
Alpine	5	The entire county.
Amador, Eastern Part	5	All of Amador County except the portion lying west of a line drawn five miles east of, and paralleling State Highway 49.
Butte, Eastern Part	5	All of Butte County except that portion lying west of a line drawn ten miles east of, and paralleling State Highway 99.
Calaveras, Eastern Part	5	All of Calaveras County except that portion lying west of State Highway 49.
Del Norte	5	The entire county.
El Dorado, Eastern Part	15	That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to State Highway 88.
El Dorado	5	El Dorado County except the eastern part and the following areas: • West of a line drawn six miles east of and paralleling State Highway 49. • Within five miles of either side of U.S. highway 50 from the western county line to a point on the eastern limit of the community of Pollock Pines. • West of a line drawn three miles easterly from and paralleling a certain county road described as the Pleasant Valley Road which connects the community of Aukum with Diamond Springs and with the city of Plymouth.
Fresno, Eastern Part	5	All of Fresno County lying east of a line drawn ten miles east of, and paralleling the west boundary of the Sierra National Forest.
Glenn, Western Part	5	All of Glenn County except that portion lying east of a line drawn ten miles west of, and paralleling Interstate Highway 5.

COUNTY	% FACTOR	DESCRIPTION
Humboldt, Redwood Highway	5	That portion of Humboldt County situated within five miles of the Redwood Highway (U.S. 101) except for that portion situated within ten miles of the Redwood Highway from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell.
Humboldt, State Highway 299 and Vicinity	5	That portion of Humboldt County situated within five miles of State Highway 299 and State route 96, except for those portions situated within ten miles of the Redwood Highway (U.S. 101) from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell.
Humboldt, Southeastern Part	15	That portion of Humboldt county adjacent to or east of, the road between Harris to Blocksburg to a point ten miles north of Blocksburg.
Humboldt, Residual Area	10	All areas of Humboldt County not classified in other cost groups except for that portion situated within ten miles of the Redwood Highway from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell.
Imperial	5	The entire county.
Inyo, Southeastern Part	20	That portion of Inyo County situated east of the western boundary of the Death Valley National Monument from the northern boundary of said national monument to the southern boundary of the county.
Inyo, Residual Area	5	All of Inyo County except the southeastern part described above.
Kern, Eastern Part	5	That portion of Kern County lying east of a north-south line drawn through the eastern boundary of the town of Tehachapi.
Lake	5	The entire county.
Lassen, Southern Part	10	That portion of Lassen County lying south of an east-west line drawn through a point ten miles north of Susanville.
Lassen, Northern Part	15	All of Lassen County except the southern part described above.
Los Angeles, Santa Catalina Island only	*	The entire Santa Catalina Island.
Madera, Central Part	5	That portion of Madera County lying between a line drawn ten miles west of, and paralleling the western boundary of the Sierra National Forest and a line drawn ten miles east of and paralleling the western boundary of the Sierra National Forest.
Madera, Eastern Part	5	All of Madera County except the western part and the central part described above.
Mariposa, Eastern Part	5	All of Mariposa County except that portion lying west of: • A line drawn five miles east of, and paralleling State Highway 49 from the northern county line to Mormon's Bar; and • A line drawn ten miles west of, and paralleling the western boundary of the Sierra National Forest from a point due east of Mormon's Bar to the southern county line.
Mendocino, Fort Bragg Area	10	Those portions of Mendocino County lying west of the Southern Redwood Highway Area, and south of the Ten Mile River.
Mendocino, Northern Redwood Highway Area	5	That portion of Mendocino County situated within five airline miles of the Redwood Highway (U.S. 101) from a point ten miles north of the Willits City Hall to the northern boundary of the county.
Mendocino, Residual Area	10	Those portions of Mendocino County not otherwise classified except that portion situated within ten airline miles of the Redwood Highway (U.S. 101) from a point

COUNTY	% FACTOR	DESCRIPTION
		ten miles north of the Willits City Hall to the southern boundary of the county. (Comprises the Northeastern part of the county and the coastal strip in the northwestern part).
Modoc	15	The entire county.
Mono	20	The entire county.
Monterey, Southern Part	5	All Monterey County except that portion lying north of an east-west line beginning on the coast two miles south of the City of Carmel and extending due east to the eastern boundary of the county.
Nevada	5	That portion of Nevada County not included in the Eastern Part.
Nevada, Eastern Part	15	That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to the county line.
Placer, Eastern Part	15	That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to the county line.
Placer, Northeastern Part	5	All of Placer County except the Eastern Part and the following: • Within five miles of either side of State Highway 65 from the southern boundary of the county and the northern limit of the community of Lincoln. • Five miles either side of Interstate 80 from the southern boundary of the county and the northern limit of the community of Penryn. • West of a line drawn five miles east of, and paralleling State Highway 49. • Within five miles of either side of Interstate 80 between the northern limit of the community of Penryn and the northern limit of the community of Colfax.
Plumas	5	The entire county.
Riverside, Eastern Part	20	That portion lying east of a north-south line drawn 50 miles west of the Arizona State Line and north to the county line and south to the county line.
Riverside, Central Part	5	That portion of Riverside County lying east of a north-south line drawn through the intersection of Interstate 10 and Fields Road extending from the southern county line of Riverside County, north to the southern county line of San Bernardino County to the Eastern Part of the County.
San Benito, Southern Part	5	All of San Benito County except that portion lying north of an east-west line drawn across the county from a point two miles south of the community of Paicines.
San Bernardino, Northeastern Part	5	That portion of San Bernardino County lying north and east of an east-west line drawn two miles north of Oro Grande, extending from the western boundary of the county to its intersection with the northerly extension of, and thence along a line drawn through the following points: A point five miles east of Victorville, the eastern edge of the communities of Running Springs and Camp Angelus then due south to the San Bernardino County line.
San Bernardino, Eastern Part	20	That portion lying east of a north-south line drawn 150 miles west of the Arizona State Line and north to the county line and south to the county line.
San Diego, Northeastern Part	10	That portion of San Diego County lying east of a north-south line drawn ten miles east of the community of Julian, said line extending from the northern boundary of the county to its intersection with an east-west line extending from the eastern boundary of the county to its intersection with the aforesaid north-south line, said east-west line being at its closest point, three miles due north of the community of Mount Laguna.
San Mateo, Southwestern Part	5	That portion of San Mateo County lying more than two miles westerly from the nearest point on Skyline Boulevard and south of an east-west line drawn through a point two miles north of the community of Montara.
Santa Cruz, Northwestern Part	5	That portion of the Santa Cruz County lying northerly and westerly from a line drawn from a point one mile north of Swanton on the coast through a point one mile north of Brookdale and situated more than two miles from the nearest point on the eastern boundary of the county.

COUNTY	FACTOR	DESCRIPTION
Shasta, except Valley Area	5	All of Shasta County except that portion lying south of Shasta Lake and situated within ten miles of Interstate Highway 5.
Sierra	5	The entire county.
Siskiyou, Central Part	15	That portion of Siskiyou County situated within ten miles of U.S. Highway 97 from Grass Lake to the Oregon State Line.
Siskiyou, Salmon River	25	All of the drainage area of the Salmon River (including the North and South Forks) except that portion situated within the Somes Bar Area described below.
Siskiyou, Somes Bar Area	20	Those portions of the drainage areas of the Salmon and Klamath Rivers located within the boundaries of the Junction Elementary School District.
Siskiyou, Western Part	15	That portion of Siskiyou County lying westerly from a line drawn ten miles west of and parallel to Interstate 5, except the Somes Bar and Salmon River areas described above.
Siskiyou, Yreka and Residual Area	5	All of Siskiyou County except the Salmon River, Somes Bar and Western areas described above.
Sonoma, Northwestern Part	5	That portion of Sonoma County enclosed by a line following the northern boundary of the county from the Pacific Ocean to a point 15 miles inland, thence southerly to a point two miles west of the community of Los Lomas, thence southerly to a point on the coast two miles south of the community of Fort Ross, thence northerly along the coast line to the northern boundary of the county.
Tehama, Residual Area	5	All of Tehama County except those portions situated within ten miles west of Interstate Highway 5 from the north county line to the southern county line; within ten miles east of Interstate Highway 5 from the north county line southward to a point east of Red Bluff, thence within ten miles east of and paralleling State Highway 99 southward to the county line.
Trinity, Residual Area	15	All of Trinity County except the State Highway 299 area described below.
Trinity, State Highway 299	10	That portion of Trinity County situated within five miles of State Highway 299.
Tulare, Eastern Part	5	That portion of Tulare County lying east of a north-south line drawn through the western limits of the community of Silver City.
Tuolumne, Eastern Part	5	All of Tuolumne County except that portion lying west of State Highway 49.
Yuba, Northeastern Part	5	All of Yuba County except that portion lying west of a line drawn ten miles east of, and paralleling State Highway 65 and that portion lying south of a line drawn three miles north of, and paralleling State Highway 20.

*As specifically approved by the Board.

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

(1) Excluding Joint-Use Projects, if the project will house less 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, if the project will house between 101 and 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 Section 1859.123 or 1859.123.1 will house less 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 Section 1859.123 or 1859.123.1 will house between 101 and 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).

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

(1) With the exception of Alternative Education schools for which the final plans and specifications for the project were accepted by the DSA on or after March 24, 2004, or Small High School Program new construction projects, if the project is for a new elementary, middle or high school on a site with no existing school facilities, the district is eligible for a New Construction Excessive Cost Hardship Grant equal to the difference in the amount provided by the New Construction Grant and the amount shown below, based on the number of classrooms, including classrooms used for Individuals with Exceptional Needs, in the project:

Class-rooms in project	Elementary School	Middle School	High School
1	$160,000	$674,000	$1,466,000
2	$377,000	$756,000	$1,525,000
3	$566,000	$840,000	$1,885,000
4	$717,000	$932,000	$2,205,000
5	$842,000	$1,028,000	$2,428,000
6	$1,021,000	$1,125,000	$2,651,000
7	$1,202,000	$1,222,000	$2,874,000
8	$1,341,000	$1,328,000	$3,046,000
9	$1,341,000	$1,440,000	$3,184,000
10	$1,577,000	$1,553,000	$3,321,000
11	$1,577,000	$1,666,000	$3,459,000
12	$1,660,000		$3,585,000
13			$3,709,000
14			$3,833,000
15			$3,958,000
16			$4,082,000
17			$4,207,000
18			$4,331,000
19			$4,455,000
20			$4,580,000
21			$4,704,000
22			$4,828,000

The amounts shown above will be adjusted annually in the manner prescribed in Section 1859.71.

Any Excessive Cost Hardship Grant provided under this subsection for a new school project shall be offset against future New Construction Grant funds provided for that same school. The amount of the offset shall be determined by dividing the additional New Construction Grant pupil request by the difference in the New Construction Grant pupil request when the initial Excessive Cost Hardship Grant was made and 325 for an elementary school, 324 for a middle school, and 621 for a high school project and multiplying the quotient by the Excessive Cost Hardship Grant funds provided under this subsection for that 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(c)(1), may request funding as follows:

(A) If the project is for an Alternative Education school on a site with no existing school facilities, the district is eligible for a New Construction Excessive Cost Hardship Grant equal to the difference in the amount provided by the New Construction Grant and the amount shown below, based on the number of classrooms in the project:

Classrooms	Alternative Education New School Allowance
1	$ 434,700
2	$ 527,400
3	$ 921,960
4	$ 1,037,250
5	$ 1,152,540
6	$ 1,267,830
7	$ 1,383,120
8	$ 1,504,170
9	$ 1,629,180
10	$ 1,754,190
11	$ 2,239,290
12	$ 2,364,300
13	$ 2,489,310
14	$ 2,614,320
15	$ 2,739,330
16	$ 2,864,340
17	$ 2,989,350
18	$ 3,114,360
19	$ 3,239,370
20	$ 3,364,380
21	$ 3,489,480
22	$ 3,614,490
23	$ 3,739,500
24	$ 3,864,510
25	$ 3,989,520
26	$ 4,114,530
27	$ 4,239,540

The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

(B) If the project is for additional classroom(s) to an existing Alternative Education school constructed under the provisions of 1859.83(c)(2), the district is eligible for a New Construction Excessive Cost Hardship Grant calculated as follows:

1. Determine the amount as shown in the chart above in Section 1859.83(c)(2)(A) for the total combined number of classrooms in the current project and all previous projects at the same site. In the first funding request when the total number of classrooms exceeds 27, the amount shown for 27 classrooms shall be used.
2. Subtract the sum of the amount previously apportioned for the New Construction Grant and the funding provided pursuant to Section 1859.83(c)(2) for the sum of the number of classrooms for all previous projects at the same site (exclude the classrooms in the current project) from (B)1.
3. Subtract the New Construction Grant for the current project from the result in (B)2.

(3) If the project is for a Small High School on a site with no existing facilities, or for only one of the Small High Schools created pursuant to Section 1859.93.2(c)(4), the district is eligible for a New Construction Excessive Cost Hardship Grant equal to the difference in the amount provided in the New Construction Grant and the amount shown below, based on the number of classrooms in the project:

Classrooms	Small High School
1	$1,759,200
2	$1,830,000
3	$2,262,000
4	$2,646,000
5	$2,913,600
6	$3,181,200
7	$3,448,800
8	$3,655,200
9	$3,820,800
10	$3,985,200
11	$4,150,800
12	$4,302,000
13	$4,450,800
14	$4,599,600
15	$4,749,600
16	$4,898,400
17	$5,048,400
18	$5,197,200
19	$5,346,000
20	$5,496,000
21	$5,644,800
22	$5,793,600

The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

The grant shall not exceed the number of classrooms necessary to house 500 pupils.

After the expiration of the time frame specified in Section 1859.93.2(e), any Excessive Cost Hardship Grant shall be offset against future New Construction Grant funds as provided in (c)(1) above.

(d) Excessive Cost Due to Urban Location, Security Requirements and Impacted Site.
(1) Excluding Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if the district had a project that was previously approved by the DSA, and prior to January 22, 2003, has received SAB approval for a time extension for substantial progress, and if the useable site acreage for the project is:
(A) at least 50 percent but less than 75 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to eight percent of the New Construction Grant and eight percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).
(B) at least 30 percent but less than 50 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to 15 percent of the New Construction Grant and 15 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).
(C) less than 30 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to 50 percent of the New Construction Grant and 50 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).
(D) less than 30 percent of the site size recommended by the CDE for the master planned project capacity.
(2) Excluding Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if all of the following conditions are met, as applicable:
(A) the Useable Acres of the site for the project are 60 percent or less of the CDE recommended site size based on:
1. the current CBEDS Report at the existing site, if any, at the time of the CDE final plan approval for the project, if any, plus the greater of the Net School Building Capacity of the final new construction project plans submitted to the DSA as calculated in Education Code Section 17071.25(a)(2) or the pupil grants requested in the COS or

Charter School project. The Useable Acres will include the existing site that is being utilized for this project plus any additional acreage to be acquired as a part of the Application.

2. the current CBEDS Report at the site at the time of the CDE final plan approval for the modernization project.

(B) at least 60 percent of the classrooms in the construction plans are in multistory facilities for any type of new construction project.

(C) the value of the site being acquired for a new construction project on a new site is at least $750,000 per Useable Acre.

(3) If the criteria in (d)(2) are met, the Excessive Cost Hardship Grant:

(A) for new construction is equal to 15 percent of the New Construction Grant and 15 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c) for a project with a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent. In no event shall the amount provided in this subsection for a new construction project on a new site exceed 50 percent of the cost avoided with the purchase of a site smaller than the CDE recommended site size for the number of the pupil grants requested in the Application determined as follows:

1. The current estimated value of the project site as determined in Section 1859.74.6(a)(1).
2. Divide the amount in (A)1. by the number of Useable Acres.
3. Multiply the quotient in (A)2. by the number of Useable Acres recommended by CDE for the number of pupils described in Section 1859.83(d)(2)(A)1.
4. Subtract the value in (A)1. from the product in (A)3.
5. Multiply the difference in (A)4. above by 50 percent.

(B) for modernization is equal to 15 percent of the Modernization Grant and 15 percent of the funding authorized by Section 1859.83(b) for a project with a site that is 60 percent of the CDE recommended site size plus 0.333 percent for each percentage decrease of the CDE recommended site size below 60 percent.

(4) For Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if:

(A) the Type I Joint-Use Project's qualifying SFP New Construction project pursuant to Section 1859.123 qualifies for an Excessive Cost Hardship Grant under Section 1859.83(d)(2) and (3)(A).

(B) The Type II Joint-Use Project's qualifying SFP Modernization project pursuant to Section 1859.123.1 qualifies for an Excessive Cost Hardship Grant under Section 1859.83(d)(2) and (3)(B).

(C) The Useable Acres at the existing school site where the Type II Joint-Use Project, not part of a qualifying SFP Modernization project, is to be constructed are 60 percent or less of the CDE recommended site size based on the existing enrollment at the site.

(5) If the criteria in (d)(4)(A) or (C) are met, the Joint-Use Project Excessive Cost Hardship Grant is equal to 15 percent of the funding provided by Section 1859.125(a)(1) through (a)(2), for a project with a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent. For a Type I Joint-Use Project when the qualifying SFP New Construction project involves new construction on a new site, in no event shall the amount provided in this subsection exceed 50 percent of the cost avoided with the purchase of a site smaller than the CDE recommended site size for the qualifying SFP New Construction project pursuant to Section 1859.123 as calculated in Section 1859.83(d)(3)(A).

(6) If the criteria in (d)(4)(B) are met, the Joint-Use Project Excessive Cost Hardship Grant is equal to 15 percent of the funding provided by Section 1859.125(a)(1) through (a)(2), for a project with a site that is 60 percent of the CDE recommended site size plus 0.333 percent for each percentage decrease in the CDE recommended site size below 60 percent.

(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. 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. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.

(f) Excessive cost due to accessibility and fire code requirements:

(1) The district is eligible for a Modernization Excessive Cost Hardship Grant equal to three percent of the Modernization Grant for accessibility and fire code requirements. In lieu of three percent, the district has the option of requesting 60 percent of the amount determined in (A), not to exceed 60 percent of the amount determined in (B):

(A) Determine the difference of the verified hard construction costs of the minimum accessibility work necessary to receive approval from the DSA minus seven percent of the sum of the Modernization Grant and the district matching share of the Modernization Grant pursuant to Section 1859.79.

(B) Determine the difference of 1. minus 2.:

1. Multiply the pupils requested in the application by the New Construction Grant.
2. The sum of the State and district share of the pupils requested on the Form SAB 50-04 multiplied by the grant determined pursuant to Section 1859.78 and 1859.78.3.

(2) Projects constructed pursuant to Section 1859.79.2(a)(1) may be provided a Modernization Excessive Cost Hardship Grant equal to three percent of the Modernization Grant.

(3) The district is eligible for a Modernization Excessive Cost Hardship Grant of:

(A) $80,000 for each new two-stop elevator required to be included in the project by the DSA if the Approved Application was received on or before April 29, 2002.

(B) $60,000 for each new two-stop elevator required to be included in the project by the DSA if the Approved Application is received after April 29, 2002.

The amounts shown in (A) and (B) above shall be adjusted annually in the manner prescribed in Section 1859.78.

(4) The district is eligible for a Modernization Excessive Cost Hardship Grant of:

(A) $14,400 for each additional stop of the new elevator required in (3) above if the Approved Application was received on or before April 29, 2002.

(B) $10,800 for each additional stop of the new elevator required in (3) above if the Approved Application was received after April 29, 2002.

The amounts shown in (A) and (B) above shall be adjusted annually in the manner prescribed in Section 1859.78.

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 and 17077.45, Education Code.

Article 10. Fund Release and Priority Points

Section 1859.90. Fund Release Process.

