

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:

....

"Form SAB 50-04" means the *Application For Funding*, Form SAB 50-04 (Revised ~~12/10~~12/11), which is incorporated by reference.

"Form SAB 50-05" means the *Fund Release Authorization*, Form SAB 50-05 (Revised ~~06/08~~12/11), which is incorporated by reference.

....

"Form SAB 50-07" means the *Application For Joint-Use Funding*, Form SAB 50-07 (Revised ~~12/10~~12/11), which is incorporated by reference.

"Form SAB 50-08" means the *Application For Preliminary Apportionment*, Form SAB 50-08 (Revised ~~12/10~~12/11), which is incorporated by reference.

"Form SAB 50-09" means the *Application for Charter School Preliminary Apportionment*, Form SAB 50-09 (Revised ~~12/10~~12/11), which is incorporated by reference.

"Form SAB 50-10" means the *Application for Career Technical Education Facilities Funding*, Form SAB 50-10 (Revised ~~12/10~~12/11), which is incorporated by reference.

....

"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 (DIR).

....

"Total Projected Bond Apportionment" means the total State bond funds to be apportioned for the project, including any Financial Hardship apportionment pursuant to Section 1859.81, any funds authorized by the Authority pursuant to Section 1859.168, and any funds provided pursuant to Section 1859.194, but excluding the prevailing wage monitoring and enforcement costs grant amount provided pursuant to Section 1859.71.4(c) or 1859.78.1(b).

....

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, 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 Sections 1771.3 and 1771.5, Labor Code.

Section 1859.71.4. New Construction Pupil Additional Grant Increase for Labor Compliance Program or Prevailing Wage Monitoring and Enforcement Costs.

(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. for any project funded in whole or in part from Proposition 47 or Proposition 55 for which the construction contract is awarded prior to January 1, 2012, and for which the district is required under Labor Code Section 1771.7(a) and (b) to initiate and enforce a LCP, the Board shall increase the per-unhoused pupil grant by 50 percent of the following calculation:~~

- (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

- (c) After determining all other funding authorized by these Regulations, the Board shall increase the grant by 50 percent of one-fourth of one percent of the Total Projected Bond Apportionment for any project for which the construction contract is awarded on or after January 1, 2012.
- (d) Pursuant to Labor Code Section 1771.3, any public works project paid in whole or in part from public funds that are derived from bonds issued by the State and for which the construction contract is awarded on or after January 1, 2012, is subject to the DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b).
- (e) Any school district failing to meet the requirements in subsection (d) above shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the school district until the date of the Board's finding.
- (f) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, the school district shall return to the State any State funding received for the project, including interest, as calculated in (e), for any construction projects for which the violations occurred.

Note: Authority cited: Section 17070.35, Education Code and Section 1771.3, Labor Code.

Reference: Sections 17072.10 and 17072.30, Education Code.

Section 1859.78.1. Modernization Pupil Additional Grant Increase for Labor Compliance Program or Prevailing Wage Monitoring and Enforcement Costs.

- (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: for any project funded in whole or in part from Proposition 47 or Proposition 55 for which the construction contract is awarded prior to January 1, 2012, and for which the district is required under Labor Code Section 1771.7(a) and (b) to initiate and enforce a labor compliance program, the Board shall increase the per-unhoused pupil grant by the following calculation, less the district matching share required in Section 1859.79:
- (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.

- (b) After determining all other funding authorized by these Regulations, the Board shall increase the grant by 60 percent of one-fourth of one percent of the Total Projected Bond Apportionment for any project for which the construction contract is awarded on or after January 1, 2012.
- (c) Pursuant to Labor Code Section 1771.3, any public works project paid in whole or in part from public funds that are derived from bonds issued by the State and for which the construction contract is awarded on or after January 1, 2012, is subject to the DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b).
- (d) Any school district failing to meet the requirements of (c) shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the school district until the date of the Board's finding.
- (e) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, the school district shall return to the State any State funding received for the project, including interest, as calculated in (d), for any construction projects for which the violations occurred.

Note: Authority cited: Section 17070.35, Education Code and Section 1771.3, Labor Code.

Reference: Sections 17072.10 and 17072.30, 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)~~(i) and may also be utilized for other purposes as set forth in Education Code Section 100420(c), and Labor Code Section 1771.3(a). 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, and Section 1771.3, Labor 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 DSA to be repaired, seismic mitigation of the Most Vulnerable Category 2 Buildings as verified by the DSA, 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. The total available funding for seismic mitigation related and ancillary costs for the Most Vulnerable Category 2 Buildings is \$199.5 million.
  - ....
  - (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. For any project funded in whole or in part from any State bond funds for which the construction contract is awarded prior to January 1, 2012, the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4(a). For any project for which the construction contract is awarded on or after January 1, 2012, the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations established in Section 1859.71.4(d).

