

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 1859.171. Use of Facility.

~~If 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 on a Preliminary Charter School Apportionment, or is no longer occupying the facility constructed with funds derived through a Final Charter School Apportionment, and the review process outlined in Education Code Section 17078.62(b)(1) has been completed (if applicable), then the following events shall occur; the school district where the Charter School is physically located can either:

- (a) Any qualifying successor charter school shall be permitted to occupy the facility pursuant to Education Code Section 17078.62(b)(2).
- ~~(a)-(b)~~ If no qualifying successor charter school chooses to occupy the facility, the school district in which the project is physically located may 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)-(c)~~ 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.
- (d) Pursuant to Education Code Section 17078.62(b)(5)(B), if the school district declines to dispose of the facility it shall provide written notice of its rejection to the Board in the form of written action taken by the governing board of the school district and the Board shall dispose of the property.

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

Reference: Section 17078.62, Education Code.

Section 1859.172. Title to Project Facilities.

- (a) Prior to the release of funds for site acquisition or new construction Final Charter School Apportionments, a charter school that has received a Preliminary Charter School Apportionment must provide one of the following:
- (1) Documentary evidence that the school district in which the project is physically located holds title to the project facilities.
 - (2) Documentary evidence that a local governmental entity holds title pursuant to all of the requirements set forth in Education Code Section 17078.63(a)(2), or
 - (3) A written request that the charter school be authorized to hold fee simple title to the subject property signed by an authorized charter school representative pursuant to all of requirements set forth in Education Code Section 17078.63(a)(3). The written request must include a statement justifying the reasons why ownership will not be vested with an entity described in (a)(1) and why ownership will not be vested with an entity described in (a)(2). The written request must also include the statement: I certify, as the charter school representative, that the information reported in this document is true and correct.
- (b) A charter school may request that a school district transfer title to project facilities to a local governmental entity or the charter school itself if prior to January 1, 2010 the school district entered into an agreement to hold title to the project facilities. The transfer of title shall only take place if the school district and charter school mutually agree to a title transfer. Prior to the transfer of title, the charter school must notify the OPSC in writing that a title transfer request is being made, enter into new Charter School Agreements with the State and a local governmental entity if applicable, and demonstrate that all of the necessary conditions for holding title pursuant to Education Code Section 17078.63 will be complied with. For purposes of title transfer pursuant to Education Code Section 17078.63(b)(1) the charter school shall not be required to provide the written request outlined in section (a)(3) above.

Note: Authority cited: Sections 17070.35 and 17078.63, Education Code.

Reference: Sections 17078.62 and 17078.63, Education Code.