With the exception of an apportionment made pursuant to Sections 1859.81.1(c) or 1859.81.2, the OPSC will release State funds that have been apportioned by the Board to the district after submittal, by the district, of the Form SAB 50-05. With the exception of an apportionment made for a Type II Joint-Use Project, not part of a qualifying SFP Modernization project, pursuant to Article 12 of these Regulations, a district must submit the Form SAB 50-05, within 18 months of the Apportionment of the SFP grant for the project or the entire New Construction Adjusted Grant, Modernization Adjusted Grant or Type I or II, part of a qualifying SFP Modernization project, Joint-Use Project apportionment shall be rescinded without further Board action, and the pupils housed in the project, if applicable, will be added back to the district's baseline eligibility. The district may refile a new application for the project subject to district eligibility and priority funding at the time of resubmittal.

If the apportionment was made for a Type II Joint-Use Project, not part of a qualifying SFP Modernization project, pursuant to Article 12 of these Regulations, the district must submit Form SAB 50-05 within 18 months of the date the plans and specifications for the Joint-Use Project that have been approved by the DSA and the CDE are submitted to the OPSC or the apportionment shall be rescinded without further Board action.

The OPSC will release State funds that have been apportioned by the Board pursuant to Section 1859.81.1(c) to the district within 30 calendar days of the apportionment.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.15, 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.90.1. Local Bond Reimbursement Fund Releases.

When a school district uses local bond funds to make eligible project expenditures authorized in the Leroy F. Greene Act and state school bonds funds are made available to reimburse the state's share of those eligible project expenditures, the reimbursement funds shall be used as follows:

(a) Toward retiring the local bonds; and/or
(b) Toward uses permitted by the local bond, or
(c) For any high priority capital outlay expenditure in the district as permitted in Education Code Section 17070.63(c).

The use of the reimbursement funds in accordance with this section shall be subject to oversight by the applicable county office of education pursuant to Education Code Section 1240.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.63 and 17072.35, Education Code.

Section 1859.91. Implementation of Priority Points Due to Insufficient State Funds.

This Regulation shall only apply to Approved Applications for New Construction Grants funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.

(a) The OPSC shall report to the Board on a monthly basis the amount of funds available for New Construction Grants and Modernization Grants and the estimated amount of Approved Applications for New Construction Grants and Modernization Grants not yet apportioned. The Board shall implement a priority point mechanism described in (b) for New Construction Grants requests when either of the following occur:
(1) The amount of Approved Applications for New Construction Grants and Modernization Grants not yet apportioned exceed the funds available for New Construction Grants and Modernization Grants.
(2) The funds available for New Construction Grants are $300 million or less.
(b) Once either (1) or (2) in (a) occurs, the Board shall approve and apportion the funds available for New Construction Grants requests based on the following priority point mechanism:
(1) From the funds available for New Construction Grants, the Board shall establish a final allotment equal to the lesser of $450 million or the balance of the funds available for New Construction Grants, to be apportioned in accordance with (2) below. After deducting the final allotment, the Board shall divide the remaining funds into seven equal allotments, to be apportioned on a quarterly basis, commencing with the last quarter of calendar year 2000 and ending the second quarter of calendar year 2002. Quarterly apportionments are subject to the following:
(A) The Board shall apportion Approved Applications for New Construction Grants requests received prior to the beginning of the quarter that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List and New Construction Grants requests that meet the criteria of subsection (d), until the funds available for New Construction Grants for that quarter are exhausted. New Construction Grants requests eligible for an apportionment shall be apportioned in the following order:
1. To projects that meet the criteria of subsection (d) where the Approved Application date adjusted back in time would have qualified the project for an apportionment.
2. To projects exempt from priority points pursuant to Section 1859.92(e).
3. To projects having the greatest number of priority points.

(B) If two or more projects have the same number of priority points, those projects shall be first ranked according to the Approved Application date.
(C) No New Construction Grants request will be recommended for apportionment unless the project can be entirely apportioned from the funds available for that quarter.
(D) If the Approved Applications for New Construction Grants received prior to the quarter that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List prior to the quarter and New Construction Grants requests that meet the criteria of subsection (d) are less than the quarterly allotment, plus any funds remaining from the previous quarter(s), the excess funds shall be added to the next quarterly allotment.

(E) If the Approved Applications for New Construction Grants requests received prior to the quarter that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List prior to the quarter and New Construction Grants requests that meet the criteria of subsection (d) are greater than the quarterly allotment, plus any funds remaining from the previous quarter(s), any New Construction Grants requests not apportioned by the Board shall be placed on an Unfunded List.

(F) All New Construction Grants requests, as described in (A) above, that are Ready for Apportionment in a quarter shall not be apportioned before the last regularly scheduled Board meeting for that quarter with the exception of New Construction Grants requests that meet the criteria of subsection (b)(1)(A)(1) or (2). Any New Construction Grants request that is Ready for Apportionment in a quarter that meets the criteria of subsection (b)(1)(A)(1) or (2) may be apportioned at any of the regularly scheduled Board meetings during that quarter.

(2) The final allotment shall be apportioned subject to the following:

(A) The Board shall apportion Approved Applications for New Construction Grants received between April 1, 2002 and June 26, 2002 that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List and New Construction Grants requests that meet the criteria of subsection (e), until the final allotment, plus any funds remaining from the previous quarters are exhausted. New Construction Grants requests eligible for an apportionment shall be apportioned in the following order:

1. To projects that meet the criteria of subsection (e) where the Approved Application date adjusted back in time would have qualified the project for an apportionment.
2. To projects exempt from priority points pursuant to Section 1859.92(e).
3. To projects having the greatest number of priority points.

(B) If two or more projects have the same number of priority points, those projects shall be first ranked according to the Approved Application date.

(C) If the Approved Applications for New Construction Grants received between April 1, 2002 and June 26, 2002 that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List and New Construction Grants requests that meet the criteria of subsection (e) are greater than the final allotment, plus any remaining funds from the previous quarter(s), any New Construction Grants request not apportioned by the Board shall be placed on an Unfunded List.

(D) All New Construction Grants requests, as described in (A) above, that are Ready for Apportionment shall be apportioned at the regularly scheduled Board meeting in August 2002 with the exception of New Construction Grants requests that meet the criteria of subsection (b)(2)(A)(1) or (2). Any New Construction Grants request that is Ready for Apportionment that meets the criteria of subsection (b)(2)(A)(1) or (2) may be apportioned at either the regularly scheduled Board meetings in July or August 2002.

(E) If the Approved Applications for New Construction Grants received between April 1, 2002 and June 26, 2002 that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List and New Construction Grants requests that meet the criteria of subsection (e) are less than the final allotment, plus any remaining funds from the previous quarter(s), the excess funds shall be apportioned on a monthly basis beginning in September 2002 for Approved Applications for New Construction Grants received after June 26, 2002 that are Ready for Apportionment, in descending order, commencing with the project having the greatest number of priority points. This process shall continue until the funds available are exhausted. If two or more projects have the same number of priority points, those projects shall be first ranked according to the Approved Application date.

(c) Approved Applications for New Construction Grants requests received during a quarter may, at the discretion of the Board, be considered for funding available for that quarter or a future quarter if all the following criteria are met:

(1) Either the Executive Officer of the Board, the State Architect, the Director of School Facilities Planning Division within the CDE, or the Chief of the School Property Evaluation and Cleanup Division within the Department of Toxic Substances Control (DTSC) certify to the OPSC that the district's application was delayed for a specified number of calendar days in relation to other similar applications submitted to that agency at the same time.

(2) The Approved Application date adjusted back in time for the number of calendar days the application was delayed is prior to the beginning of the quarter in which the application was received.

(d) Approved Applications for New Construction Grants requests received after June 26 2002 may, at the discretion of the Board, be considered for funding available for the final allotment if all the following criteria are met:

(1) Either the Executive Officer of the Board, the State Architect, the Director of School Facilities Planning Division within the CDE, or the Chief of the School Property Evaluation and Cleanup Division within the DTSC certify to

the OPSC that the district's application was delayed for a specified number of calendar days in relation to other similar applications submitted to that agency at the same time.

(2) The Approved Application date adjusted back in time for the number of calendar days the application was delayed is prior to June 27, 2002.

Note: Authority cited: Sections 17072.25 and 17070.35, Education Code.

Reference: Section 17072.25, Education Code.

Section 1859.92. Priority Points For New Construction Projects.

This Regulation shall only apply to Approved Applications for New Construction Grants funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.

The priority points allowed for a New Construction Grants request shall be based on the following computations rounded up to the nearest whole number. The computation shall be made on a districtwide basis if the district utilized districtwide CBEDS enrollment data reported on the Form SAB 50-01 in effect at the time the district's application for funding was submitted to the OPSC for the project. When multiple applications have the same Approved Application date, or have an Approved Application date which permits the projects to be Ready for Apportionment in the same quarter when priority points are implemented as provided in Section 1859.91, the priority order shall be as requested by the district on the Form SAB 50-04. The computation shall be made on a HSAA or Super HSAA basis if the district utilized HSAA or Super HSAA CBEDS enrollment data reported on the Form SAB 50-01 in effect at the time the district's application for funding was submitted to the OPSC for the project. Notwithstanding the provisions of Section 1859.41, a district that has previously reported its enrollment on a HSAA or Super HSAA basis may calculate both its eligibility and its priority points on a districtwide basis. A project shall receive priority points based on the total of (a), (b) and (c):

(a) Priority points for the percent of unhoused pupils for both of the following:

(1) Six points for each percent of current unhoused pupils.

(2) Four points for each percent of projected unhoused pupils.

(b) Priority points for the number of unhoused pupils for both of the following:

(1) One point for each 100 currently unhoused pupils.

(2) One point for each 200 projected unhoused pupils.

(c) A maximum of 100 priority points for the following:

(1) Twenty points if the district's CBEDS enrollment at the time of application submittal to the OPSC for funding is less than 2,501.

(2) Twenty points for a County Superintendent of Schools' project that only includes classroom space solely for Non-Severely Disabled Individuals with Exceptional Needs.

(3) Twenty points if the site acreage for the project is less than 50 percent of the site size recommended by the CDE for the master planned pupil capacity.

(4) Twenty points for a project that either used "stock plans" pursuant to Education Code Section 17070.33(b)(6) or re-used plans that were previously used to construct at least two other schools.

(5) Twenty points if the district's CBEDS enrollment at the time of application submittal to the OPSC for funding is less than 301.

(6) Twenty points for a project that uses 20 percent less energy than the Energy Budget as defined and calculated in a manner consistent with the California Energy Code, Part 6, Subchapter 5, Section 141 – Performance Approach: Energy Budgets.

(7) Twenty points for a project that is a new high school serving any grades nine through twelve.

(8) Twenty points for a project that received financial hardship assistance pursuant to Section 1859.81.

(9) Twenty points for a project where the site acquisition qualified and received an apportionment authorized under Section 1859.75.1, Separate Site Apportionment for Environmental Hardship.

(10) One hundred points if the Approved Application was accepted prior to the date the priority point mechanism is implemented by the Board pursuant to Section 1859.91(a)(1) or (a)(2).

(d) The calculation of priority points in (a), (b) and (c) above shall be determined at the time the Approved Application is accepted.

(e) The following projects are exempt from priority points:
(1) A project that received Facility Hardship approval pursuant to Section 1859.82.
(2) A county superintendent of schools' project that includes classroom space for Severely Disabled Individuals with Exceptional Needs.
(3) A county superintendent of schools' project that only includes classroom space solely for community school pupils.
(4) A school district's project that only includes classroom space solely for Severely Disabled Individuals with Exceptional Needs.
(f) The project received a separate site and/or design apportionment under the provisions of the LPP or pursuant to Sections 1859.75.1 or 1859.81.1, the district's funding priority of the project shall be determined by the Approved Application date for the New Construction Adjusted Grant or separate site funding request filed pursuant to Section 1859.81.1 (a) or 1859.75.1. If separate site funding requests have been submitted, the funding priority of the project shall be determined by the CBEDS enrollment data utilized for those applications.

Note: Authority cited: Sections 17070.35, 17072.25 and 100420(d), Education Code.

Reference: Sections 17070.33 and 17072.25, Education Code.

Section 1859.93. Modernization Project Funding Order.

All modernization applications shall be funded in the order of receipt of an Approved Application for funding until all modernization funds available to the Board have been apportioned.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.15, Education Code.

Section 1859.93.1. New Construction Project Funding Order.

All new construction applications, except those new construction applications identified in (a) through (c) below, shall be funded in the order of receipt of an Approved Application for funding.
(a) Approved Applications for New Construction Grant(s) funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.
(b) Approved Applications for New Construction Grant(s) authorized by Education Code Sections 17078.10 through 17078.30.
(c) Approved Applications that utilize pupil eligibility derived from the Alternative Enrollment Projection method. These applications shall be funded in order of receipt once the OPSC and the DRU have approved the Alternative Enrollment Projection method or the Alternative Enrollment Projection annual update.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.25 and 17070.35, Education Code.

Section 1859.93.2. New Construction Adjusted Grant for the Small High School Program.

A district may submit an Approved Application for a Small High School project from January 1, 2006 through September 30, 2007, if all of the following are met:

(a) The Application meets all the criteria on the Form SAB 50-04 for a New Construction Adjusted Grant, pursuant to Section 1859.21.
(b) The district has at least 500 high school pupil grants of new construction eligibility available pursuant to Regulation Section 1859.50 and 1859.51.
(c) The Small High School may be constructed on one of the following:
(1) A stand alone school site with no existing facilities;
(2) An adjacent site to an existing high school and share core facilities including, but not limited to library, multi-purpose room and gymnasium. The existing high school and new small high school may not share administration and toilet facilities.

(3) A site of a large high school if the CDE deems that the site will not create a school that is overcrowded or educationally inadequate; or
(4) Two or more small high schools may be constructed on separate but adjacent sites and may share one or all of the core facilities in (c)(2).
(d) The Small High School may not be constructed where it would otherwise have been built due to sparse population.
(e) The district shall only provide the number of classrooms at the new school site necessary to house the capacity of the Small High School, not to exceed 500 pupils, until two complete school years after the Occupancy of the last Small High School funded pursuant to Education Code Section 17072.10(c)(1), which would correspond with timing of the data submitted by the district pursuant to Section 1859.104(e)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.93.3. New Construction Small High School Program Funding Order.

Approved Applications shall be identified in each of the following categories:
(a) By Geographical Region One (North), Three/Four (South), or Two (Central).
(b) By Urban, Suburban and Rural areas.
Projects will be identified according to the numerical score for the district's academic reform strategy as determined by the California Department of Education within each category (a) and (b) above, from highest to lowest. The Board shall apportion to the highest ranked project of each possible type starting with the order listed in category (a) and continuing with the order listed in category (b) until all funds are apportioned.

No district shall receive more than one apportionment unless all other qualified districts within the applicant's corresponding categories (a) and (b) have been awarded.

After all apportionments have been made for projects approved under Section 1859.93.2, any remaining funds pursuant to Education Code Section 17072.10(c) shall be made available for eligible new construction projects pursuant to this Act.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.94. Hardship Funding.

(a) Hardship assistance provided as a part of a New Construction Grant shall be subject to the same priority point determination as the New Construction Grant.
(b) To the extent that hardship funds are available, the Board may elect to specifically set aside funding for financial hardship grants as provided in Section 1859.81, facility hardship grants as provided in Section 1859.82 or Excessive Cost Hardship Grants as provided in Section 1859.83.
(c) Should a district request hardship funding for either a financial hardship grant pursuant to Section 1859.81, a facility hardship grant pursuant to Section 1859.82 or an Excessive Cost Hardship Grant pursuant to Section 1859.83 and the Board has no funds to allocate for that specific hardship, the district may elect to either:
(1) Accept funding for the project less any hardship funding grants that are not available. When this option is selected, the hardship funding grants not allocated for the project shall be placed on the Unfunded List. If the project was previously placed on the Unfunded List, the project shall retain the original date it was placed on that Unfunded List.
(2) Decline to accept funding for the project. When this option is selected, the project shall be placed on the Unfunded List. If the project was previously placed on the Unfunded List, the project shall retain the original date it was placed on that Unfunded List.

A project or portion of a new construction project not funded as a result of subdivision (c) shall be subject to the Board's priority point mechanism pursuant to Sections 1859.91 and 1859.92.

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

Reference: Section 17075.15, Education Code.

Section 1859.95. Acceptance of Applications When Funding Is Unavailable.

When the Board has no funds to apportion or the application does not qualify for funding because of the Board's priority point mechanism pursuant to Sections 1859.91 and 1859.92, the Board will continue to accept and process applications for eligibility determination, with the exception of applications that include a request for review of an Alternative Enrollment Projection method. The Board will also accept and process applications for apportionment for purposes of developing an Unfunded List based on the date the application is Ready for Apportionment, with the exception of New Construction funding applications that utilize eligibility generated by the Alternative Enrollment Projection.

The Board will return any applications for the review of the Alternative Enrollment Projection method and New Construction applications that utilize eligibility generated by the Alternative Enrollment Projection once the funding apportioned for these projects reaches $500 million or the Board has no funds to apportion from the Kindergarten-University Public Education Facilities Bond Act of 2004.

If either the Executive Officer of the Board, the State Architect, the Director of School Facilities Planning Division within the CDE or the Chief of the School Property Evaluation and Cleanup Division within the Department of Toxic Substances Control certify to the OPSC that the district's application was delayed for a specified number of calendar days in relation to other similar applications submitted to that agency at the same time, the application may, at the discretion of the Board, receive a date on the Unfunded List or receive funding pursuant to Section 1859.91 based on the date the application is Ready for Apportionment, adjusted back in time for the number of calendar days the application was delayed.

Applications for New Construction Adjusted Grants for a project where the site was apportioned pursuant to Section 1859.75.1 shall receive a date on the Unfunded List based on the date the environmental hardship site apportionment was made for the project.

With the exception of financial hardship eligibility, a district with an application included on an Unfunded List shall not be required to re-establish eligibility for that application prior to apportionment.

An application for funding included on an Unfunded List is eligible for reimbursement subject to adjustments in the New Construction Grants amount pursuant to Section 1859.77.

Note: Authority cited: Sections 17070.35 and 17072.25, Education Code.

Reference: Sections 17070.35 and 17071.75, Education Code.

Article 11. Miscellaneous School Facility Program Requirements

Section 1859.100. Restricted On-going and Major Maintenance Fund.

A district, regardless of size, shall certify on the Form SAB 50-04, the Form SAB 50-07, or the Form SAB 50-08, that a restricted account within the district's general fund has been established for the exclusive purpose of providing on-going and major repair of its facilities, pursuant to Education Code Section 17070.75.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.75, 17077.40 and 17078.10, Education Code.

Section 1859.101. Districts that are Exempt from the Specified Annual Deposit.

A district, including a county superintendent of schools, that is not required to make a specified annual deposit into the restricted maintenance account as provided in Education Code Section 17070.75 must certify on the Form SAB 50-04, the Form SAB 50-07 or the Form SAB 50-08, that the district can maintain its facilities with a lesser annual deposit.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.75, 17077.40 and 17078.10, Education Code.

Section 1859.102. Maintenance Plan.

A district shall certify on the Form SAB 50-04, the Form SAB 50-07 or the Form SAB 50-08, that it has developed and implemented an on-going and major maintenance plan in accordance with Education Code Section 17070.75 and 17070.77. In each fiscal year following the fiscal year in which the district received funds as a result of an application funded on or after January 1, 2002, the district shall certify that the plan has been reviewed and updated as required in Education Code Section 17070.77. The certification shall be made on the Deferred Maintenance Five Year Plan, which shall be required annually from those districts receiving such funding.

Any maintenance plan developed in accordance with Education Code Section 17070.75(b)(3) shall be deemed to meet the requirements for an additional basic apportionment as provided under Education Code Section 17585.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.75, 17070.77, 17077.40 and 17585, Education Code.

Section 1859.103. Savings.