....

- (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. For any project funded in whole or in part from any State bond funds for which the construction contract is awarded prior to January 1, 2012, the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4(a). For any project for which the construction contract is awarded on or after January 1, 2012, the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations established in Section 1859.71.4(d).

....

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

Reference: Sections 17074.56, 17075.10, 17075.15, 17250.30 and 101012(a)(1), Education Code, and Section 1771.3, Labor 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.

....

(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. For any project funded in whole or in part from Proposition 47 or Proposition 55 for which the construction contract is awarded prior to January 1, 2012, the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4-1859.78.1(a). For any project for which the construction contract is awarded on or after January 1, 2012, the grant may be adjusted in the manner prescribed in Section 1859.78.1(b) and subject to the limitations established in Section 1859.78.1(c).

....

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 and 17250.30, Education Code, and Section 1771.3, Labor 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).
- (c) For any project that received funding pursuant to 1859.71.4(c) or 1859.78.1(b), 50 percent of one-fourth of one percent of the difference between the original Total Projected Bond Apportionment and the newly calculated amount.
- (d) Any adjustments made pursuant to this Section will be made only if sufficient bond authority is available for the adjustment. If an Unfunded List has been created by the Board, then any adjustments made pursuant to this Section will be placed on the Unfunded List.

....

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, and Section 1771.3, Labor 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):

....

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). For any project funded in whole or in part from Proposition 47 or Proposition 55 for which the construction contract is awarded prior to January 1, 2012, the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4(a). For any project for which the construction contract is awarded on or after January 1, 2012, the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations established in Section 1859.71.4(d).

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 and 17250.30, Education Code, and Section 1771.3, Labor 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):

....

The amounts shown in (a) are adjusted in a manner prescribed in Section 1859.71. For any project funded in whole or in part from Proposition 47 or Proposition 55 for which the construction contract is awarded prior to January 1, 2012,

The the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4(a). For any project for which the construction contract is awarded on or after January 1, 2012, the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations established in Section 1859.71.4(d).

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~~ and 17250.30, Education Code, ~~and Section 1771.3, Labor Code.~~

#### Section 1859.145. Preliminary Apportionment Determination.

The Preliminary Apportionment shall be equal to the sum of the following:

....

The amounts shown in (a) shall be adjusted in a manner prescribed in Section 1859.71. For any project funded in whole or in part from Proposition 47 or Proposition 55 for which the construction contract is awarded prior to January 1, 2012, The the district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4(a). For any project for which the construction contract is awarded on or after January 1, 2012, the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations established in Section 1859.71.4(d).

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

Reference: Sections 17075.10, 17078.10, ~~and 17078.24~~ and 17250.30, Education Code, ~~and Section 1771.3, Labor 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.~~ determined as follows:

(a) The Preliminary Charter School Apportionment for construction costs shall be equal to the sum of (1) through ~~(9)~~(8) below:

....

(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)~~(9) 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)~~(8) 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 Preliminary Charter School Apportionment to initiate and enforce a LCP or to provide for the prevailing wage monitoring and enforcement costs shall be:
  - (1) 50 percent of the amount to initiate and enforce a LCP as prescribed in Section 1859.71.4(a), if required by the Labor Code, or
  - (2) 50 percent of the amount of the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code, and
  - (3) 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 either (1) or (2) above, as applicable.
- ~~(e)~~(d) The total amount calculated in (a) above will be added to any amount calculated in (b) and (c) above, which will provide the Preliminary Charter School Apportionment amount.

....

- (e) Pursuant to Labor Code Section 1771.3, any public works project paid in whole or in part from public funds that are derived from bonds issued by the State and for which the construction contract is awarded after January 1, 2012, is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b).
- (f) Any school district failing to meet these requirements shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the school district until the date of the Board's finding.
- (g) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, the school district shall return to the State any State funding received for the project, including interest, as calculated in subsection (f) above for any construction projects for which the violations occurred.

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

Reference: Sections 17078.52, ~~and~~ 17078.58, and 17250.30, Education Code, and Section 1771.3, Labor 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)(1) through ~~(a)(6)~~ and (b) below:

- (a) (1) The lesser of the amount determined in ~~(1)(A)~~ or ~~(2)(B)~~ below:
  - ~~(1)(A)~~ The dollar value calculated using a per square foot amount and the total eligible square footage for the site as follows:
    - ~~(A)1.~~ Determine the total square footage for each classroom included in the project (limited by the Charter School's projected enrollment).
    - ~~(B)2.~~ Determine the total square footage for any multi-purpose room included in the project.
    - ~~(C)3.~~ Determine the total square footage for any gymnasium included in the project.
    - ~~(D)4.~~ Determine the total square footage for any library included in the project.
    - ~~(E)5.~~ Determine the total square footage for any administration building included in the project.

