

Section 1859.90.2. Priority Funding Round Process.

~~The A-priority funding round process~~ allows the Board to distribute available funds to districts or charter schools who request an Apportionment or an advance release of funds from a Preliminary Apportionment or Preliminary Charter School Apportionment during a specific 30-calendar day filing periods beginning with July 27, 2011 and continuing with the 2nd Wednesday of January and the 2nd Wednesday of July each calendar year. ~~Certifications are valid until the next filing period begins. A priority funding round may be established pursuant to a public notice and announcement by the Board at one of its monthly meetings. The public notice shall be sent to all school districts and charter schools that have projects on the Unfunded List. At the Board's monthly meeting where the priority funding round is announced, a 30-calendar day filing period will also be established, with the filing period to begin the next business day following the date of the Board's meeting.~~ Requests must be physically received by the OPSC by the 30th calendar day to be considered valid. ~~Any funds not apportioned as part of a specified priority funding round shall remain available for any other applicable School Facilities Program project apportionments by the Board.~~ During any priority funding round process a district or charter school must submit the Form SAB 50-05 within a specified time period of the Apportionment or approved advance release of funds request, pursuant to (a)(2) or (b)(2) of this section. ~~Projects receiving an apportionment as part of the that apply for any specific priority funding round process~~ for which the OPSC does not physically receive an original signature copy of the Form SAB 50-05 within the appropriate time limit shall be rescinded without further Board action.

- (a) In order to be considered for an Apportionment, approved advance release of design funds from a Preliminary Charter School Apportionment, or approved advance release of environmental hardship site acquisition funds from a Preliminary Apportionment, the district or charter school must provide a written statement signed by an authorized representative that includes each of the project application numbers, and the type of apportionment request (e.g., Apportionment, separate apportionment for design or site acquisition), within the 30 calendar day filing period that contains all of the following:
- (1) Request to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and
  - (2) Concurrence with a 90 calendar day time limit on fund release; and
  - (3) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within the 90 calendar day time limit and failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and
  - (4) For those receiving an Apportionment, acknowledgement that by participating in the priority funding round process, the district or charter school is waiving its right to a standard 18 month timeline for fund release submittal.
- (b) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Charter School Apportionment, the district or charter school must provide a written statement signed by an authorized representative within the 30 calendar day filing period that contains all of the following:
- (1) Request to convert the advance release of funds to an approved advance release of funds request; and
  - (2) Concurrence with a 180 calendar day time limit on fund release; and
  - (3) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within the 180 calendar day time limit and failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and
  - (4) Acknowledgement that it must provide evidence that it has entered into the Charter School Agreements within 90 calendar days of approval of the advance release of funds request and failure to do so will result in the rescission of the approval without further Board action.

In the event that the amount of requests received during a specific 30-day filing period exceeds the funds available, the Board shall apportion based on the unfunded approval date and the application received date

up to the available cash from each bond source. Projects that have requested to participate in the priority funding process for which an Apportionment cannot be provided shall retain their date order position on the Unfunded List. Request letters of projects not converted to apportionments will not be returned to the district or kept by the Office of Public School Construction.

For purposes of this section “rescinded” or “rescission” shall mean that the apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date. The new unfunded approval date will be ~~determined by the Board at the time each priority funding round is approved~~ 90 calendar days after the apportionment date. The district or charter school will not be required to re-submit the application and no further application review will be required.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.16, 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.

#### Section 1859.81. Financial Hardship.

Except for Joint-Use Projects and Career Technical Education 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.

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(e) 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).

(1) 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.

(2) 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.

(3) 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).

- (f) 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 the "Unfunded List (Lack of AB 55 Loans)" for more than 180 calendar days as a result of the State of California's inability to provide interim financing from the Pooled Money Investment Account (AB 55 loans), the Board may suspend the unfunded review requirement as defined in Regulation Section 1859.81(e). Projects added to any other unfunded list shall be subject to the review detailed in Regulation Section 1859.81(e). Regulation Section 1859.81(f) shall become inoperative July 1, 2011.
- (g) A project added to an unfunded list on or after July 1, 2011 will be subject to the review detailed in section (e)(3). For projects added to an unfunded list between February 25, 2009 and June 30, 2011, only the district's financial records on or after July 1, 2011 will be considered in calculating any adjustment to the district's matching share.

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.