A district may expend the savings not needed for a project on other high priority capital facility needs of the district including the relocation of district facilities necessary as a result of Subdivision (b) of Education Code Section 17072.12. The grants for the projects funded pursuant to Section 1859.70.2 or Section 1859.180 shall be limited to eligible expenditures, up to the State Apportionment for the project. Savings may be declared by the district in writing to the OPSC any time after the release of all funds for the project.

With the exception of savings attributable to a site apportionment made pursuant to Sections 1859.74.5 or 1859.81.2, the State's portion of any savings declared by the district or determined by the OPSC by audit must be used to reduce the SFP financial hardship grant of that project or other financial hardship projects within the district for a period of three years from the date the savings were declared by the district or determined by the OPSC audit. The State's portion of any savings from a new construction project or a Joint-Use Project may be used as a district matching share requirement, only on another new construction project, and the State's share of any savings from a modernization project may be used as a district matching share requirement, only on another modernization project.

Any interest earned on a financial hardship project not expended on eligible project expenditures will be treated as savings and will be used to reduce the SFP financial hardship grant for that project.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.63, 17072.12, 17077.40 and 17079.20, Education Code.

Section 1859.104. Program Reporting Requirements.

A district receiving funds in accordance with the Act shall submit the following:

(a) An expenditure report from the district on the Form SAB 50-06. The program reporting requirements are as follows:

(1) The first expenditure report shall be due one year from the date that any funds were released to the district for the project pursuant to Section 1859.90, or upon completion of the project, whichever occurs first. A project shall be deemed complete when either of the following occur:

(A) When the notice of completion for the project has been filed, all outstanding invoices, claims, change orders have been satisfied and the facility is currently in use by the district.

(B) Three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.

(2) The second and subsequent expenditure reports, if necessary, shall be due annually beginning one year from the first report, or upon completion of the project, whichever occurs first. The final expenditure report must be

made no later than three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.

(b) With the exception of projects that qualify for an apportionment pursuant to Section 1859.75.1, a progress report, in the form of a narrative from the district, shall be due 18 months from the date any funds were released to the district for the project pursuant to Section 1859.90. The progress report shall include information regarding the progress the district has made towards substantial completion of the project. If the notice of completion has been filed within 18 months of the release of funds pursuant to Section 1859.90, or the expenditure reports required in (a)(1) or (2) indicate that substantial progress (as defined in Section 1859.105) on the project has occurred, no progress report is required.

(c) A progress report, in the form of a narrative from the district, shall be due 12 months from the date the site acquisition funds were apportioned to the district for the project pursuant to Section 1859.75.1. The progress report shall include information regarding the progress the district has made towards acquiring the site as outlined in Section 1859.105.1 and may contain other evidence of reasonable effort to substantiate progress towards acquiring the site for purposes of an extension of the site apportionment as authorized by Education Code Section 17072.13(c)(2).

(d) If an apportionment was made for a district-owned site pursuant to Section 1859.74.5, a certification that the non-school function currently taking place on the district-owned site has been discontinued or relocated. The certification must be submitted to the OPSC no later than the following dates:

(1) If the project is for an elementary school, 66 months from the date of the site apportionment.

(2) For all other projects, 78 months from the date of the site apportionment.

(e) If an Apportionment was made under the Small High School Program pursuant to:

(1) Section 1859.78.9 or Section 1859.93.2, a cost evaluation report shall be due to the OPSC no later than two complete school years after the Occupancy of the approved project.

(2) Section 1859.93.2, the district must provide a preliminary report on any academic data requested by CDE two complete school years after the Occupancy of the approved project. The final report shall be due no later than two complete school years after the OPSC notifies the district of the Occupancy of the last approved project.

(f) If an Apportionment was made under the Overcrowding Relief Grant pursuant to Section 1859.180, the School District must provide a certification that the replaced portables were removed from the eligible site and from service pursuant to Education Code Section 17079.30.

Note: Authority cited: Sections 17070.35, 17072.13, and 17079.30, Education Code.

Reference: Sections 17070.35, 17070.99, 17072.12, 17072.13 17076.10 and 17079.30, Education Code.

Section 1859.104.1. Material Inaccuracy Penalties.

When the Board makes a finding that a Material Inaccuracy occurred for a SFP Project, the district shall be subject to the following penalties:

(a) If the Material Inaccuracy finding occurred prior to the apportionment, the district shall be:

(1) Prohibited from self-certifying the project information for a period of up to five years from the date the Board made the finding of Material Inaccuracy for the project. A prohibition from self-certification of project information may be less than five years as determined on a case-by-case basis by the Board.

(2) Required to file all projects pursuant to Section 1859.104.2 for the time period required in subsection (a)(1).

(3) Subject to the fee prescribed by Section 1859.104.3.

(b) If the Material Inaccuracy finding occurred after the apportionment but no funds have been released for the project:

(1) The Board shall reduce the project apportionment by the additional funding received beyond the amount the district was entitled to for the project.

(2) The school district shall be prohibited from self-certifying project information for a period of up to five years form the date the Board made the finding of Material Inaccuracy for the project. A prohibition from self-certification of project information may be less than five years as determined on a case-by-case basis by the Board.

(3) The school district shall be required to file all projects pursuant to Section 1859.104.2 for the time period required in subsection (b)(2).

(4) The school district shall be subject to the fee prescribed by Section 1859.104.3.

(c) If the Material Inaccuracy finding occurred after the apportionment and funds were released for the project, the district:

(1) Must repay the additional funding received beyond the amount the district was entitled to for the project with interest within five years from the date the Board made the finding of Material Inaccuracy. Interest shall be assessed as prescribed in Education Code Section 17070.51(b)(1).
(2) Shall be prohibited from self-certifying project information for a period of up to five years from the date the Board made the finding of Material Inaccuracy for the project. A prohibition from self-certification of project information may be less than five years as determined on a case-by-case basis by the Board.
(3) Shall be required to file all projects pursuant to Section 1859.104.2 for the time period required in subsection (c)(2).
(4) Shall be subject to the fee prescribed by Section 1859.104.3.
(d) The Board may direct that adjustments to the school district's New Construction or Modernization baseline eligibility be made pursuant to Sections 1859.51 and 1859.61 based on the determination of Material Inaccuracy.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51 and 17077.40, Education Code.

Section 1859.104.2. Self-Certification Prohibition.

If the Board has made a finding of Material Inaccuracy pursuant to Section 1859.104.1, the OPSC may request supporting documentation as it deems appropriate for any application filed after a finding of material inaccuracy for the time prescribed in 1859.104.1(a)(1), (b)(2) or (c)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.51, Education Code.

Section 1859.104.3. Self-Certification Prohibition Processing Fee.

If the Board has made a finding of Material Inaccuracy pursuant to Section 1859.104.1, the Board shall charge the district an amount of $100 per hour for the additional hours necessary to process and review the district's applications submitted during the timelines prescribed in Section 1859.104.1(a)(1), (b)(2) or (c)(2). The maximum hours subject to the fee per application is the greater of 50 hours or one percent of the enrollment of the district as reported in Part A, the continuation high pupils reported in Part C, and the special day class pupils reported in Part D of Form SAB 50-01. The Board will not make a release of funds for any project subject to the fee in this section until the fee has been remitted to the OPSC. All fees collected shall be deposited in the School Facility Fund and available for apportionment as directed by the Board.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.51, Education Code.

Section 1859.105. Program Accountability Progress Audit.

(a) When the district has received funds for a SFP project, the Board shall conduct a review to assure the district has made substantial progress in the completion of the project pursuant to Education Code Section 17076.10(b). The review shall consist of an analysis of the district's progress report in accordance with Section 1859.104(b). Sufficient evidence of substantial progress shall be any of the following:
(1) At least 75 percent of all site development work that is necessary prior to building construction activity is complete.
(2) At least 90 percent of the building construction activities are under contract, unless the building construction activities are delayed as a result of necessary site development work.
(3) All construction activities are at least 50 percent complete.
(4) Other evidence satisfactory to the Board of circumstances beyond the control of the district that precludes substantial progress being made.
(b) When the district has received funds pursuant to Section 1859.81.1(a), the Board shall conduct a review to assure the district has made substantial progress in the completion of the project. The audit shall consist of a review and analysis of the district's progress report in accordance with Section 1859.104(b). Acceptable evidence of substantial progress shall be when the district has completed all of the following:
(1) Obtained the final appraisal of the site; and,
(2) Completed all California Environmental Quality Act requirements; and,

(3) Obtained final approval of the site by the CDE; and,
(4) Provided final escrow instructions or evidence the district has filed condemnation proceedings and intends to request an order of possession of the site; or,
(5) Other evidence satisfactory to the Board detailing the reason(s) and circumstance(s) beyond the control of the district that precludes substantial progress being made. If the Board determines that substantial progress has been made pursuant to Education Code Section 17076.10(b), the Board shall condition its finding of substantial progress upon the district's commitment to complete and submit satisfactory evidence that the district meets the provisions of Section 1859.105(b)(1) through (b)(4) within a period not to exceed 18 months from the date of the Board's determination of substantial progress.

(c) When the district has received funds pursuant to Section 1859.81.1(e), the Board shall conduct a review to assure the district has made substantial progress in the completion of the project. Sufficient evidence of substantial progress shall be any of the following:
(1) An Approved New Construction or Modernization Adjusted Grant Application; or
(2) A school district certification that the final building plans for the project have been submitted to and accepted by the DSA for review and approval; or
(3) An approved separate site funding application pursuant to Section 1859.81.1(a) or an approved environmental hardship funding application pursuant to Section 1859.75.1 or an approved Preliminary Apportionment pursuant to Section 1859.140, that met the criteria of Section 1859.142(b); or
(4) Other evidence satisfactory to the Board detailing the reason(s) that plans have not been completed and accepted by the DSA. If the Board determines that substantial progress has been made pursuant to Education Code Section 17076.10(b), the Board shall condition its finding of substantial progress upon the district's commitment to complete and submit an Approved New Construction or Modernization Adjusted Grant Application within a period not to exceed 18 months from the date of the Board's determination of substantial progress.

After the Board has received the progress report required in Section 1859.104(b) for items (a), (b), and (c) above, a review and analysis of the report by the OPSC will be made for compliance with this Section within 60 days of the submittal of the report by the district. The OPSC must notify the district within 60 days of the submittal of the report if it intends to recommend to the Board that no substantial progress has been made on the project. If the OPSC does not respond to the district within 60 days of submittal of the report, the OPSC concurs with the district that substantial progress has been made.

Should the OPSC respond within 60 days of submittal of the progress report by the district that no substantial progress has been made or the district fails to submit the progress report within the timelines in Section 1859.104 (b) for items (a), (b), and (c) above or the district has not filed an Approved Application for funds received pursuant to Section 1859.81.1(b), the district must report the final expenditures on the project on the Form SAB 50-06 to the OPSC within 60 days of the OPSC notification. After receipt of the expenditure report, the OPSC will recommend to the Board that a finding be made that no substantial progress on the project has been made and that the apportionment be reduced, after accounting for the district's matching share, by any funds not yet committed by a contract for the project and any interest earned on State funds for the project. The recommendation will be made at the next regularly scheduled Board meeting. If the expenditure report is not received within the 60 day period, the OPSC will recommend that the apportionment be rescinded and any interest earned on State funds be returned to the State.

If the apportionment is reduced or rescinded as a result of a finding by the Board that no substantial progress has been made on the project, the pupils assigned to the project will be added to the district's baseline eligibility. If the apportionment was reduced, the adjustment to the baseline eligibility shall reflect any funding retained by the district based on the New Construction or Modernization Adjusted Grant funding provided for the project. The district may refile a new application for the project subject to district eligibility and priority funding at the time of resubmittal.

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

Reference: Sections 17070.35, 17076.10 and 17077.40, Education Code.

Section 1859.105.1. Program Accountability Environmental Hardship.

(a) When the district has received funds pursuant to Section 1859.75.1, the Board shall conduct a review to assure the district has made progress towards acquisition of the site pursuant to Education Code Section

17072.13(c)(2). The review shall consist of an analysis of the district's progress report in accordance with Section 1859.104(c). Acceptable evidence of substantial progress shall be when the district has completed all of the following:

(1) Obtained the final appraisal of the site.
(2) Completed all California Environmental Quality Act requirements.
(3) Obtained final approval of the site by the CDE.
(4) Provided final escrow instructions or evidence the district has filed condemnation proceedings and intends to request an order of possession of the site.

After the Board has received the progress report required in Section 1859.104(c) a review and analysis of the report by the OPSC will be made for compliance with this Section within 60 days of the submittal of the report by the district. The OPSC must notify the district within 60 days of the submittal of the report if it intends to recommend to the Board that the district has not made progress towards acquiring the site. If the OPSC does not respond to the district within 60 days of submittal of the report, the OPSC concurs with the district that it has made progress towards the site acquisition.

Should the OPSC respond within 60 days of submittal of the progress report by the district that no progress has been made towards site acquisition or the district fails to submit the progress report within the timelines in Section 1859.104(c), the OPSC will recommend at the next available Board meeting that the site apportionment for the project be rescinded and that any interest earned on State funds be returned to the State. If the apportionment is rescinded as a result of a finding by the Board that no progress has been made towards acquiring the site, the pupils assigned to the project will be added to the district's baseline eligibility.

(b) The district may request one-year extensions of the site apportionment as authorized by Education Code Section 17072.13(c)(2). Acceptable criteria for approval of an extension are any of the following:

(1) The district has received letters from the DTSC and the CDE that indicate the agency concurs that the district is making reasonable progress towards acquisition of the site.
(2) Other reasonable evidence of effort the district has made towards acquiring the site as approved by the Board.

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

Reference: Sections 17070.35, 17072.13 and 17076.10, Education Code.

Section 1859.105.2. Program Accountability for District-Owned Site Acquisition Cost.

When the district has received funds pursuant to Section 1859.74.5 for a district-owned site and has not submitted the certification required pursuant to Section 1859.104(d), the site apportionment is subject to the provisions of material inaccuracy as prescribed in Education Code Section 17070.51.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51 and 17072.12, Education Code.

Section 1859.106. Program Accountability Expenditure Audit.

The projects will be audited to assure that the expenditures incurred by the district were made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, and Education Code Section 17074.25 and Section 1859.79.2 for modernization projects. The audit will also assure that the district complied with all site acquisition guidelines as provided in Education Code Sections 17072.13 and 17072.14 and Sections 1859.74, 1859.74.1, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75 and 1859.75.1.

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

(a) The difference in the value of the site, relocation costs, DTSC fees, and hazardous waste/materials removal costs that were used to determine the New Construction Additional Grant and the actual amount paid by the district for the site, relocation costs, DTSC fees, and hazardous waste/materials removal costs. For

applications received on or after January 1, 2004, the adjustment may be made regardless of whether the hazardous waste/materials removal costs were requested on the application for funding.

(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 1859.82(a) or (b).

When the OPSC receives the final expenditure report from the district on Form SAB 50-06, an audit of the expenditures by the OPSC shall commence within two years of the report. If the district is not notified by the OPSC within the two-year period that an audit will be made, there will be no audit of the project by the OPSC and the expenditures reported by the district shall be deemed appropriate. If the district has been notified that an audit of the expenditures will be made by the OPSC, the OPSC shall complete the audit within six months of the notification, unless additional information requested from the district has not been received.

Districts shall be required to maintain all appropriate records that support all district certifications and expenditures for all costs associated with SFP, Charter School, and Joint-Use projects for a period of not less than four years from the date the notice of completion is filed for the project in order to allow other agencies, including, without limitation, the Bureau of State Audits and the State Controller to perform their audit responsibilities.

The district is responsible to substantiate expenditures from the Joint-Use Partner(s) financial contribution pursuant to Section 1859.127 and from other local sources.

Should the OPSC conduct an audit of the district certifications or the expenditures for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, Education Code Section 17074.25 and Section 1859.79.2 for modernization projects, and Education Code Sections 17072.13 and 17072.14 for projects with additional costs imposed by the DTSC, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings.

Should the CDE make a finding that a project did not meet the standards that were adopted by the CDE pursuant to Education Code Section 17251 (b) and (c) when the district had self-certified that the project met those standards pursuant to Education Code Section 17070.50 (b), the Board may request that the CDE make a recommendation that the apportionment for the project be adjusted based on the CDE finding. Any adjustment in the apportionment shall be based on the percentage of space in the project that the CDE determined did not meet those standards.

If title to special education program facilities is transferred between a school district and a county office of education pursuant to Education Code Sections 17071.75(b)(2) and (f), the receiving School District shall remit payment to the State within 60 days or up to five years, pursuant to an approved repayment schedule, as requested by the School District. If a repayment schedule is requested, it shall be in equal annual installments and shall include interest at the same rate as that earned on the State's Pooled Money Investment Account on the date a repayment schedule is approved by the Board. The repayment amount shall be determined by prorating the Financial Hardship assistance received on the initial Apportionment for the transferred facilities, including site acquisition costs apportioned for any land transferred, by the percentage of building area being transferred divided by the total amount of building area approved on the initial Application containing the transfer of facilities, if all of the following conditions are met:

(a) The transferred facilities were constructed with State funds under Chapter 12.5.

(b) Transfer of the facilities took place within ten years of initial occupancy.

(c) The School District that initially acquired or constructed the transferred facilities had approved Financial Hardship status at the time of Apportionment of the project.

(d) The School District receiving the facility did not have approved Financial Hardship status at either the time of the title transfer or the time that the adjustment request is submitted to the OPSC.

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.

Section 1859.106.1. Repayment of State Funds.

Upon adoption of the audit findings by the Board and in lieu of the collection procedures outlined in Education Code Section 17076.10(c)(1), a school district, county office of education, or charter school may request a repayment schedule of up to five years, in equal annual installments, if the total repayment of State funds within 60 days of the Board action would cause the school district, county office of education, or charter school to fall into fiscal distress. School districts, county offices of education, or charter schools requesting a repayment schedule must be in a severe hardship condition as evidenced by at least one of the following criteria:

(a) For a school district or county office of education, the district or county office of education is listed on the current CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education.

(b) For a school district or county office of education, the amount due to the State for one or more projects would cause the district or county office of education to be listed on the CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education report. Where the financial condition of a school district is involved, the county office of education must submit a letter to the OPSC on behalf of its representative school districts for consideration substantiating that the repayment will place the district on the CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education. Where the financial condition of a county office of education is involved, the CDE must submit a letter to the OPSC on behalf of the county office of education for consideration substantiating that the repayment will place the county office of education on the CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education.

(c) For a charter school, the amount due to the State for one or more projects would cause the charter school severe financial hardship. The charter school's authorizing agency must submit a letter to the OPSC on behalf of the charter school for consideration substantiating that the repayment may result in the charter school being unable to meet its financial obligations for the current or subsequent two fiscal years.

The repayment schedule shall include interest at the same rate as that earned on the State's Pooled Money Investment Account on the date a repayment schedule is approved by the Board.

The repayment schedule will commence on July 1 of the fiscal year following the repayment schedule approval date.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17076.10(c), and 17078.52, Education Code.

Section 1859.107. Amending and Withdrawal of Applications.

A funding application that received an apportionment under Chapter 12 or Chapter 12.5 may not be rescinded and re-approved under the provisions of any amended law or administrative regulation unless specifically authorized by other applicable law.

A funding application, with the exception of funding applications identified in Subsection (a) below, that has received an approval pursuant to Section 1859.95, but has not received an apportionment, may receive an adjustment as allowed under Sections 1859.71,1859.71.2(c), 1859.78.4(b) or 1859.78 at the time the apportionment is made. If the adjustment is a result of Sections 1859.71.2(c) or 1859.78.4(b), the district must submit an amended Form SAB 50-04. The amended application shall retain its OPSC processing date. No other adjustments may be made, including those resulting from changes to the regulations prior to final funding by the SAB. As an alternative, the application may be withdrawn and resubmitted for SAB approval under the provisions of any amended or new regulation that becomes effective prior to the apportionment for the project. The district must first request from the OPSC that the application be withdrawn and removed from the Unfunded List. The district may then resubmit the application to the OPSC under the provisions of the amended or new regulation once it is effective. The resubmitted application will receive a new processing date by the OPSC. School districts that have already received a site apportionment under Section 1859.81.1(a) may withdraw the application and file as an environmental hardship pursuant to Section 1859.75.1 without forfeiting their original site apportionment, provided that the new application does not exceed the amount already apportioned.