- ~~(F)~~6. Add the total square footage in ~~(A)~~1 through ~~(E)~~5 above to obtain the total square footage for the project.
- ~~(G)~~7. From the total determined in ~~(F)~~6, 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)~~(B) The dollar value calculated using the new construction grant amount and the project capacity based on the State loading standards as follows:
- ~~(A)~~1. Determine the proposed grade level usage of each classroom in the project (limited by the Charter School's projected enrollment).
- ~~(B)~~2. Multiply the number of classrooms at the K-6 grade level by 25, the number of classrooms at the 7-12 level by 27, the number of non-severe classrooms by 13, and the number of severe classrooms by 9.
- ~~(C)~~3. Multiply the number of pupils calculated pursuant to ~~(B)~~2, by the appropriate dollar value determined in Section 1859.163.1(a)(1).
- ~~(b)~~2. 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)~~(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.
- ~~(2)~~(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.
- ~~(c)~~3. An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in ~~(a)~~1 and ~~(b)~~2, 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)~~4. An amount for the geographic location of the proposed project equal to the sum of the amounts determined in ~~(a)~~1, ~~(b)~~2, ~~(c)~~3, and ~~(e)~~5 multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
- ~~(e)~~5. \$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)~~6. For all Preliminary Apportionments received after February 23, 2005, an amount equal to the sum of the amounts determined in ~~(a)~~1 through ~~(e)~~5 multiplied by a factor determined as follows:
- ~~(1)~~(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.
- ~~(2)~~(B) Subtract 1 from the quotient in ~~(1)~~(A). 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)~~7. 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)~~1 through ~~(g)~~6 above.
- (b) The Preliminary Charter School Rehabilitation Apportionment to initiate and enforce a LCP or to provide for the prevailing wage enforcement costs shall be:
- (1) 50 percent of the amount to initiate and enforce a LCP as prescribed in Section 1859.71.4(a), if required by the Labor Code, or
- (2) 50 percent of the amount of the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code, and
- (3) 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 either (1) or (2) above, as applicable.

The amounts determined in ~~(a)~~1 and ~~(e)~~ 5 shall be adjusted annually in the manner prescribed in Section 1859.71.

- (c) Pursuant to Labor Code Section 1771.3, any public works project paid in whole or in part from public funds that are derived from bonds issued by the state and for which the construction contract is awarded on or after January 1, 2012, is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b).
- (d) Any school district failing to meet these requirements shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the school district until the date of the Board's finding.
- (e) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, the school district shall return to the State any State funding received for the project, including interest, as calculated in subsection (d) above for any construction projects for which the violations occurred.

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

Reference: Sections 17071.25, 17078.52, 17078.54, ~~17078.56, and~~ 17078.58, and 17250.30, Education Code, and Section 1771.3, Labor 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. All equipment must be purchased on or after May 20, 2006, unless the Career Technical Education Facilities Project is combined with a qualifying SFP new construction project pursuant to Section 1859.193.1.

- (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) For public works projects awarded on or after January 1, 2012, the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code.
    - ~~(C)(D)~~ 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)(D)~~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.

- (4) Pursuant to Labor Code Section 1771.3, any public works project paid in whole or in part from public funds that are derived from bonds issued by the State and for which the construction contract is awarded on or after January 1, 2012, is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b).
- (5) Any school district failing to meet the requirements of (a)(4) shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the school district until the date of the Board's finding.
- (6) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, the school district shall return to the State any State funding received for the project, including interest, as calculated in subsection (a)(5) above, for any construction projects for which the violations occurred.
  - (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.
      - (D) For public works projects awarded after January 1, 2012, the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code.
        - (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.
- (5) Pursuant to Labor Code Section 1771.3, any public works project paid in whole or in part from public funds that are derived from bonds issued by the State and for which the construction contract is awarded on or after January 1, 2012, is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b).
- (6) Any school district failing to meet the requirements of (b)(5) shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the school district until the date of the Board's finding.
- (7) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, the school district shall return to the State any State funding received for the project, including interest, as calculated in subsection (b)(6) above, for any construction projects for which the violations occurred.
  - (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.
  - (C) For public works projects awarded on or after January 1, 2012, the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code.
- (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.
- (5) Pursuant to Labor Code Section 1771.3, any public works project paid in whole or in part from public funds that are derived from bonds issued by the State and for which the construction contract is awarded on or after January 1, 2012, is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b).
- (6) Any school district failing to meet the requirements of subsection (c)(5) above, shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the school district until the date of the Board's finding.
- (7) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, the school district shall return to the State any State funding received for the project, including interest, as calculated in subsection (c)(6) above, for any construction projects for which the violations occurred.
- (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: Sections 17078.72 and 17250.30, Education Code, and Section 1771.3, Labor Code.