A funding application, with the exception of funding applications identified in Subsection (a) below, submitted to the OPSC that has not received an approval will receive funding under the provisions of the regulations that were in effect when the application was submitted to the OPSC and any funding adjustment authorized by Sections

1859.71.2(c) or 1859.78.4(b). If the funding adjustment is a result of Sections 1859.71.2(c) or 1859.78.4(b), the district must submit an amended Form SAB 50-04. The amended application shall retain its OPSC processing date. At the option of the district, a funding application submitted to the OPSC that has not received an approval may be withdrawn and resubmitted for SAB approval under the provisions of any amended or new regulation once it is effective. The district must request that the application be withdrawn and removed from the OPSC workload list. The resubmitted application will receive a new processing date by the OPSC.

(a) A district that submitted an Approved Application request for either a Modernization Adjusted Grant or a Separate Design Apportionment for a modernization project pursuant to Section 1859.81.1 that meets the criteria in (1) and (2) below must submit a new Form SAB 50-04 that meets the criteria in Subsections (b) or (c) no later than 60 calendar days after the effective date (September 16, 2002) of this Subsection:
(1) The Approved Application was received by the OPSC after April 29, 2002 but no later than the date this Subsection becomes effective (September 16, 2002).
(2) The Approved Application has not received an approval or has received an approval pursuant to Section 1859.95, but has not received an apportionment.
(b) The new Form SAB 50-04 identifies the same number of pupils assigned to the original project or a lesser amount that is not less than 37.5 percent of the pupils originally assigned to the project (round up). In this case, the district will be required to contribute additional funds to the project to meet the 40 percent district contribution required pursuant to Section 1859.79(b). If the project was approved as a financial hardship project under the provisions of Section 1859.81, the project shall maintain its financial hardship status, however, the district will be subject to a financial review pursuant to Section 1859.81(a) to determine if there are additional district funds available for the project.
(c) The new Form SAB 50-04 identifies a lesser number of pupils assigned to the project that does not exceed an amount determined by multiplying the pupils assigned to the original project by 37.5 percent (round down). In this case, the district will not be required to contribute additional funds to the project to meet the 40 percent district contribution required pursuant to Section 1859.79(b).
(d) If a new Form SAB 50-04 is submitted under the provisions of subsection (b), the Architect of Record or Design Professional certification made on the original Form SAB 50-04 will be accepted as satisfying the requirements of the new Form SAB 50-04.
(e) Any Approved Application request that meets the requirements of Subsection (a) will be withdrawn 60 calendar days after the date Subsection (a) becomes effective (September 16, 2002) if the district does not submit a new Form SAB 50-04 conforming to either Subsections (b) or (c).

Any application for eligibility determination that has received an approval may be amended to comply with provisions of an amended or new regulation once it is effective. The amended application will receive a new processing date by the OPSC.

Any application for eligibility determination that has not received an approval may be amended at any time to conform to an amended or new regulation. The application shall retain its OPSC processing date.

Any application for new construction eligibility determination that has received an approval must be amended to conform to Regulation Section 1859.51(l) prior to submittal of Form SAB 50-04.

Any application for new construction eligibility determination that has not received an approval must be amended to conform to Form SAB 50-02 and Form SAB 50-03 prior to submittal of Form SAB 50-04.

Any application for modernization eligibility determination that has received an approval must be amended to conform to Regulation Section 1859.61(g) prior to submittal of Form SAB 50-04.

Any application for modernization eligibility determination that has not received an approval must be amended to conform to Form SAB 50-03 prior to submittal of Form SAB 50-04.

Districts that have received an approval of eligibility on a HSAA or Super HSAA are not required to re-establish eligibility under the provisions of Section 1859.41(a).

Districts that have requested eligibility determination on a HSAA or Super HSAA that have not received an approval must comply with the provisions of Section 1859.41(a) prior to submittal of Form SAB 50-04. The amended eligibility application shall retain its original OPSC processing date.

A district that has received an approval of its eligibility determination on a district-wide, HSAA or Super HSAA basis, but received no New Construction Grant(s), may re-file on another eligibility determination basis provided it withdraws all previously submitted Form SAB 50-04 requests for New Construction Grant(s), including those on the Unfunded List.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.63, 17074.15, 17074.16 and 17074.56, Education Code.

Section 1859.108. Extension of Fire Code Requirements Exemption.

A portable building that has received a three-year exemption by the Division of the State Architect from the fire code requirements described in Education Code Sections 17074.50 and 17074.52 may receive up to an additional three-year extension of that exemption provided all the following criteria are met:

(a) The portable was acquired or leased with SFP modernization funds.
(b) The portable was used solely for interim housing during the construction of a SFP modernization project.
(c) The portable building meets the definition outlined in Subdivision (c) of Education Code Section 17074.54.
(d) The district has presented acceptable evidence to the Board that the portable building continues to be needed to house pupils as a result of the SFP modernization project.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.54, Education Code.

Article 12. Joint-Use Project Grant Determination

Section 1859.120. General (Joint-Use Project Funding).

A district seeking Joint-Use Project funding pursuant to the provisions of Education Code Section 17077.40, shall complete and file Form SAB 50-07.

If the Joint-Use Project will serve more than one grade configuration or the Joint-Use Project will serve multiple public school sites, the Joint-Use Project eligibility and funding will be determined based on the highest grade level served by the facility.

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

Reference: Section 17077.40, Education Code.

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 beginning June 1, 2003 and thereafter, 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.

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

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

Section 1859.122. Type I Joint-Use Program Eligibility Criteria.

A district requesting funding for a Type I Joint-Use Project may submit Form SAB 50-07 to the OPSC if all the following criteria are met:

(a) The plans and specifications for the Type I Joint-Use Project are included in the plans and specifications for a new school or an addition to an existing public school for which the district has requested SFP new construction funding.
(b) The Type I Joint-Use Project will be located on the same site where the SFP new construction project is located.
(c) The Type I Joint-Use Project will increase the square footage and/or Extra Cost for any of the following proposed facilities included in the SFP new construction project:
(1) A multipurpose room.
(2) A gymnasium.
(3) A Childcare facility.
(4) A library.
(5) A Teacher Education facility.
(d) At least one of the Joint-Use Partner(s) is an institution of Higher Education, a government agency, or a non-profit organization. The Joint-Use Partner(s) may be a county office of education or another district provided the funds contributed by those agencies pursuant to Section 1859.127 are not otherwise available for other SFP projects.
(e) The district has entered into a Joint-Use Agreement that meets the criteria in Education Code Section 17077.42.
(f) The district has joint-use square footage eligibility pursuant to Section 1859.124(a) or has demonstrated that it will incur Extra Cost pursuant to Section 1859.125.1.
(g) The construction contract for the Type I Joint-Use Project was not executed prior to April 29, 2002.
(h) The plans and specifications for the Type I Joint-Use Project have been approved by the DSA.
(i) The plans for the Type I Joint-Use project have been approved by the CDE.

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

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

Section 1859.122.1. Type II Joint-Use Program Eligibility Criteria.

A district requesting funding for a Type II Joint-Use Project may submit Form SAB 50-07 to the OPSC if the following criteria are met:
(a) If the Joint-Use Project proposes to Reconfigure an existing school building, then the plans and specifications for the Type II Joint-Use Project may be included in the plans and specifications for modernization to an existing public school for which the district has requested SFP modernization funding. If the Joint-Use Project will be part of a qualifying SFP Modernization project, then the Type II Joint-Use Project will be located on the same site where the SFP modernization project is located and the site does not have the type of facility for which the Joint-Use Funding is requested or the facility is Inadequate.
(b) If the Joint-Use Project proposes to construct new school buildings, then the project will be located on an existing school site that does not have the type of facility for which the Joint-Use Funding is requested or the facility is Inadequate.
(c) The Type II Joint-Use Project will either Reconfigure an existing school building or construct new school buildings, and will provide facilities to be used for any of the following:
(1) A multipurpose room.
(2) A gymnasium.
(3) A childcare facility.
(4) A library.
(5) A Teacher Education facility.
(d) At least one of the Joint-Use Partner(s) is a governmental agency, an institution of Higher Education or a Non-Profit Organization. The Joint-Use Partner(s) may be a county office of education or another district provided the funds contributed by those agencies pursuant to Section 1859.127 are not otherwise available for other SFP projects.
(e) The district has entered into a Joint-Use Agreement that meets the criteria in Education Code Section 17077.42.
(f) The district has demonstrated it has joint-use square footage eligibility pursuant to Section 1859.124(b).
(g) The construction contract for the Type II Joint-Use Project was not executed prior to April 29, 2002.
(h) The plans and specifications for the Type II Joint-Use Project, to reconfigure existing school buildings as part of a qualifying SFP project, have been approved by the DSA and the CDE.

(i) The Preliminary Plans for the Type II Joint-Use Project, to either reconfigure existing school buildings, construct new school buildings, or both, have been approved by the CDE.

Reconfiguring an existing school building must not reduce the district's capacity or displace another minimum essential facility. In any case involving the replacement of capacity or a minimum essential facility due to the reconfiguration of an existing building, the replacement must be part of the plans submitted in support of the Joint-Use Application, must occur concurrently, and cannot be part of a SFP Application for new construction.

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

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

Section 1859.122.2. Additional Type II Joint-Use Program Eligibility Criteria for Pupil Academic Achievement.

A district requesting funding for a Type II Joint-Use Project that will Reconfigure existing school buildings, construct new school buildings, or both to provide for pupil Academic Achievement may submit Form SAB 50-07 to the OPSC if the criteria in sections 1859.122.1(a), 1859.122.1(b), 1859.122.1(d), 1859.122.1(e), 1859.122.1(f), and 1859.122.1(g), 1859.122.1(h), and 1859.122.1(i) are met and the plans and specifications were accepted by the DSA for review and approval prior to January 1, 2004.

Reconfiguring an existing school building must not reduce the district's capacity or displace another minimum essential facility. In any case involving the replacement of capacity or a minimum essential facility due to the reconfiguration of an existing building, the replacement must be part of the plans submitted in support of the Joint-Use Application, must occur concurrently, and cannot be part of a SFP Application for new construction.

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

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

Section 1859.123. Qualifying SFP New Construction Project.

For purposes of meeting the requirements in Sections 1859.122(a), the district may combine the plans and specifications of its Joint-Use Project with any of the following new construction applications:

(a) A new construction funding request that is submitted at the same time as the Joint-Use Project application.

(b) An Approved Application for new construction funding that has not yet received an approval (i.e., not yet on the Unfunded List) if all the following criteria are met:

(1) The plans and specifications for the Joint-Use Project were not included in the original DSA approved plans and specifications for the Approved Application for new construction funding.

(2) The original DSA approved plans and specifications for the Approved Application for new construction funding are modified to incorporate the plans and specifications for the Joint-Use Project.

(3) The district has withdrawn the Approved Application for new construction funding pursuant to Section 1859.107 for the benefit of adding a Joint-Use Project.

(4) A revised new construction funding application and the Joint-Use Project application are resubmitted to the OPSC at the same time.

(c) An Approved Application for new construction funding that has been approved, but has not received a full apportionment (i.e., currently on the Unfunded List) or has been fully funded, if all the following criteria are met:

(1) The plans and specifications for the Joint-Use Project were included in the original DSA approved plans and specifications for the Approved Application for new construction funding.

(2) The contract for the construction of the Joint-Use Project was not executed prior to April 29, 2002.

(3) The district entered into a joint-use agreement that meets or will be amended to meet the criteria of Education Code Section 17077.42 and:

(4) The Joint-Use Project application is submitted separately. There is no requirement that the Approved Application for new construction be withdrawn from the Unfunded List.

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

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

Section 1859.123.1 Qualifying SFP Modernization Project.

For purposes of meeting the requirements in Sections 1859.122.1(a) or 1859.122.2, the district may combine the plans and specifications of its Joint-Use Project with any of the following modernization applications:

(a) A modernization funding request that is submitted at the same time as the Joint-Use Project application.
(b) An Approved Application for modernization funding that has not yet received an approval (i.e., not yet on the Unfunded List) if all the following criteria are met:
(1) The plans and specifications for the Joint-Use Project were not included in the original DSA approved plans and specifications for the Approved Application for modernization funding.
(2) The original DSA approved plans and specifications for the Approved Application for modernization funding are modified to incorporate the plans and specifications for the Joint-Use Project.
(3) The district has withdrawn the Approved Application for modernization funding pursuant to Section 1859.107 for the benefit of adding a Joint-Use Project.
(4) A revised modernization funding application and the Joint-Use Project application are resubmitted to the OPSC at the same time.
(c) An Approved Application for modernization funding that has been approved, but has not received a full apportionment (i.e., currently on the Unfunded List) or has been fully funded, if all the following criteria are met:
(1) The plans and specifications for the Joint-Use Project were included in the original DSA approved plans and specifications for the Approved Application for modernization funding.
(2) The contract for the construction of the Joint-Use Project was not executed prior to April 29, 2002.
(3) The district entered into a joint-use agreement that meets or will be amended to meet the criteria of Education Code Section 17077.42 and:
(4) The Joint-Use Project application is submitted separately. There is no requirement that the Approved Application for modernization be withdrawn from the Unfunded List.

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

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

Section 1859.124. Joint-Use Project Square Footage Eligibility.

With the exception of funding requests for Extra Cost of a Type I Joint-Use Project, the district must have square footage eligibility in order to submit an application for Joint-Use Project funding. Depending on the type of Joint-Use Project, the square footage eligibility is calculated as follows:
(a) If the funding request is for a Type I Joint-Use Project, the square footage eligibility is calculated as follows:
(1) Determine the total square footage of the joint-use facility for which Joint-Use Project funding is requested.
(2) Determine the square footage for the type of joint-use facility for which Joint-Use Project funding is requested in the Square Footage Chart shown in Section 1859.124.1.
(3) Determine the square footage eligibility by subtracting the amount determined in (a)(2) from the amount determined in (a)(1). If a negative number results, the square footage eligibility is zero.
(b) If the funding request is for a Type II Joint-Use Project, the square footage eligibility is calculated as follows:
(1) Determine the total square footage of any existing like-kind joint-use facilities at the same site where the Joint-Use Project facility will be located.
(2) Determine the square footage for the type of joint-use facility for which Joint-Use Project funding is requested in the Square Footage Chart shown in Section 1859.124.1.
(3) Multiply the amount in (b)(2) by 60 percent.
(4) If the amount determined in (b)(1) is greater than the amount determined in (b)(3), the square footage eligibility is zero. If the amount determined in (b)(1) is equal to or less than the amount determined in (b)(3), the square footage eligibility is the amount determined in (b)(2).

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

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

Section 1859.124.1. Square Footage Facility Chart.

Use the Chart below to determine square footage for purposes of Section 1859.124. The three columns to the left of the Chart indicate the facility types that may be funded under a Type I or Type II Joint-Use Project.

CHART OF SQUARE FOOTAGES
(In Square Feet)

Type I	Type II		Facility Type	Elementary School K-6, K-8	Middle School 7-8 or 6-8 (on Separate Campus)	High School 7-12 or 9-12 (on Separate Campus)
X	X		Multi-purpose Room (includes food service)	5.3 per pupil Minimum 4,000	5.3 per pupil Minimum 5,000	6.3 per pupil Minimum 8,200
X	X		Gymnasium (includes shower/locker)	12.9 per pupil* Minimum 6,828* Maximum 16,000*	12.9 per pupil Minimum 6,828 Maximum 16,000	15.3 per pupil Minimum 8,380 Maximum 18,000
X	X		Library	2.3 per pupil plus 600	3.3 per pupil plus 600	4.3 per pupil plus 600
X	X		Teacher Education**	39 per pupil or as approved by CDE		
	X		Pupil Academic Achievement***	39 per pupil or as approved by CDE		
X	X		Childcare	60 per child - Minimum 1,440		

*Available only to K-6 schools if there is no multipurpose room or the existing multipurpose room is inadequate on the campus and the Joint-Use Agreement includes gymnasium space rather than a multipurpose room.
** Subject to the CDE approval.
***Subject to the CDE approval. Plans and specifications must be accepted by the DSA for review and approval prior to January 1, 2004.

(a) If the Joint Use Project requests funding for a multi-purpose room, gymnasium or library, multiply the amounts shown for the type of facility proposed in the Joint-Use Project by either (1) or (2) below:
(1) If the funding request is for a Type I Joint-Use Project, the sum of the latest CBEDS enrollment at the site and the number of pupil grants requested in the qualifying SFP New Construction project pursuant to Section 1859.123.
(2) If the funding is for a Type II Joint-Use Project, the latest CBEDS enrollment at the site.
(b) If the Joint Use Project requests funding for Teacher Education or Pupil Academic Achievement, multiply the amounts shown, or the amounts approved by the CDE, by the number of pupils that will receive specialized training for teacher education and/or academic achievement.
(c) If the Joint Use Project requests funding for a childcare facility, multiply the amounts shown by the number of children that will receive services.

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

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

Section 1859.125. Joint-Use Project Grant Determination Based on Square Footage.

If the funding request is to construct square footage, the Joint-Use Grant is the lesser of the amount determined in (a) or (b):
(a) The sum of the amounts determined below:
(1) $173.30 for the Toilet Facilities in the Joint-Use Project as calculated in (a)(1)(B) below:

(A) Divide the eligible square footage of the Joint Use Project as determined in Section 1859.124 by the total square footage of the joint-use facility.
(B) Multiply the quotient determined in (a)(1)(A) by the Toilet Facilities in the joint-use facility.
(2) $96.30 for non-Toilet Facilities in the Joint-Use Project as calculated in (a)(2)(B) below.
(A) Divide the eligible square footage of the Joint Use Project as determined in Section 1859.124 by the total square footage of the joint-use facility.
(B) Multiply the quotient determined in (a)(2)(A) by the non-Toilet Facilities in the joint-use facility.
(3) 50 percent of site development work that meets the following criteria:
(A) It is necessary and applicable to the Joint-Use Project.
(B) It meets the requirements for service site development or utility costs as outlined in Section 1859.76(a) and/or (c). Off-site development work is not allowed as part of a Joint-Use Project; however, if off-site development work is necessary pursuant to Section 1859.76(b) for a Type I Joint-Use Project, the district may request the eligible off-site work under the qualifying SFP New Construction project pursuant to Section 1859.123.
(C) It is considered excessive site development costs and not eligible for funding under the qualifying SFP New Construction or Modernization project pursuant to Section 1859.123 or 1859.123.1.
(b) $1 million if the Joint-Use Project will be located on a school site that is or will be serving Elementary School Pupil(s). $1.5 million if the Joint-Use Project will be located on a school site that is or will be serving Middle School Pupil(s). $2 million if the Joint-Use Project will be located on a school site that is or will be serving High School Pupils.

If the district is requesting funding for site development work applicable to the Joint-Use Project, the district must submit a detailed cost estimate and appropriate DSA approved plans, with the Form SAB 50-07. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Joint-Use Project and conform to the requirements of Section 1859.76.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Joint-Use Project.

The dollar amounts shown in (a) are adjusted in a manner prescribed in Section 1859.71 and are eligible for Excessive Cost Hardship Grant(s) pursuant to Section 1859.83 (a), (b) and (d). The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.

The Joint-Use Grant amounts provided in this Section and Section 1859.125.1, if applicable, shall be deemed the full and final apportionment for the application. Any costs incurred by the district beyond the Joint-Use Grant amount and the Joint-Use Partner(s) and district financial contribution pursuant to Section 1859.127, shall be the responsibility of the district and/or the Joint-Use Partner(s).

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

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

Section 1859.125.1. Additional Type I Joint-Use Project Extra Cost Grant.

In addition to the square footage Joint-Use Grant provided in Section 1859.125, a Type I Joint-Use Project may receive funding for Extra Cost equal to the lesser of (a) or (b):
(a) An amount determined by subtracting (a)(2) from (a)(1):
(1) The sum of the following:
(A) 50 percent of the estimated cost to construct the Joint-Use Project.
(B) 50 percent of site development work that meets the following criteria:
1. It is necessary and applicable to the Joint-Use Project.
2. It meets the requirements of Section 1859.76(a) and/or (c).
3. It is considered excessive site development costs and not eligible for funding under the qualifying SFP New Construction project pursuant to Section 1859.123.
4. The district did not receive funding for the site development work under Section 1859.125.

(2) The sum of the following:
(A) $173.30 for the Toilet Facilities in the Joint-Use Project.
(B) $96.30 for the non-Toilet Facilities in the Joint-Use Project.
(b) An amount determined by subtracting (b)(2) from (b)(1):
(1) $1 million if the Joint-Use Project will be located on a school site that is or will be serving Elementary School Pupil(s). $1.5 million if the Joint-Use Project will be located on a school site that is or will be serving Middle School Pupil(s). $2 million if the Joint-Use Project will be located on a school site that is or will be serving High School Pupils.
(2) The Joint-Use Grant amount determined in Section 1859.125 based on square footage, if applicable.

If the district is requesting funding for site development work applicable to the Joint-Use Project, the district must submit a detailed cost estimate and appropriate DSA approved plans with the Form SAB 50-07. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Joint-Use Project and conform to the requirements in Section 1859.76.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Joint-Use Project.

The amounts shown in (a) are adjusted in a manner prescribed in Section 1859.71. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.

The Joint-Use Grant amount provided in this Section and Section 1859.125, if applicable, shall be deemed the full and final apportionment for the application. Any costs incurred by the district beyond the Joint-Use Grant amount and the Joint-Use Partner(s) and district financial contribution pursuant to Section 1859.127, shall be the responsibility of the district and/or the Joint-Use Partner(s).

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

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

Section 1859.126. Joint-Use Project Funding Priority and Funding Availability.

In each application acceptance period, the Board shall fund eligible Joint-Use Projects as follows:
(a) Type I Joint-Use Projects in the following order:
(1) By date order received for the applications the districts have designated as first funding priority.
(2) By date order received for the applications the districts have designated as second funding priority and so on until all Type I Joint-Use Project applications have been apportioned.
(b) Type II Joint-Use Projects in the following order:
(1) By date order received for the applications the districts have designated as first funding priority.
(2) By date order received for the applications the districts have designated as second funding priority and so on until all Type II Joint-Use Project applications have been apportioned.

If a Joint-Use Project cannot be fully apportioned because of the funding available, the district may either accept the available funding as the full and final apportionment for the project or refuse funding. If funding is refused, the application will be returned to the district and the Board shall consider funding the next project eligible for an apportionment based on the above funding priority mechanism.

Any Joint-Use Project not considered for an apportionment because of the above funding priority mechanism shall be returned to the district. A district may resubmit a returned Joint-Use Project application during the subsequent application acceptance period identified in Section 1859.121(b), if the application meets the eligibility criteria at the time of re-submittal.

Any funds not apportioned in the application acceptance period identified in Section 1859.121(a) or any Joint-Use Project funds returned due to projects being rescinded or reduced to cost incurred shall be made available for apportionment in the application acceptance period identified in Section 1859.121(b).

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

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

Section 1859.127. Joint-Use Partner(s) Financial Contribution.

A financial contribution towards the cost of the Joint-Use Project equal to the state funding provided by these Regulations is required. The contribution made by the Joint-Use Partner(s) shall be no less than 25 percent of eligible project costs. The remaining local contribution may come from any other district source that would not otherwise be available to the State Allocation Board. If the school district has passed a local bond which specifies that such funds are to be used for the Joint-Use Project, then the school district may opt to provide up to the full 50 percent local share of eligible costs. Any funding provided by the Joint-Use Partner(s) cannot be funds that would otherwise be available to the district.

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

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

Section 1859.128. Additional Financial Contribution.

If additional project costs will be incurred by the district beyond the state funding and the Joint-Use Partners' financial contribution required pursuant to Section 1859.127, the additional financial contribution may be made by the Joint-Use Partner(s), the district or from any other local source.

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

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

Section 1859.129. Time Limit on Apportionment.

(a) If the district received an apportionment for a Type I Joint-Use Project or a Type II, part of a qualifying SFP Modernization project, Joint-Use Project, the district is subject to the time limit on the apportionment as outlined in Education Code Section 17076.10.
(b) If the district received an apportionment for a Type II Joint-Use Project, not part of a qualifying SFP Modernization project, the district:
(1) Has one year from the date of that apportionment to submit the plans and specifications to the OPSC for the Joint-Use Project that have been approved by the DSA and the CDE (plans only), otherwise the apportionment will be rescinded without further Board action.
(2) Has 18 months from the date the DSA and CDE approved plans were submitted to the OPSC to submit a completed Form SAB 50-05 or the apportionment will be rescinded without further Board action.
(3) Is subject to substantial progress time limit on the apportionment as outlined in Subdivision (b) of Education Code Section 17076.10.

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

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

Section 1859.130. Eligible Joint-Use Project Expenditures.

Joint-Use Project Grants shall be expended as set forth in Education Code Section 17072.35 with the exception of site acquisition, including lease of land. When a new site is necessary for a Type I Joint-Use Project, the district may request site acquisition costs under the qualifying SFP New Construction project pursuant to Section 1859.123.

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

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

Section 1859.140. General (Preliminary Apportionment).

A district seeking a Preliminary Apportionment pursuant to the provisions of Education Code Sections 17078.10 through 17078.30 for new construction shall complete and file a Form SAB 50-08.

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

Reference: Sections 17078.10 and 17078.22, Education Code.

Section 1859.141. Preliminary Application Submittals.

The Board shall accept Preliminary Applications as follows:

(a) A district seeking a Preliminary Apportionment from the funding made available from Education Code Section 100620(a)(5), shall complete and submit Form SAB 50-08 between November 6, 2002 and May 1, 2003.

(b) A district seeking a Preliminary Apportionment from the funding made available from Education Code Section 100820(a)(3), shall complete and submit Form SAB 50-08 between 60 calendar days prior to and 120 calendar days after the 2004 election authorizing the funding.

After the Board has approved a Preliminary Apportionment for a Preliminary Application submitted as provided in (a) and/or (b), a district seeking an advance release of funds for site acquisition pursuant to Section 1859.153(b) or (c), shall be required to submit an additional Form SAB 50-08, to the OPSC, to determine eligible site acquisition costs. A district seeking an advance release of funds for design, engineering, and other pre-construction project costs pursuant to Section 1859.153(a), shall not be required to submit an additional Preliminary Application, as otherwise provided in (a) and/or (b).

If the voters do not approve Proposition 47 and/or the Kindergarten-University Public Education Facilities Bond Act of 2004, any Preliminary Application accepted for processing by the OPSC as provided in (a) and/or (b) as appropriate will be returned unprocessed to the district.

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

Reference: Sections 17078.10 and 17078.20, Education Code.

Section 1859.142. Preliminary Apportionment Eligibility Criteria.

A district may apply for a Preliminary Apportionment by submittal of Form SAB 50-08 if all of the following criteria are met:

(a) The district has demonstrated that it has SFP new construction eligibility under Education Code Section 17071.75.

(b) The project for which the district is requesting funding has not received an apportionment under the LPP, the SFP or other Proposition 1A funds, with the exception of apportionments prior to November 5, 2002 pursuant to Section 1859.81.1(e).

(c) At least 75 percent of the number of pupils requested on Form SAB 50-08 are Qualifying Pupils from a Source School(s) as determined in Section 1859.143.

(d) The General Location of a proposed school meets the criteria of Education Code Section 17078.22(a)(3) or (b).

If the proposed school will serve a combination of elementary school pupils and middle school pupils, the General Location of the school for purposes of (d) above shall be based on the highest grade served.

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

Reference: Sections 17078.18 and 17078.22, Education Code.

Section 1859.143. Determination of Source School Qualifying Pupil Baseline Eligibility.

After the CDE Source School List has been published by the CDE, the Qualifying Pupils for a Source School shall be determined as follows:

(a) Multiply the Useable Acres of the Source School by:
(1) 86 pupils per acre for a Source School identified as elementary on the CDE Source School List.
(2) 68 pupils per acre for a Source School identified as a middle school or a high school on the CDE Source School List.
(b) Determine the latest CBEDS enrollment for the Source School as of the date the district submitted the Preliminary Application to the OPSC.
(c) Subtract the amount determined in (a) from the amount determined in (b). The difference is the Qualifying Pupils baseline eligibility for the specific Source School.

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

Reference: Section 17078.18, Education Code.

Section 1859.144. Adjustments to the Source School Qualifying Pupil Baseline Eligibility.

The Source School Qualifying Pupil baseline eligibility determined in Section 1859.143 will be adjusted as follows:

(a) Reduced by the number of Qualifying Pupils the district assigned on the Preliminary Application to meet the 75 percent requirement in Section 1859.142(c).
(b) Increased by the Qualifying Pupils the district assigned on the Preliminary Application to meet the 75 percent requirement in Section 1859.142(c) that has been rescinded pursuant to Section 1859.148.
(c) Increased/decreased for changes in CBEDS enrollment in subsequent enrollment reporting years.
(d) Increased/decreased for changes in the Useable Acres originally reported on the CDE Source School List.

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

Reference: Section 17078.18, Education Code.

Section 1859.145. Preliminary Apportionment Determination.

The Preliminary Apportionment shall be equal to the sum of the following:

(a) The amounts shown below for each pupil included in a Preliminary Application:
(1) $5,226.82 for each elementary school pupil.
(2) $5,533.65 for each middle school pupil.
(3) $7,225.94 for each high school pupil.
(4) $16,653.06 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $11,137.37 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) An amount equal to 12 percent of the amount determined in (a) for multilevel construction, if requested by the district.
(c) An amount equal to one-half of the site acquisition value determined in Section 1859.145.1.
(d) An amount for site development cost determined, at the option of the district, by one of the following:
(1) One-half of the Site Development Cost for the specific site as authorized by Section 1859.76.
(2) One-half of the Site Development Cost as authorized by Section 1859.76 using historical information in the General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the General Location.
(3) $70,000 multiplied by the proposed acres requested on the Form SAB 50-08.
(e) If the Preliminary Application request is for a small new school on a site with no existing school facilities, an amount equal to the difference in the amount determined in (a) and the amount shown in the Chart in Section 1859.83(c). To determine the number of classrooms in the proposed project, divide the number of pupils requested on Form SAB 50-08, by 25 for elementary school pupils, 27 for middle and high school pupils, 13 for Non-Severely Disabled Individuals with Exceptional Needs and 9 for Severely Disabled Individuals with Exceptional Needs. Round up.

(f) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (a) for a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent when the following criteria are met:
(1) The district has requested an increase for multilevel construction pursuant to (b) above.
(2) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size determined by multiplying the sum of the pupil grants requested on Form SAB 50-08, and the current CBEDS enrollment on the site (if applicable) by .01775 for elementary school pupils, .021 for middle school pupils and .02472 for high school pupils. For purposes of this calculation, assign Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupil grants requested on Form SAB 50-08, as either elementary, middle or high school pupils based on the type of project selected by the district on Form SAB 50-08. For purposes of COS projects, if the site for which the Preliminary Apportionment is requested is a Source School, for purposes of assigning Qualifying Pupils in the Preliminary Application, subtract those Qualifying Pupils from the current CBEDS enrollment on the site before completing this calculation.
(3) The value of the property as determined in Section 1859.145.1(a)(1) is at least $750,000 per Useable Acre. This criterion does not apply to an application for an addition to an existing school site.
(g) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (a), (b), (d)(3), (e) and (f) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
(h) For purposes of COS projects, an amount equal to 12 percent of the sum of the amounts determined in (a) through (g) for all Preliminary Applications received no later than May 1, 2003. For all Preliminary Applications received after May 1, 2003 an amount equal to the sum of the amounts determined in (a) through (g) multiplied by a factor determined as follows:
(1) Divide the January Class B Construction Cost Index in effect at the time of Preliminary Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Apportionment. Round to four decimal places.
(2) Subtract 1 from the quotient in (1). Round to two decimal places.
(i) If the district qualifies for financial hardship assistance pursuant to Section 1859.81 at the time of submittal of the Preliminary Application, an amount equal to the sum of the amounts determined in (a) through (h) less any district funds determined available for the project pursuant to Section 1859.81(a). Districts must meet the financial hardship criteria pursuant to Section 1859.81 at the time the request is made to convert the Preliminary Apportionment to a Final Apportionment, including an accountability of any district contribution made available at the time of the Preliminary Apportionment was made, in order to continue with financial hardship assistance for the project.
(j) If the district received an apportionment prior to November 5, 2002 pursuant to Section 1859.81.1(e), an amount equal to the sum of the amounts determined in (a) through (i) less the previously authorized apportionment amount.

The amounts shown in (a) shall be adjusted in a manner prescribed in Section 1859.71. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.

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

Reference: Sections 17075.10, 17078.10 and 17078.24, Education Code.

Section 1859.145.1. Preliminary Apportionment Site Acquisition Value.

(a) If the Preliminary Application includes a request for site acquisition funding, the preliminary value of the proposed site shall be the sum of the following:
(1) The value of the property determined by one of the following:
(A) By an appraisal or a preliminary appraisal of the property made no more than six months prior to the date the Preliminary Application was submitted to the OPSC, using the guidelines outlined in Section 1859.74.1. The preliminary appraisal may be made without access to the property. The acreage identified in the appraisal or the preliminary appraisal may not exceed the proposed useable acreage requested on Form SAB 50-08.

(B) The Median Cost of an acre of land in the General Location of the proposed project using historical information in the General Location multiplied by the number of proposed useable acres requested on Form SAB 50-08. Historical information that may be considered to determine land cost may include prior real-estate sales consummated and documented by the county recorder or pending real-estate sales documented by a title insurance company's escrow instructions. For purposes of historical information, include all real-estate sales consummated and documented by the county recorder for a minimum of six months and a maximum of up to two years prior to the date the Preliminary Application was submitted to the OPSC.

(2) An amount for the estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA as determined by one of the following:

(A) 21 percent of the value determined in (a)(1).

(B) The sum of the following:

1. The approved relocation expenses for the specific site to be acquired that conform to Title 25, California Code of Regulations, Section 6000, et seq.
2. The DTSC cost for review, approval, and oversight of the POESA and the PEA for the specific site to be acquired.

(C) The estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA using historical information in the General Location. Historical information that may be considered to determine these estimated costs may include prior real-estate acquisitions of the district or other districts in the General Location.

(3) Four percent of the amount determined in (a)(1), but not less than $50,000. This amount shall provide an allowance of any appraisal, escrow, survey, site testing, CDE review/approvals and preparation of the POESA and the PEA.

(4) For allowable costs of hazardous material/waste removal and remediation costs, one-half times the value of the property determined in either (a)(1)(A) or (a)(1)(B), above.

(b) If the Preliminary Application includes a request for hazardous waste removal required on an existing school site, the preliminary value for site acquisition funding shall be the sum of the following:

(1) With the exception of projects that received initial site acquisition funds under the SFP, the Board shall provide an amount for the necessary hazardous waste materials/waste removal and/or remediation costs on an existing school site where the Preliminary Apportionment will be used if all the following are met:

(A) The Preliminary Application request is for additional school facilities on an existing school site.

(B) The Preliminary Application request does not include a funding request for site acquisition costs allowed pursuant to Section 1859.145.1(a).

(C) The existing school site where the Preliminary Apportionment will be expended has a functioning school on the site or the site had a closed school that will again be used as a functioning school.

(D) The hazardous material cleanup costs are required by the DTSC.

(2) If all the criteria in subsection (b) are met, the allowable hazardous waste removal cleanup costs shall be all the following:

(A) The costs for preparation of the POESA, the PEA and the RA.

(B) The costs to implement the RA as determined necessary in the PEA that has been approved by the DTSC subject to the following:

1. The costs may include the DTSC costs for review and oversight of the preparation and implementation of the RA.
2. The costs may not include continuous operational and maintenance costs associated with the RA.

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

Reference: Sections 17072.13, 17072.18, 17078.10 and 17078.24, Education Code.

Section 1859.146. Preliminary Apportionment Funding Priorities.

If the amount of the Preliminary Applications received pursuant to Section 1859.141 exceed the funds available, the Board shall first apportion those Preliminary Applications that will house pupils from Source Schools with the highest pupil density levels. The calculation in (a) through (e) below is made independently for each Source School from which Qualifying Pupils are assigned. All calculations are rounded up to four decimal places. The pupil density level for the Preliminary Application is the amount determined in (f) as follows:

(a) Divide the latest CBEDS enrollment of the Source School by the Useable Acres of the Source School as shown on the CDE Source School List.
(b) Divide the quotient determined in (a) by:
(1) 115 if the Source School is identified as an elementary school on the CDE Source School List.
(2) 90 if the Source School is identified as a middle school or a high school on the CDE Source School List.
(c) Subtract 1 from the quotient determined in (b).
(d) Divide the Source School's Qualifying Pupils by the total Qualifying Pupils assigned.
(e) Multiply the difference determined in (c) by the quotient determined in (d).
(f) Add the product(s) determined in (e) for each Source School the district assigned Qualifying Pupils from to meet the 75 percent requirement in Section 1859.142(c).

All Preliminary Applications received from a district will be processed in the date order received by the OPSC. If more than one Preliminary Application is received on the same day, those applications will be processed by the OPSC based on the priority order assigned to those applications by the district on Form SAB 50-08.

If two or more Preliminary Applications have the same pupil density level, the Board shall first apportion that Preliminary Application that was received first by the OPSC.

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

Reference: Section 17078.20, Education Code.

Section 1859.147. Conversion of Preliminary Apportionment.

When a Preliminary Apportionment is converted to a Final Apportionment, the following criteria must be met:
(a) The district must have current New Construction Eligibility sufficient to support at least 75 percent of the pupils the district requested and received the Preliminary Apportionment, except as allowed in (d) or (e).
(b) The Final Apportionment request must meet all criteria for a New Construction Adjusted Grant pursuant to Section1859.21.
(c) A district seeking to convert a Preliminary Apportionment to a Final Apportionment shall complete and file Form SAB 50-04, which requests funding for at least 75 percent, but not more than 100 percent, of the pupils the district requested and received the Preliminary Apportionment.
(d) In lieu of (c), when the district's enrollment has decreased to less than 75 percent of the pupils requested for the project's Preliminary Apportionment, the district may utilize any SFP eligibility justified for its conversion to a Final Apportionment.
(e) In lieu of (a), sufficient project eligibility may be determined utilizing:
(1) The current year enrollment as recorded on the Form SAB 50-01 for the year in which the application for the Final Apportionment is submitted.
(2) Either (A) or (B) below for a district reporting eligibility pursuant to Section 1859.41. Once utilized that same subparagraph must be used for all remaining Preliminary Apportionments under this subdivision:
(A) The current year pupil residence data within the HSAA in which the project will be built, for the year in which the application for the Final Apportionment is submitted.
(B) The projected pupil residence for the year in which the application for the Final Apportionment is submitted, calculated by the cohort survival enrollment projection method, utilizing pupil residence data for the HSAA in which the project will be built.

It is not necessary to re-justify the Qualifying Pupils assigned to the Preliminary Application as required by Section 1859.142(c) at the time the application is converted to a Final Apportionment.

An Approved Application received by the OPSC on or after January 1, 2005 to convert a Preliminary Apportionment to a Final Apportionment may utilize an alternate eligibility justification pursuant to Section 1859.147(e), provided that the project meets all other funding requirements at the time of submittal.

If the district is unable to meet the criteria in this Section, the Preliminary Apportionment shall be rescinded pursuant to the provisions of Section 1859.148.

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

Reference: Section 17078.27, Education Code.

Section 1859.148. Time Limit on a Preliminary Apportionment.

(a) A Preliminary Apportionment not converted or requested to be converted to a Final Apportionment shall be rescinded:
(1) After one year from the date the Preliminary Apportionment was made unless the CDE has determined:
(A) There is at least one approvable site for the project within the General Location; and,
(B) The General Location of the proposed school will serve the Qualifying Pupils assigned to the Preliminary Application.
(2) After four years from the date the Preliminary Apportionment was made unless the district received approval of an extension pursuant to Section 1859.148.1.
(3) After five years from the date the Preliminary Apportionment was made if the district qualified for an extension pursuant to Section 1859.148.1.
(b) If a Preliminary Apportionment that did not have an advance release of funds pursuant to Section 1859.153 is rescinded, the following will occur:
(1) The SFP new construction baseline eligibility will be increased for the pupils assigned to the Preliminary Application not previously included in an apportionment pursuant to Section 1859.81.1(e). The previous design only apportionment, prior to November 5, 2002, shall be reduced to cost incurred with a corresponding SFP new construction baseline eligibility adjustment and closeout pursuant to Section 1859.106.
(2) The Qualifying Pupil baseline eligibility will be increased by the Qualifying Pupils assigned to meet the 75 percent requirement in Section 1859.142(c) of the Preliminary Application.
(3) Any Preliminary Apportionment rescinded is subject to accountability pursuant to Section 1859.154(c).
(4) The district may request funding for the proposed project again, without restriction under any SFP Program, provided the project meets the eligible criteria of that specific program. Re-submittal of the funding request may occur as follows:
(A) If the project was rescinded pursuant to (a)(1) or (a)(3), anytime after the Preliminary Apportionment is rescinded.
(B) If the project was rescinded pursuant to (a)(2) and the final plans for the project are not complete within four years of the Preliminary Apportionment, anytime after the Preliminary Apportionment is rescinded.
(C) If the project was rescinded pursuant to (a)(2) and the final plans for the project were completed within four years after the Preliminary Apportionment, anytime after a period of five years from the date of the Preliminary Apportionment.
(5) The Preliminary Apportionment shall be transferred to the Unrestricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account.
(c) If a Preliminary Apportionment that had an advance release of funds as provided in Section 1859.153 and/or an apportionment pursuant to Section 1859.81.1(e) prior to November 5, 2002, is rescinded pursuant to (a)(2) or (a)(3), the following will occur:
(1) The remaining Preliminary Apportionment, not released to the district, shall be transferred to the Unrestricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account.
(2) Funds released pursuant to Sections 1859.81.1(e) and 1859.153 shall be reduced to cost incurred and closeout pursuant to Section 1859.106 with a corresponding SFP new construction baseline eligibility adjustment for the pupils assigned to the Preliminary Application. Funds returned pursuant to Section 1859.106 shall be transferred to the Unrestricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account.
(3) The Qualifying Pupil baseline eligibility will be adjusted proportionately to the adjustment in (c)(2) and maintain the ratio of SFP New Construction Eligibility to Qualifying Pupils assigned to meet the requirements in Section 1859.142(c) of the Preliminary Application.
(4) Any Preliminary Apportionment rescinded is subject to accountability pursuant to Section 1859.154(c).
(5) The district may request funding for the proposed project again, in accordance with (b)(4), provided this rescinded Preliminary Apportionment is disclosed.

Should the district not submit Form SAB 50-04 pursuant to Section 1859.150 within the time limits of this Section, the district must report the final expenditures on the project on the Form SAB 50-06 to the OPSC within 30 days of the OPSC notification. If the expenditure report for funds released pursuant to Section 1859.153(a), (b) and/or (c) is not received within the 30-day period, the OPSC will recommend that the Preliminary Apportionment be rescinded and any interest earned on State funds be returned to the State.

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

Reference: Sections 17078.22 and 17078.25, Education Code.

Section 1859.148.1. Preliminary Apportionment Time Limit Extension.

A district that has received a Preliminary Apportionment may request a one-year extension of the time limit on the apportionment prescribed in Section 1859.148. The Board shall approve the request provided the criteria in (a) or (b) are met:

(a) The district has provided evidence of both of the following:
(1) The CDE has made a contingent or final approval of the proposed site.
(2) The DSA has confirmed that the final plans for the project have been submitted to the DSA for review and approval.
(b) Other evidence satisfactory to the Board.

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

Reference: Section 17078.25, Education Code.

Section 1859.149. Preliminary Apportionment Progress Reporting Requirements.

Until a Preliminary Apportionment is converted to a Final Apportionment, the district shall submit an annual progress report of the project to the OPSC. The reports are due annually, beginning in the twelfth month after the date the Preliminary Apportionment was made.

(a) The first progress report shall include:
(1) A statement as to whether the CDE has made a certification that there is at least one approvable site for the project within the General Location and whether the General Location will serve the Qualifying Pupils assigned to the Preliminary Application to meet the 75 percent requirement in Section 1859.142(c).
(2) A copy of the CDE letter supporting the certifications in (a)(1), if appropriate.
(3) Progress towards completing the requirements for a Final Apportionment as provided in Education Code Section 17078.25(d).
(b) Subsequent progress reports shall include the progress made towards completing the requirements for a Final Apportionment provided in Education Code Section 17078.25(d).

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

Reference: Section 17078.25, Education Code.

Section 1859.150. Final Apportionment.

The amount of the Final Apportionment is based on the provisions of any amended or new regulations that are effective at the time the Form SAB 50-04, for the Final Apportionment is submitted and accepted for processing by the OPSC. The Board shall convert the amounts determined below from the Preliminary Apportionment to the Final Apportionment:

(a) If the Final Apportionment request is equal to or less than the Preliminary Apportionment, the Board shall convert the Preliminary Apportionment to a Final Apportionment. The difference in the Final Apportionment and the Preliminary Apportionment shall be transferred to the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account. The Final Apportionment shall become the full and final apportionment for the project.
(b) If the Final Apportionment request is greater than the Preliminary Apportionment, the Board shall:

(1) Convert the Preliminary Apportionment to a Final Apportionment, if the balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account is greater than the difference in the Final Apportionment and the Preliminary Apportionment. The difference in the Final Apportionment and the Preliminary Apportionment shall be transferred from the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account and converted to a Final Apportionment for the project. The combined Final Apportionments shall become the full and final apportionment for the project.
(2) Convert the Preliminary Apportionment to a Final Apportionment, if the balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account is less than the difference in the Final Apportionment and the Preliminary Apportionment. The balance of the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account shall be converted to a Final Apportionment for the project. Any amount of the Final Apportionment request not converted to a Final Apportionment shall be placed on a Final Apportionment Unfunded List and may be converted to a Final Apportionment at a later date pursuant to the provisions of Section 1859.150.1.

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

Reference: Section 17078.27, Education Code.

Section 1859.150.1. Final Apportionment Unfunded List.

Any portion of a Final Apportionment request not converted to a Final Apportionment pursuant to Section 1859.150(b)(2), shall be placed on a Final Apportionment Unfunded List based on the date of the Final Apportionment. If, at a later date, funds become available in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account as a result of rescissions pursuant to Section 1859.148, the Board shall convert the amounts shown on the Final Apportionment Unfunded List to a Final Apportionment based on the oldest date first and subject to the following:
(a) If the funds available are sufficient to convert the entire amount shown on the Final Apportionment Unfunded List, the amount shown shall be converted and added to the amount initially converted to a Final Apportionment. The total amounts converted shall become the full and final apportionment for the project.
(b) If the funds available are insufficient to convert the entire amount shown on the Final Apportionment Unfunded List, the district may:
(1) Request that the funds available be converted and added to the amount initially converted to a Final Apportionment. The total amounts converted shall become the full and final apportionment for the project.
(2) Request that the project not be converted until there are sufficient funds to convert the entire amount shown on the Final Apportionment Unfunded List.

The amounts shown on the Final Apportionment Unfunded List are not subject to any adjustments as prescribed in Section 1859.71.

If the amount shown on the Final Apportionment Unfunded List cannot be converted to a Final Apportionment because there are no funds remaining in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account after all rescissions and final expenditure audits pursuant to Section 1859.148 have been made, the amount converted previously shall become the full and final apportionment for the project.

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

Reference: Section 17078.27, Education Code.

Section 1859.151. Preliminary Apportionment District Matching Share Requirement.

Once a Preliminary Apportionment is converted to a Final Apportionment or has funds released pursuant to Section 1859.153, the district will be subject to the district matching share requirement as described in Section 1859.77.1.

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

Reference: Sections 17072.30, 17078.10 and 17078.24, Education Code.

Section 1859.152. Eligible Expenditures.

SFP grants provided as the Final Apportionment or pursuant to Section 1859.153 must comply with Education Code Section 17072.35. Additionally, expenditures for construction are eligible only if the construction contract was entered into on or after April 29, 2002.

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

Reference: Sections 17072.35, 17078.10 and 17078.27, Education Code.

Section 1859.153. Preliminary Apportionment Fund Release.

Once the provisions in Section 1859.148(a)(1) have been met, a district that meets the following may request an advance release of funds from a Preliminary Apportionment:

(a) A district that meets the financial hardship criteria in Section 1859.81 is eligible for an amount not to exceed 40 percent of the amount determined in Section 1859.145(a), less any funds pursuant to Section 1859.145(i) and/or (j).
(b) A district that meets the financial hardship criteria in Section 1859.81 is eligible for an amount, not to exceed the Preliminary Apportionment, for site acquisition pursuant to Section 1859.81.1(a), (b) or (c) after submittal of a Form SAB 50-08 pursuant to Section 1859.141.
(c) A district is eligible for an amount, not to exceed the Preliminary Apportionment, for environmental hardship site acquisition pursuant to Section 1859.75.1 after submittal of a Form SAB 50-08 pursuant to Section 1859.141.

Qualified districts may request a separate advance release of funds for the design and for the site acquisition for the same project. A district seeking an advance release of funds pursuant to Section 1859.153(a) and/or (b) must have been approved and maintained financial hardship status pursuant to Section 1859.81. The OPSC will release State funds included in a Preliminary Apportionment pursuant to (a), (b) or (c) to the district after submittal of the Form SAB 50-05. The OPSC shall not release funds in excess of the Preliminary Apportionment. State funds released from a Preliminary Apportionment pursuant to this Section shall be subject to the provisions in Section 1859.148. Once the Preliminary Apportionment is converted to a Final Apportionment pursuant to Section 1859.150, the district may request a release of the remaining funds as prescribed in Section 1859.90.

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

Reference: Sections 17072.30 and 17078.27, Education Code.

Section 1859.154. Fund Distribution.

(a) From the funding made available from Education Code Section 100620(a)(5), the Board shall transfer the amount determined in (3) below, to the SFP New Construction Account after the Preliminary Apportionment(s) are approved by the Board:
(1) Determine the total value of the Preliminary Applications received pursuant to Section 1859.141(a).
(2) Multiply the amount determined in (1) by 15 percent.
(3) Subtract the sum of the amounts determined in (1) and (2) from $1.7 billion. If negative number, the amount is zero.
(b) From the funding made available from Education Code Section 100820(a)(3), the Board shall transfer the amount determined in (3) below, to the SFP New Construction Account after the Preliminary Apportionment(s) are approved by the Board:
(1) Determine the total value of the Preliminary Applications received pursuant to Section 1859.141(b).
(2) Multiply the amount determined in (1) by 15 percent.
(3) Subtract the sum of the amounts determined in (1) and (2) from $2.44 billion. If negative number, the amount is zero.
(c) Any funds remaining in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account not needed for purposes of converting projects to a Final Apportionment shall be transferred to the SFP New Construction Account.

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

Reference: Sections 17072.27, 17078.30, 100620 and 100820, Education Code.

Section 1859.155. Preliminary Apportionment.

The Board shall approve Preliminary Applications from the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account as follows:

(a) If the total amount of the Preliminary Apportionment requests received during the application filing period described in Section 1859.141 are equal to or less than the amount in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account, the Board shall approve all Preliminary Apportionment requests.

(b) If the total amount of the Preliminary Apportionment requests received during the application filing period described in Section 1859.141 are greater than the amount in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account, the Board shall approve Preliminary Apportionment in accordance with the funding priorities described in Section 1859.146. Any Preliminary Application that cannot be fully approved shall be returned unprocessed to the district.

All funds approved as a Preliminary Apportionment shall be transferred to the Restricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account. Any funds not approved as a Preliminary Apportionment shall be transferred to the Unrestricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account.

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

Reference: Sections 17078.10, 17078.30, 100620 and 100820, Education Code.

Article 14. Charter School Facilities Program

Section 1859.160. General.

A Charter School seeking a Preliminary Charter School Apportionment pursuant to the provisions of Education Code Sections 17078.52 through 17078.66 for new construction or rehabilitation shall complete and file a Form SAB 50-09. In addition the charter school must provide all required documents necessary for a financial soundness determination.

Once the Board has approved a Preliminary Charter School Apportionment for a Preliminary Charter School Application submitted pursuant to this Section after July 2, 2003, a Charter School seeking an advance release of funds for site acquisition pursuant to Section 1859.164.2(b), shall be required to submit an additional Form SAB 50-09, to the OPSC, to determine eligible site acquisition costs. A Charter School seeking an advance release of funds for design, engineering, and other pre-construction project costs pursuant to Section 1859.164.2(a), shall not be required to submit an additional Preliminary Charter School Application.

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

Reference: Sections 17078.52 and 17078.53, Education Code.

Section 1859.161. Preliminary Charter School Application Submittals.

A Charter School seeking a Preliminary Charter School Apportionment shall complete and submit Form SAB 50-09 between February 2003 and March 31, 2003, or during a period of 120 calendar days beginning 90 calendar days after an election authorizing additional funding.

The Board may establish additional application filing periods as needed.

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

Reference: Section 17078.53, Education Code.

Section 1859.162. General Preliminary Charter School Apportionment Eligibility Criteria.

A Charter School may apply for a Preliminary Charter School Apportionment by submittal of Form SAB 50-09 if all of the following requirements are met:

(a) Prior to submission of the Preliminary Charter School Application the requirements of EC Sections 17078.53(c) and (e) are met.

(b) Prior to submission of the Preliminary Charter School Application, a Charter School applying on its own behalf must notify the school district where the project will be physically located of its intent to apply. This notification must occur at least 30 days prior to the application submittal. As part of the Preliminary Charter School Application, the Charter School must submit evidence of the date the notification was received by the school district.

(c) The Preliminary Charter School Application shall include a description of the proposed project including, but not limited to, the identification of the number of classrooms, the grade level of the pupils to be served; the intended opening date of the project, the Charter School General Location, and whether the project will be permanent or portable construction.

If a charter school project has already received a Preliminary Charter School Apportionment under the CSFP but would like to re-apply under a future funding cycle, the original Preliminary Charter School Apportionment must be withdrawn by the charter school and rescinded by the Board prior to the submittal of a subsequent application.

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

Reference: Sections 17071.75, 17078.52 and 17078.53, Education Code.

Section 1859.162.1. Preliminary Charter School New Construction Apportionment Eligibility Criteria.

For Charter Schools applying on their own behalf, the notification to the school district of the Charter School's intent to apply pursuant to Section 1859.162(b) must include the following:

(a) A request for the school district to provide a certification to the number of the district's unhoused pupils, pursuant to Section 1859.50, that the project will serve. Prior to submitting the certification as part of the Preliminary Charter School Application, the school board must have discussed the issue as an action item at a regularly scheduled, publicly held board meeting. The certification, in the form of a board resolution, and supporting documentation must be submitted to the OPSC within 90 days from the date the Charter School notified the school district of its intent to apply to the CSFP.

(b) A request that the school district update its current year enrollment on file with the OPSC.

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

Reference: Section 17078.53, Education Code.

Section 1859.162.2. Preliminary Apportionment Eligibility Adjustments for New Construction Projects.

The baseline eligibility for new construction determined by the Form SAB 50-03 of the appropriate school district where the project will be physically located will be decreased based upon the number of unhoused pupils, calculated pursuant to Section 1859.50, the CSFP project will serve as determined by either of the following:

(a) For a Charter School applying on its own behalf, the number of unhoused pupils the project will serve will be determined and certified to by the school district in which the project will be physically located.

(b) For school districts applying on behalf of a Charter School, the school district must indicate the number of unhoused pupils the project will serve. The supporting documentation for arriving at this number must be submitted to the OPSC as part of the Preliminary Charter School Application.

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

Reference: Section 17078.53, Education Code.

Section 1859.162.3. Overlapping District Boundaries.

If the Charter School provides or will provide instruction for a combination of grade levels and therefore is or will be located in more than one school district's boundaries (e.g. elementary and high school district, not unified), a separate Form SAB 50-09 indicating the number of unhoused pupils served from each district, as appropriate will be required. Sections 1859.162.1 and 1859.162.2 shall apply to all districts involved in the Preliminary Charter School Apportionment. For the purposes of receiving a Preliminary Charter School Apportionment pursuant to Section 1859.163, the applications will be combined into one to be funded concurrently.

In addition, if the project will be located in an area of overlapping district boundaries but proposes to house only the grade levels served by just one of the districts, the district that serves the same grade levels will be subject to the district related requirements of this article (including, but not limited to holding title to the project, generating overcrowding percentages for preference points and signing the Charter School Agreements).

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

Reference: Sections 17078.53 and 17078.54, Education Code.

Section 1859.163. Approval of Applications for Preliminary Charter School Apportionments.

Prior to approving a Preliminary Charter School Apportionment, the Board will require a certification from the Authority that the Charter School is Financially Sound. In providing a Preliminary Charter School Apportionment, the

Board shall use the funding criteria established in Section 1859.164. The apportionment provided by the Board may be 100 percent of the total project cost dependent upon the method of Charter School's contribution as determined by the Authority.

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

Reference: Sections 17078.52 and 17078.53, Education Code.

Section 1859.163.1. Preliminary Charter School New Construction Apportionment Determination.

The Preliminary Charter School New Construction Apportionment shall be separated into two categories, items that may be identified as construction costs versus site acquisition costs.

(a) The Preliminary Charter School Apportionment for construction costs shall be equal to the sum of (1) through (9) below:

(1) The amounts shown below for each pupil, based on the project capacity, included in a Preliminary Charter School Application:

(A) $5,227 for each elementary school pupil.

(B) $5,534 for each middle school pupil.

(C) $7,226 for each high school pupil.

(D) $16,653 for each pupil that is a Severely Disabled Individual with Exceptional Needs.

(E) $11,137 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.

(2) An amount equal to 12 percent of the amount determined in (1) for multilevel construction, if requested by the Charter School.

(3) An amount for site development cost determined, at the option of the Charter School, by one of the following:

(A) One-half of the site development cost for the specific site as authorized by Section 1859.76.

(B) One-half of the site development cost as authorized by Section 1859.76 using historical information in the Charter School General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the Charter School General Location.

(C) $70,000 multiplied by the proposed acres requested on the Form SAB 50-09.

(4) General Site Development costs within school property lines for an addition to an existing school site project wherein additional acreage is acquired or a new school project, determined as follows:

(A) $9,600 per proposed acre requested on the Form SAB 50-09. This sum may be increased pursuant to the provisions in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.
(B) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(1) multiplied by two. For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the Charter School on the Form SAB 50-09.
(C) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(2) and (5) multiplied by two.
(5) If the Preliminary Application request is for a small project that will house no more than 200 pupils, an amount pursuant to the following:
(A) If the project will house less than 101 pupils, the district is eligible for an amount equal to 12 percent of the funding provided by (a)(1).
(B) If the project will house between 101 and 200 pupils, the district is eligible for an amount equal to four percent of the funding provided by (a)(1).
(6) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (1) and (5), plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent when the following criteria are met:
(A) The Charter School has requested an increase for multilevel construction pursuant to (2) above.
(B) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size.
(C) The value of the property as determined in Section 1859.163.2(a) is at least $750,000 per Useable Acre. This criterion does not apply to an application for an addition to an existing school site.
(7) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (1), (2), (3)(C), (4)(A) and (B), (5) and (6) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
(8) For all Preliminary Apportionments received after February 23, 2005, an amount equal to the sum of the amounts determined in (1) through (6) multiplied by a factor determined as follows:
(A) Divide the January Class B Construction Cost Index in effect at the time of the Preliminary Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Apportionment. Round to four decimal places.
(B) Subtract 1 from the quotient in (A). Round to two decimal places.
(9) Fifty percent of the amount to initiate and enforce a LCP as prescribed in Section 1859.71.4, if required by the Labor Code.
(10) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to the items in (1) through (9) above.
(b) The Preliminary Charter School Apportionment for site acquisition costs shall be:
(1) Equal to one-half of the site acquisition value determined in Section 1859.163.2(a) and (c).
(2) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to (1) above.
(c) The total amount calculated in (a) above will be added to any amount calculated in (b) above, which will provide the Preliminary Charter School Apportionment amount.

The amounts shown in (a)(1) shall be adjusted annually in the manner prescribed in Section 1859.71.

Subsection (a)(4) of this section shall be suspended no later than January 1, 2008, unless otherwise extended by amendments as adopted by the Board.

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

Reference: Sections 17078.52 and 17078.56, Education Code.

Section 1859.163.2. Preliminary Charter School Apportionment Site Acquisition Value.

If the Preliminary Charter School Application includes a request for site acquisition funding, the preliminary value of the proposed site shall be the sum of the following:

(a) The value of the property determined by one of the following:

(1) By an appraisal or a preliminary appraisal of the property made no more than six months prior to the date the Preliminary Charter School Application was submitted to the OPSC, using the guidelines outlined in Section 1859.74.1. The preliminary appraisal may be made without access to the property.

(2) The Median Cost of an acre of land in the Charter School General Location using historical information in the Charter School General Location multiplied by the number of proposed Useable Acres requested on Form SAB 50-09. Historical information that may be considered to determine land cost shall include prior real-estate sales consummated and documented by the county recorder or pending real-estate sales documented by a title insurance company's escrow instructions. For purposes of historical information include all real-estate sales consummated and documented by the county recorder for a minimum of six months and a maximum of up to two years prior to the date the Preliminary Charter School Application was submitted to the OPSC.

(b) An amount for the estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA as determined by one of the following:

(1) 15 percent of the value determined in (a).

(2) The sum of the following:

(A) The approved relocation expenses for the specific site to be acquired that conform to Title 25, California Code of Regulations, Section 6000, et. seq.

(B) The DTSC cost for review, approval, and oversight of the POESA and the PEA for the specific site to be acquired.

(3) The estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA using historical information in the Charter School General Location. Historical information that may be considered to determine these estimated costs may include prior real-estate acquisitions of the district or other districts in the Charter School General Location.

(c) Four percent of the amount determined in (a), but not less than $50,000. This amount shall provide an allowance of any appraisal, escrow, survey, site testing, CDE review/approvals and preparation of the POESA and the PEA.

(d) For allowable costs of hazardous material/waste removal and remediation costs, up to one-half times the value of the property determined in either (a)(1) or (a)(2) above.

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

Reference: Section 17078.52, Education Code.

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, the 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 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.

Section 1859.163.4 Preliminary Charter School Rehabilitation Apportionment Eligibility Criteria.

A Charter School or School District may apply for a Preliminary Charter School Rehabilitation Apportionment by submittal of Form SAB 50-09 if all of the following requirements are met:
(a) The application includes existing school buildings made available by a school district; and,
(b) The application includes classrooms that are at least 15 years of age at the time of submittal; and,
(c) The facilities included in the application were not previously built or modernized with SFP funds; and,
(d) For a Charter School applying on its own behalf, the application must include an agreement between the school district and the charter school for the use of the facilities to be rehabilitated. The agreement must have been approved prior to submittal of application and must have been discussed and approved at the school district board meeting.

The age of the facilities shall begin 12 months after the plans for the building were approved by the DSA; or in the case of facilities that were previously modernized under the LPP, the 15 year old period shall begin on the date of its previous modernization apportionment.

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

Reference: Sections 17078.54, and 17078.58, Education Code.

Section 1859.163.5. Preliminary Charter School Rehabilitation Apportionment Determination.

The Preliminary Charter School Rehabilitation Apportionment will be determined based on the eligible square footage included in the project. For purposes of the Preliminary Charter School Rehabilitation Apportionment, eligible square footage is defined as the total enclosed exterior square footage of the school buildings. For multilevel buildings, include the square footage at each level.

The amount of funding for each Preliminary Charter School Rehabilitation Apportionment will be equal to the sum of the amounts determined in (a) through (g) below:
(a) The lesser of the amount determined in (1) or (2) below:
(1) The dollar value calculated using a per square foot amount and the total eligible square footage for the site as follows:
(A) Determine the total square footage for each classroom included in the project (limited by the Charter School's projected enrollment).
(B) Determine the total square footage for any multi-purpose room included in the project.
(C) Determine the total square footage for any gymnasium included in the project.
(D) Determine the total square footage for any library included in the project.
(E) Determine the total square footage for any administration building included in the project.
(F) Add the total square footage in (A) through (E) above to obtain the total square footage for the project.
(G) From the total determined in (F), determine the total square footage for toilet facilities and the total square footage for other facilities. Multiply the toilet facilities square footage by $173.30 and the other facilities square footage by $96.30. The sum of these figures is the square footage dollar value for the project.
(2) The dollar value calculated using the new construction grant amount and the project capacity based on the State loading standards as follows:

(A) Determine the proposed grade level usage of each classroom in the project (limited by the Charter School's projected enrollment).
(B) Multiply the number of classrooms at the K-6 grade level by 25, the number of classrooms at the 7-12 grade level by 27, the number of non-severe classrooms by 13, and the number of severe classrooms by 9.
(C) Multiply the number of pupils calculated pursuant to (B) by the appropriate dollar value determined in Section 1859.163.1(a)(1).
(b) If the Preliminary Application request is for a small project that will house no more than 200 pupils, an amount pursuant to the following:
(1) If the project will house less than 101 pupils, the district is eligible for an amount equal to 12 percent of the funding provided by (a).
(2) If the project will house between 101 and 200 pupils, the district is eligible for an amount equal to four percent of the funding provided by (a).
(c) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (a) and (b), plus for a project with a site that is 60 percent or less of the CDE recommended site size plus 0.333 percent for each percentage decrease in the CDE recommended site size below 60 percent.
(d) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (a), (b), (c), and (e) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
(e) $60,000 for each new two-stop elevator required to be included in the project by the DSA, and $10,800 for each additional stop.
(f) For all Preliminary Apportionments received after February 23, 2005, an amount equal to the sum of the amounts determined in (a) through (e) multiplied by a factor determined as follows:
(1) Divide the January Class B Construction Cost Index in effect at the time of the Preliminary Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Apportionment. Round to four decimal places.
(2) Subtract 1 from the quotient in (1). Round to two decimal places.
(g) An amount to initiate and enforce a LCP as prescribed in Section 1859.71.4, if required by the Labor Code.
(h) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to the items in (a) through (g) above.

The amounts determined in (a) and (e) shall be adjusted annually in the manner prescribed in Section 1859.71.

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

Reference: Sections 17071.25, 17078.52, 17078.54 and 17078.58, Education Code.

Section 1859.163.6. Preliminary Charter School Rehabilitation Apportionment Eligibility for Sites Previously Funded Under the SFP Modernization Program.

For school sites that have established eligibility and received funding for all or some of the eligible buildings, but have not exhausted all of the eligibility, the site may be eligible for CSFP rehabilitation funds, subject to Board approval. However, the rehabilitation apportionment will be offset by the previous amount of modernization funding received for the building(s) to be rehabilitated at the time of the final apportionment.

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

Reference: Sections 17078.52, 17078.54 and 17078.58, Education Code.

Section 1859.163.7. Eligible Use of Charter School Facilities Program Rehabilitation Funds.

Funds Apportioned under the Charter School Facilities Program for Rehabilitation projects are to be used for work consistent with the definition of Charter School Facilities Program Rehabilitation. If the rehabilitation project includes reconfiguration of an existing building and the project decreases the district's capacity at the site or displaces a minimum essential facility, the original capacity and minimum essential facility will still be considered to be in existence. Furthermore, State funding may not be used to replace the capacity or the original minimum essential facility in the future.

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

Reference: Sections 17078.52, 17078.54 and 17078.58, Education Code.

Section 1859.164. Application Funding Criteria.

If the estimated total apportionments of all Financially Sound Preliminary Charter School Applications received in either filing period specified in Section 1859.161 exceed the funds available, the applications shall be identified in each of the following four categories:
(a) Geographical Region One, Two, Three, or Four.
(b) Urban, Rural, or Suburban areas.
(c) Large, Medium, or Small Charter Schools.
(d) K-6, 7-8, or 9-12 grade levels.

The Board shall first apportion one project of each possible type, a maximum of four in category (a) and a maximum of three in categories (b) through (d), starting with (a) and continuing through (d). If more than one application is received of the same type within a category, the Board will apportion based on which project has the highest preference points, calculated in Section 1859.164.1. If a project has the highest preference points but was previously apportioned, the project with the next highest preference points will be apportioned. The same process will continue for the remaining categories until the Board has apportioned a project within each type in categories (a) through (d), or until no funding remains. If after funding one project in each category (a) through (d), funding remains available, the process shall be repeated until no funding remains.

All funds approved as a Preliminary Charter School Apportionment shall be transferred to the Restricted Charter School Fund within the appropriate Charter School Facility Account. Any funds not approved as a Preliminary Charter School Apportionment shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account.

All Preliminary Charter School Applications received from a Charter School will be processed in the date order received by the OPSC. If more than one Preliminary Charter School Application is received on the same day from the same entity for a Charter School project located within the geographical jurisdiction of same district, those applications will be processed by the OPSC based on the priority order assigned to those applications by the applicant on Form SAB 50-09.

If two or more Preliminary Charter School Applications have the same preference points, the Board shall first apportion that Preliminary Charter School Application that was received first by the OPSC. In the event that the applications were received on the same day, applications will be funded in the following order:
(a) Projects submitted by entities that have not previously received funding under the SFP, the CSFP or the State Charter School Facilities Grants Incentives Program will be funded before those that have received said funding;
(b) Projects proposing to utilize existing facilities will be funded before projects that propose to build new facilities;
(c) As applicable, projects that provide more seats to relieve overcrowding will be funded over those that provide fewer seats (as determined by dividing the number of unhoused pupils pursuant to Section 1859.50 that the project will house by the remaining new construction eligibility in the district);

In the event that a tie remains after the previous criteria have been applied, a lottery system will be used to select the project that is funded.

Any applications the SAB is unable to provide a Preliminary Charter School Apportionment to will be returned to the Charter School.

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

Reference: Section 17078.56, Education Code.

Section 1859.164.1. Calculation of Preference Points.

Preference points will be calculated for all Preliminary Charter School Applications. An application shall receive preference points based on the total of (a), (b), (c) and (d), up to a maximum of 160 points, as follows:

(a) Low Income: Up to 40 points based on the percentage of pupils at either the Charter School or school district where the Charter School is or will be located, or any public school within the Charter School General Location meeting the definition of Low-income. The Charter School may report the highest percentage of the three. Use the following sliding scale to determine the number of preference points:

Percentage Receiving Free/Reduced Lunch	Preference Points Assigned
5–15%	4
16-30%	8
31-39%	12
40-47%	16
48-55%	20
56-64%	24
65-73%	28
74-82%	32
83-92%	36
93%	36.5
94%	37
95%	37.5
96%	38
97%	38.5
98%	39
99%	39.5
100%	40

(b) Overcrowded School District: Up to 40 points if the school district where the Charter School is physically located is determined to be overcrowded by dividing the remaining New Construction Eligibility (prior to the reduction from this application) by the district's current enrollment and multiplying the product by 100. The following sliding scale determines the maximum number of preference points available for the degree of overcrowding:

Percentage Overcrowded	Preference Points Assigned
2-9%	4
10-13%	8
14-16%	12
17-19%	16
20-22%	20
23-25%	24
26-33%	28
34-41%	32
42-49%	36
50% and above	40

The method of allocating preference points to applicants will utilize the percentage overcrowded chart for a maximum point distribution. Next, each application will be assigned an "effort" percentage which further allocates points within each overcrowding point category. The percentage generated by the number of unhoused pupils that the project will house, divided by the project capacity will represent the effort made to relieve overcrowding in the district. The "effort" percentage will be assigned the following point distribution:

% Effort to Relieve Overcrowding	Ratio of Overcrowded Points Awarded
40% or more	100% of the points for the overcrowded category
30-39%	90% of the points for the overcrowded category
20-29%	80% of the points for the overcrowded category
10-19%	70% of the points for the overcrowded category
1-9%	60% of the points for the overcrowded category
0	No points for the overcrowded category

The total points assigned for overcrowding will be calculated by applying the appropriate "effort" percentage and its corresponding ratio of points to the percentage overcrowded category for the district in which the project will be physically located.

(c) Non-Profit Entity: If the entity operating the Charter School meets the definition of a Non-Profit Entity, the project will receive 40 preference points.
(d) Existing Facilities: If the project proposes to rehabilitate existing facilities, the project will receive 40 preference points.

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

Reference: Sections 17078.53 and 17078.56, Education Code.

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. 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.

Section 1859.165. Conversion of Preliminary Charter School Apportionment.

When a Preliminary Charter School Apportionment is converted to a Final Charter School Apportionment, all the following criteria must be met:

(a) The Final Charter School Apportionment request must meet all criteria on the Form SAB 50-04.

(b) A Charter School seeking to convert a Preliminary Charter School Apportionment to a Final Charter School Apportionment shall complete and file Form SAB 50-04. The number of pupils being requested cannot exceed the amount the Charter School originally requested and received at the Preliminary Charter School Apportionment.

If the Charter School is unable to meet the criteria in this Section, the Preliminary Charter School Apportionment shall be rescinded pursuant to the provisions of Section 1859.166.

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

Reference: Section 17078.52, Education Code.

Section 1859.166. Time Limit on Preliminary Charter School Apportionment.

(a) A complete request to convert a Preliminary Charter School Apportionment to a Final Charter School Apportionment pursuant to Section 1859.165 shall be made within four years of the date of the Preliminary Charter School Apportionment unless the Charter School received approval of an extension pursuant to Section 1859.166.1.

(b) If (a) is not met, and the Charter School has not received an advance release of funds as provided in Section 1859.164.2, the following will occur:

(1) the Preliminary Charter School Apportionment shall be rescinded and any remaining Preliminary Charter School Apportionment, not released to the Charter School, shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account, and;

(2) the SFP New Construction Eligibility will be increased by the number of unhoused pupils pursuant to Section 1859.162.2 for the school district that physically contains the Charter School within its geographical boundaries.

(c) If (a) is not met, and the Charter School has received an advance release of funds as provided in Section 1859.164.2, the following will occur:

(1) The Preliminary Charter School Apportionment shall be rescinded and any remaining Preliminary Charter School Apportionment, not released to the Charter School, shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account, and;

(2) Funds released pursuant to Section 1859.164.2(a) shall be reduced to cost 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. The adjustment 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 17078.54(d). Funds returned pursuant to Section 1859.106 shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account, and;

(3) Funds released pursuant to Section 1859.164.2(b) shall be subject to the provisions of Section 1859.171.

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

Reference: Sections 17078.52 and 17078.53, Education Code.

Section 1859.166.1. Preliminary Charter School Apportionment Time Limit Extension.

A Charter School that has received a Preliminary Charter School Apportionment may request a single one-year extension of the time limit prescribed in Section 1859.166(a). The Board shall approve the request provided the criteria in (a) or (b) are met:

(a) The Charter School has provided evidence of both of the following:

(1) The CDE has made a contingent or final approval of the proposed site; and,

(2) The DSA has confirmed that the final plans for the project have been submitted to the DSA for review and approval.
(b) Other evidence satisfactory to the Board justifying the extension.

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

Reference: Section 17078.52, Education Code.

Section 1859.167. Final Charter School Apportionment.

(a) 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 appropriate Charter School Facilities 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 appropriate Charter School Facilities 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 appropriate Charter School Facilities 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 appropriate Charter School Facilities 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 on February 23, 2005:
(1) the 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 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) 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; and,
(4) 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. The Board shall convert the Preliminary Charter School Apportionment to the Final Charter School Apportionment as outlined below:
(A) If the Preliminary Charter School Apportionment is greater than the Final Charter School Apportionment request 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 2004 Charter School Facilities Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.

(B) 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.

(C) If the Preliminary Charter School Apportionment plus the additional amounts provided from the Conversion Increase Fund and the Unrestricted Charter School Fund is less than the Final Charter School Apportionment request, the difference shall be placed on an Unfunded List.

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

Reference: Sections 17078.52 and 17078.56, Education Code.

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 Education Code Section 17078.54(d).

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

Reference: Section 17078.54, Education Code.

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.

Section 1859.168. Preliminary Charter School Apportionment Matching Share Requirement.

The Charter School will be subject to the matching share requirements in Section 1859.77.1 and Education Code Section 17078.54(d) that may be paid through lease payments authorized by the Authority in lieu of the matching share. All lease payments shall be paid to the Board to be redeposited to the Unrestricted Charter School Fund in the appropriate Charter School Facility Account. Any funds deposited in either Account shall be first used to fund remaining site acquisition costs off the Unfunded List pursuant to Section 1859.163.3. Should no projects remain on the Unfunded List the Board may use the funds for purposes of this Article.

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

Reference: Sections 17078.54 and 17078.58, Education Code.

Section 1859.169. Eligible Expenditures.

Expenditures made with the Final Charter School Apportionment must comply with Education Code Section 17072.35 and 17078.54(a). Expenditures for construction are eligible only if the construction contract was entered into on or after September 27, 2002.

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

Reference: Sections 17078.52, Education Code.

Section 1859.169.1. Charter School Project Savings.

Projects funded under the CSFP do not generate savings pursuant to Section 1859.103. In addition, State funds remaining at the completion of the project may not be used to satisfy the local matching share obligation. Remaining funds must be returned to the State.

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

Reference: Sections 17078.54, Education Code.

Section 1859.170. Additional Program Reporting Requirements.

A Charter School filing a Form SAB 50-09 on its own behalf pursuant to this Article shall comply with the reporting requirements of Sections 1859.100, 1859.101, 1859.102, and 1859.106.

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

Reference: Section 17078.54, Education Code.

Section 1859.171. Use of Facility.

A Charter School that has received funding pursuant to Section 1859.164.2(b) and has not met the timelines established in Section 1859.166 or is no longer occupying the facility constructed with funds derived through a Final Charter School Apportionment, the school district where the Charter School is physically located can either:

(a) Elect to take possession of the facility and pay the balance of the local matching share. The District may qualify for a waiver of repayment if it can meet all the following:

(1) Demonstrate that at the time the Form SAB 50-04 was submitted for Final Charter School Apportionment, the district would have qualified for financial hardship, pursuant to Section 1859.81; and,

(2) Certify to the Board that it will comply with the requirements of Education Code Section 17078.62(b)(4)(B).

(b) If the school district chooses not to take possession of the facility, it shall dispose of the facilities in the manner applicable to the disposal of surplus school sites pursuant to Education Code Sections 17455 through 17484. The proceeds from the sale shall be used to pay off the remaining loan balance, if any.

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

Reference: Section 17078.62, Education Code.

Article 15. Overcrowding Relief Grant

Section 1859.180. General.

A School District seeking an Apportionment pursuant to the provisions of Education Code Section 17079 through 17079.30 for new construction shall complete and file a Form SAB 50-04.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17079.20, Education Code.

Section 1859.181. Eligible Schools.

An eligible school is a school for which the school site pupil population density is equal to or greater than 175 percent of the school site pupil population density recommended by the Superintendent, based on the CBEDS Report for the 2005/2006 enrollment year, adjusted by the CDE by the following factors:

(a) Reduced to take into account the additional pupil capacity created by multistory construction.

(b) Reduced to take into account approved new construction projects, including projects approved pursuant to the Critically Overcrowded School Facilities Program, Education Code Sections 17078.10 through 17078.30, unless the School District can demonstrate that those projects are not impacting density at the eligible school site.

In order to determine the school site pupil population density, the School District shall complete and submit to the CDE the Overcrowding Relief Grant Eligibility Determination form.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17079, Education Code.

Section 1859.182. Determining Overcrowding Relief Pupil Eligibility.

(a) For purposes of the Overcrowding Relief Grant, an eligible pupil is a pupil that is housed in a portable classroom at the eligible school site, less the prorated number of portables that were funded by the Class Size Reduction Program pursuant to Chapter 6.10 of the Education Code. The Class Size Reduction prorate shall be calculated as follows:
(1) Determine the total number of portables funded pursuant to Chapter 6.10 of the Education Code.
(2) Divide the amount determined in (a)(1) by the total number of schools currently in the School District that serve grades K-3. The resulting number of classrooms must be reduced from each eligible school site that serves grades K-3. The total number of portable classrooms that are reduced from all eligible school sites shall not exceed the amount determined in (a)(1).
(b) The determination of the district-wide pupil eligibility shall be determined by the submittal of the Form SAB 50-11.
(c) The determination of the site specific pupil eligibility shall be determined by the CDE on the Overcrowding Relief Grant Eligibility Determination form and will be conducted on a one-time basis for each eligible school.
(d) The site specific and district-wide pupil eligibility may be adjusted as follows:
(1) Reduced by the number of eligible pupils that receive an Overcrowding Relief Grant.
(2) Adjusted as a result of errors or omissions by the School District or by the OPSC.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17079.10, Education Code.

Section 1859.183. Funding.

The Board shall provide a New Construction Adjusted Grant to each eligible pupil requested in the project. The pupil grants may be requested by the School District at any grade level, regardless of the grade level of the eligible school.

The maximum number of Overcrowding Relief Grants for each eligible school site shall be subject to the following limitations:
(a) The number of Overcrowding Relief Grants may not exceed the number of pupils whose removal from the pupil density calculation would reduce the density of the eligible school site to 150 percent of the school site pupil population density recommended by the Superintendent, based on the CBEDS reported for the 2005/2006 enrollment year.
(b) The number of Overcrowding Relief Grants may not exceed the capacity of those portables on the eligible school site that are being replaced in the project.

In no event shall a School District receive in total more Overcrowding Relief Grants than the number of pupils housed in portable classrooms that were included in the School District's initial new construction eligibility determination pursuant to Education Code 17071.75 as identified in part on Line 1 of Part III of the Form SAB 50-02 and as calculated on the Form SAB 50-11.

The Overcrowding Relief Grant must be used to replace an equivalent number of portable classrooms with permanent classrooms. Those portables that are replaced with Overcrowding Relief Grants must be removed from the eligible school site and from K - 12 grade classroom use, pursuant to Education Code Section 17079.30, within six months of the date of Occupancy of the replaced permanent classrooms. Overcrowding Relief Grants may be used for those purposes pursuant to Education Code 17072.35 with the exception of the construction, acquisition or transportation of portable classrooms. Those School Districts receiving an Overcrowding Relief Grant must comply with all new construction provisions of the SFP, including but not limited to Sections 1859.100, 1859.102, 1859.104, 1859.105, and 1859.106.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17079.10, 17079.20 and 17079.30, Education Code.

Section 1859.184. Overcrowding Relief Grant Application Submittals and Apportionments.

(a) The Board shall accept approved applications for Overcrowding Relief Grants as follows:
(1) For the funding made available for this purpose for the first funding cycle, the School District shall submit an approved application by January 31, 2008.
(2) The Board shall accept approved applications on a semi-annual basis thereafter.

The Board shall apportion Overcrowding Relief Grants based upon the highest density of the eligible schools that have submitted an approved application. Any School District that does not receive an Overcrowding Relief Grant due to low school density and insufficient funds may request that its application remain with the OPSC for consideration in the following semi-annual funding cycle.

(b) The Board shall apportion the Overcrowding Relief Grants as follows:
(1) For the first funding cycle, up to a maximum of $500 million for all approved applications that are received by January 31, 2008.
(2) For the second funding cycle, up to a maximum of $300 million for all approved applications that are received by July 31, 2008, plus any remaining funds not apportioned during the previous funding cycle.
(3) Approved applications that are received by January 30, 2009 shall be apportioned any remaining funds not allocated at the previous funding cycles, plus an additional $200 million.

The approved applications for Overcrowding Relief Grants must provide a narrative indicating how the project will relieve overcrowding at the eligible school.

A School District may submit an approved application to request an Overcrowding Relief Grant from the funding provided under Proposition 1D for a project that has been occupied, if the construction contract for the project was signed after Board approval of these regulations. The School District must have obtained all project approvals required for a new construction funding application prior to the construction contract date.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17079.20, Education Code.

Article 16. Career Technical Education Facilities Program

Section 1859.190. General.

An applicant seeking Career Technical Education Facilities Project funding pursuant to the provisions of Education Code Section 17078.72, shall complete and file Form SAB 50-10.

An applicant may submit multiple Career Technical Education Facilities applications for different career technical education projects located at a single school site, pursuant to Education Code Section 17078.72(e), (f), and (i).

Modernization of facilities under Article 16 shall not affect the Modernization Eligibility of the facility pursuant to Section 1859.60.

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

Reference: Section 17078.72, Education Code.

Section 1859.191. Career Technical Education Facilities Project Application Submittal.

(a) The Board shall accept Approved Applications for Career Technical Education Facilities Project Funding and make apportionments as follows:
(1) All applications received in a six month cycle will be processed and prioritized for career technical education funding in the manner described in Section 1859.194.
(2) The funding cycles are established as follows:
(A) Approved Applications for Career Technical Education Facilities Project Funding for the first funding cycle must be submitted to the OPSC by October 31, 2007.
(B) Approved Applications for Career Technical Education Facilities Project Funding for the second funding cycle must be submitted to the OPSC by April 30, 2008.
(C) At the discretion of the Board, subsequent funding cycles may continue every six months thereafter until the Career Technical Education Facilities Program funds are exhausted or other funds become available.
(3) The Career Technical Education Facilities funds will be apportioned at the next available Board meeting after the end of each application cycle.

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

Reference: Section 17078.72, Education Code.

Section 1859.192. Career Technical Education Facilities Program Eligibility.

An applicant requesting funding for a Career Technical Education Facilities Project may submit Form SAB 50-10 to the OPSC if all the following criteria are met:
(a) For a new construction project, the applicant:
(1) Is a local educational agency operating a comprehensive high school pursuant to Education Code Sections 51224, 51225.3 and 51228.
(2) Has an active career technical advisory committee pursuant to Education Code Section 8070.
(b) For a modernization project, the applicant:
(1) Is a local educational agency operating a comprehensive high school pursuant to Education Code Sections 51224, 51225.3 and 51228; or,
(2) Is a joint powers authority operating career technical education programs as of May 20, 2006.
(3) Has an active career technical advisory committee pursuant to Education Code Section 8070.
(c) The applicant's Career Technical Education Facilities Program application has met all the requirements in Education Code Section 17078.72(i) and scored at least 105 points.

An applicant need not demonstrate New Construction Eligibility or Modernization Eligibility in order to participate in the Career Technical Education Facilities Program.

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

Reference: Sections 8070, 17078.72, 51224, 51225.3 and 51228, Education Code.

Section 1859.193. Career Technical Education Facilities Grant Determination.

A Career Technical Education Facilities Project may construct a new facility or modernize or Reconfigure an existing school building. The application for Career Technical Education Facility funding may accompany an application for new construction funding pursuant to Section 1859.70 or may be submitted independently.

The applicant must identify square footage of the Career Technical Education Facility being constructed, modernized, reconfigured or equipped, on the funding application. Equipment purchased under the Career Technical Education Facilities Program must have an average useful life expectancy of at least ten years pursuant to Education Code 17078.72(a). An application for a Career Technical Education Facilities Project may consist entirely of equipment.

(a) For new construction of a Career Technical Education Facilities Project included in a qualifying New Construction Grant, the Career Technical Education Facilities grant amount shall be the lesser of either (1) or (2):
(1) The sum of the costs uniquely related to facilities required to provide Career Technical Education as determined below:
(A) 50 percent of the cost of construction of the Career Technical Education Facilities Project, as determined by the project architect, subject to OPSC review and approval.
(B) 50 percent of the cost to equip the Career Technical Education Facilities Project with necessary equipment.
(C) Minus an allowance for New Construction Grants provided for Career Technical Education classrooms, determined by:
1. Multiplying 960 square feet by the number of classrooms in the Career Technical Education Facilities Project that were included in the New Construction project.
2. Multiplying the amount determined in (a)(1)(C)1 by 50 percent of the Current Replacement Cost for non-Toilet Facilities.
(2) $3 million per Career Technical Education Facilities Project.
(3) Site development work is not allowed as part of a Career Technical Education Facilities Project included in a New Construction Grant. Site development work necessary pursuant to Section 1859.76, may be requested by the district under the qualifying SFP New Construction.
(b) For stand-alone New Construction of a Career Technical Education Facilities Project, the grant amount shall be the lesser of either (1) or (2):
(1) The sum of the costs uniquely related to facilities required to provide Career Technical Education as determined below:
(A) 50 percent of the cost of construction of the Career Technical Education Facilities Project, as determined by the project architect, subject to OPSC review and approval.
(B) 50 percent of the cost to equip the Career Technical Education Facilities Project with necessary equipment.
(C) 50 percent of site development work that meets the following criteria:
1. It is necessary and applicable to the Career Technical Education Facilities Project.
2. It meets the requirements for site development costs as outlined in Section 1859.76.
(2) $3 million per Career Technical Education Facilities Project.
(3) If the district is requesting funding for site development work applicable to the Career Technical Education Facilities Project, the district must submit a detailed cost estimate and appropriate DSA approved plans with the Form SAB 50-10. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Career Technical Education Facilities Project and conform to the requirements in Section 1859.76.
(4) Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Career Technical Education Facilities Project.
(c) For Modernization of a Career Technical Education Facilities Project, the grant amount shall be the lesser of either (1) or (2):
(1) The sum of the costs uniquely related to facilities required to provide Career Technical Education Facilities Project as determined below:
(A) 50 percent of the cost to modernize or Reconfigure the Career Technical Education Facilities, as determined by the project architect, subject to OPSC review and approval.
(B) 50 percent of the cost to equip the Career Technical Education Facilities with necessary equipment.
(2) $1.5 million per Career Technical Education Facilities Project.
(3) Reconfiguring an existing school building must not displace a minimum essential facility. In any case involving the replacement of a minimum essential facility due to the reconfiguration of an existing building, the replacement must be part of the plans submitted in support of the Career Technical Education Facilities Application, must occur concurrently, and cannot be part of a SFP Application for new construction.

(4) Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Career Technical Education Facilities Project.

(d) If an applicant meets the eligibility criteria in Section 1859.192, but does not have the necessary approvals from the DSA and/or the CDE at the time of apportionment, the Board may apportion funds for the Career Technical Education Facilities Project and reserve them for a period of up to 12 months. The grant amount to be reserved for the project will be the maximum funding as determined above in (a), (b), or (c).

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

Reference: Section 17078.72, Education Code.

Section 1859.193.1. Qualifying SFP Project.

For purposes of meeting the requirements in Sections 1859.193(a) or (c), the district may combine a Career Technical Education Facilities Project with any of the following applications in (a) or (b):

(a) A new construction or modernization funding application that is submitted at the same time as the Career Technical Education Facilities Project application.

(b) An Approved Application for new construction or modernization funding that has been approved, but has not received a full apportionment (i.e., currently on the workload list) or has been fully funded, if the following criteria are met:

(1) For new construction:

(A) The plans and specifications for the Career Technical Education Facilities Project were included in the original DSA approved plans and specifications for the Approved Application for new construction funding.

(B) The classrooms constructed for the Career Technical Education Facilities Project were not occupied prior to May 20, 2006.

(2) For modernization:

(A) The plans and specifications for the Career Technical Education Facilities Project were included in the original DSA approved plans and specifications for the Approved Application for modernization funding.

(B) The classrooms constructed for the Career Technical Education Facilities Project were not occupied prior to May 20, 2006.

(c) If the Career Technical Education Facilities Project application is submitted separately, there is no requirement that the Approved Application for new construction or modernization be withdrawn.

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

Reference: Section 17078.72, Education Code.

Section 1859.194. Career Technical Education Facilities Program Matching Share Requirement.

Any funding provided by these regulations shall require an applicant matching share contribution on a dollar-for-dollar basis. The applicant matching share may come from any source including, but not limited to, private industry groups, school districts, county offices of education, and joint powers authorities.

If the applicant's available matching share does not equal the grant amount or the matching share is not immediately available, a loan may be made to the applicant. The amount of the loan shall be determined by compliance with (a) below. If the need for a loan is substantiated, it shall be paid over time through loan payments authorized by the Board.

(a) Require the applicant declare any local funds available for applicant contribution from any of the following sources:

(1) Developer Fees

(2) Certificates of Participation

(3) Local General Obligation Bonds, Mello-Roos Bonds and School Facility Improvement District Bonds

(4) Contribution from private industry groups or joint powers authority

(5) Any other Capital Facility funding

Upon apportionment, the OPSC will prepare a loan agreement on behalf of the Board for the applicant.
(b) The loan agreement shall stipulate the following:
(1) The loan term shall be set at ten years with a one-time extension of five years if the applicant is in jeopardy of becoming financially insolvent and becoming subject to the requirements of Assembly Bill (AB) 1200, Chapter 1213, Statutes of 1991 (Eastin).
(2) The loan agreement shall include interest on the unpaid principal balance at the same rate as that charged by the Pooled Money Investment Board. The interest rate will be set on the date that the project funding apportionment is approved by the Board.
(3) Interest starts accruing on the fund release date.
(4) The first payment is due no later than two years from the fund release date.
(5) Should the district default on the loan payments, the OPSC will initiate collection procedures from the School Fund Apportionment pursuant to Education Code Section 17076.10(c).

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

Reference: Sections 17076.10 and 17078.72, Education Code.

Section 1859.195. Career Technical Education Facilities Project Apportionment.

The Board shall apportion Career Technical Education Facilities Funds in the following manner:
(a) The Board may apportion up to a maximum of $350 million for applications received in the first Career Technical Education Facilities funding cycle ending October 31, 2007.
(1) The amount of $250 million shall be distributed proportionally to the Service Regions based on the high school enrollment within each Service Region. The proportional distribution of funds shall be determined by the current year CBEDS enrollment.
(2) If funding requested on qualifying applications exceeds the funds allotted to any Service Region, the amount of $100 million shall be available for apportionment to the highest ranked projects regardless of Service Region.
(b) The Board may apportion up to the sum of $150 million plus any funds not apportioned in the first cycle for applications received in the second Career Technical Education Facilities funding cycle ending April 30, 2008.
(1) The amount of $150 million plus any funds remaining from (a)(2) shall be distributed proportionally to each of the Service Regions based on the high school enrollment within each Service Region.
(2) Any unused funds distributed under (a)(1) shall be added to the amount determined for each Service Region in (b)(1).
(3) The cumulative apportionments in each Service Region may not exceed the amount determined in (1) and (2) except as described in Section 1859.196(b).
(c) The Board may apportion any or all remaining available Career Technical Education Facilities funds in subsequent cycles, as deemed necessary and practical by the Board.

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

Reference: Section 17078.72, Education Code.

Section 1859.196. Career Technical Education Facilities Program Funding Order.

(a) In the first funding cycle, the Board shall fund eligible Career Technical Education Facilities Projects as follows:
(1) Approved Applications for Career Technical Education Facilities Project Funding shall be sorted by Service Region.
(2) Within each Service Region, approved applications will be ranked from highest to lowest according to the numerical score for the applicant's Career Technical Education Facilities Program application pursuant to Education Code Section 17078.72(i).
(3) The locale of each project shall be identified as Urban, Suburban or Rural.
(4) The Board shall apportion funds within each Service Region to the highest ranked project in each locale. In order to continue this funding process, one project from each locale must be apportioned. If there are no applications in a given locale(s), projects will be apportioned in the remaining locale(s).

(5) The process will continue until the applications or funds are exhausted within each Service Region as prorated pursuant to Section 1859.195.
(6) In the event two or more applications within a Service Region have the same career technical education plan score and are in the same locale, the applicant with the highest total points in all weighted areas identified in Education Code Section 17078.72(j) will be funded first.

(b) In the second funding cycle, the Board shall fund eligible Career Technical Education Facilities Projects as described in (a) until the applications or funds are exhausted within each Service Region or until the conditions in (1) and (2) are met:
(1) Funds remain after all applications in a given Service Region have been apportioned.
(2) Approved Applications remain in other Service Regions because the requests exceed the funds allotted to the Service Region(s) in Section 1859.195(b).

If (b)(1) and (b)(2) are met in the second funding cycle, the remaining available career technical education facilities funds shall be pooled and apportioned to the highest ranked project in each locale regardless of Service Region. One of each locale must be accounted for before a locale is repeated.

(c) For the third and any subsequent cycles, the Board shall apportion funds regardless of Service Region.
(1) Funds shall be apportioned to the highest ranked project in each locale. In order to continue this funding process, one project from each locale must be apportioned. If there are no applications in a given locale(s), projects will be apportioned in the remaining locale(s).
(2) The process will continue until the applications or funds are exhausted, whichever comes first.
(3) In the event two or more applications have the same career technical education plan score and are in the same locale, the applicant with the highest total points in all weighted areas identified in Education Code Section 17078.72(j) will be funded first.

If a Career Technical Education Facilities Project cannot be fully apportioned because insufficient funding is available, the applicant may either accept the available funding as the full and final apportionment for the project or refuse funding entirely. If funding is refused, the Board shall consider funding the next project eligible for an apportionment based on the above funding priority mechanism. If an applicant refuses funding, the application shall automatically carry over to the subsequent cycle or the applicant may request that the application be returned.

For any Career Technical Education Facilities Project not apportioned under the funding mechanism described above, the application shall automatically carry over to the subsequent cycle or the applicant may request that the application be returned. A Career Technical Education Facilities Project returned to the applicant may be resubmitted during a subsequent application acceptance period identified in Section 1859.191, provided the application meets the eligibility criteria in Section 1859.192.

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

Reference: Section 17078.72, Education Code.

Section 1859.197. Fund Release Process.

The OPSC will release State funds that have been apportioned by the Board pursuant to Sections 1859.195 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) 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.

Section 1859.198. Time Limit on Apportionment and Substantial Progress.

The district is subject to the time limit on the apportionment as outlined in Education Code Section 17076.10 and substantial progress requirements pursuant to Section 1859.105.

Any Career Technical Education Facilities Project funds returned due to projects being rescinded or reduced to cost incurred shall be made available for apportionment in subsequent funding cycles.

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

Reference: Section 17078.72, Education Code.

Section 1859.199. Program Accountability.

A project shall be deemed complete when either of the following occurs, whichever occurs first:

(a) The final notice of completion is filed for the project; or,

(b) Four years have elapsed from the final fund release for the project.

Projects will be subject to a Program Accountability Expenditure Audit pursuant to Section 1859.106. Any repayments due back to the state as a result of these audits will be subject to the repayment provisions identified in Section 1859.106.1.

An applicant district may not retain savings realized by a Career Technical Education Facilities Project.

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

Reference: Section 17078.72, Education Code.