

FINAL STATEMENT OF REASONS

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

Section 1859.2. Definitions.

Specific Purpose of the Regulation

To provide the meaning of specific words and terms that are essential to these regulations.

Need for the Regulation

It was necessary to change the revision date of Form SAB 50-10, *Application for Career Technical Education Facilities Funding*, to reflect a revision date of "04/12," in order that School Facility Program (SFP) applicants can identify and submit the current version of this Form.

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

Specific Purpose of the Regulation

To allow Career Technical Education Facilities Program (CTEFP) new construction projects to request High Performance Incentive (HPI) Grants, in accordance with Senate Bill (SB) 128, Chapter 622, Statutes of 2011 (Lowenthal). To add Education Code Section 17078.72(l) to the list of Authority citations.

Need for the Regulation

Subsection (a). It was necessary to change "Subsection (b)" to "Subsections (b) or (c), as applicable," in order to refer to new subsection (c) making CTEFP projects eligible for the \$150,000 High Performance Base Incentive Grant (HP BIG).

Subsection (b). It was necessary to add the clause "Excluding Career Technical Education Facilities Projects," to the beginning of this subsection in order to distinguish that the guidance for CTEFP projects applying for HPI grants is not in subsection (b) but in new subsection (c) added thereafter. A non-substantive capitalization change was made by changing "To" to "to" because it is no longer the first word of the subsection.

Subsection (c). It was necessary, in order to implement SB 128, to add new subsection (c) making CTEFP new construction projects eligible for the \$150,000 HP BIG, one time per school site, if the CTEFP new construction project attains a minimum of 27 high performance points as verified by the Division of the State Architect (DSA). The criterion of 27 points was utilized because it is the existing criterion for HP BIGs in Section 1859.71.6.(b)(3). These points are based upon construction industry-recognized High Performance Rating Criteria using the 2009 CA-CHPS (Collaborative for High Performing Schools) criteria.

Education Code Section 17078.72(l) is added to the list of Authority citations because this new section was added by statute (SB 128).

The CTEFP allows school districts/local educational agencies (LEAs) to apply for 50 percent State funding for constructing new facilities, or reconfiguring existing facilities needed for high school pupils to learn the skills and knowledge for “the high-demand technical careers of today and tomorrow” [Education Code Sections 17078.72(a) and 101012(a)(4)]. CTEFP projects were authorized by Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Perata/Nunez).

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

Specific Purpose of the Regulation

To allow CTEFP projects to request HPI Grants, in accordance with SB 128. To add Education Code Section 17078.72(l) to the list of Authority citations.

Need for the Regulation

Subsection (a). It was necessary to change “Subsection (b)” to “Subsections (b) or (c), as applicable,” in order to refer to new subsection (c) making CTEFP projects eligible for the \$250,000 HP BIG.

Subsection (b). It was necessary to add the clause “Excluding Career Technical Education Facilities Projects,” to the beginning of this subsection in order to distinguish that the guidance for CTEFP projects applying for HPI grants is not in subsection (b) but in new subsection (c) added thereafter. A non-substantive capitalization change was made by changing “To” to “to” because it is no longer the first word of the subsection.

Subsection (c). It was necessary, in order to implement SB 128, to add new subsection (c) making CTEFP additions to sites and modernization projects eligible for the \$250,000 HP BIG, one time per school site, if the CTEFP project attains a minimum of 20 high performance points as verified by the DSA. The criterion of 20 points was utilized because it is the existing criterion for HP BIGs in Section 1859.77.4.(b)(3). These points are based upon construction industry-recognized High Performance Rating Criteria using the 2009 CA-CHPS criteria.

Education Code Section 17078.72(l) is added to the list of Authority citations because this new section was added by statute (SB 128).

The CTEFP allows school districts/LEAs to apply for 50 percent State funding for constructing new facilities, or reconfiguring existing facilities needed for high school pupils to learn the skills and knowledge for “the high-demand technical careers of today and tomorrow” [Education Code Sections 17078.72(a) and 101012(a)(4)]. CTEFP projects were authorized by Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Perata/Nunez).

Section 1859.107. Amending and Withdrawal of Applications.

Specific Purpose of the Regulation

To allow CTEFP projects to amend their funding applications to request HPI Grants, in accordance with SB 128. To add Education Code Section 17078.72(l) to the list of Authority citations.

Need for the Regulation

It was necessary, in order to implement SB 128, to add a new final paragraph to this Section authorizing districts with SAB-approved CTEFP funding to resubmit the applications for the purpose of requesting HPI grants as prescribed in Section 1859.71.6 or Section 1859.77.4.

It was necessary in order to facilitate the orderly review and processing of such resubmittals that the new final paragraph sets forth the criteria to submit an amended Form SAB 50-10 at least 90 days prior to requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2 (the Priority Funding Process) or receiving an Apportionment pursuant to Section 1859.195, and that the amended application shall retain its original OPSC processing date. Finally, it was necessary that this option for districts/LEAs to resubmit their CTEFP applications be allowed for CTEFP applications originally submitted prior to January 1, 2012, in order to have a uniform cutoff date for all applicants which is the effective date of the statute (SB 128).

Education Code Section 17078.72(l) is added to the list of Authority citations because this new section was added by statute (SB 128).

Section 1859.193. Career Technical Education Facilities Grant Determination.

Specific Purpose of the Regulation

To allow CTEFP projects to receive HPI Grants regardless of whether that additional Grant would cause the total CTEFP funding amount to exceed the maximum CTEFP project funding amounts set forth in Education Code Section 17078.72(e) and (f), in accordance with SB 128 establishing new Education Code Section 17078.72(l). To add Education Code Section 17078.72(l) to the list of Authority citations.

Need for the Regulation

Subsection (e). It was necessary to add this new section [Section 17078.72(l)] as established by SB 128, in order that the allowable HPI grants pursuant to Regulation Sections 1859.71.6 and 1859.77.4 shall not be affected by the maximum CTEFP project funding amounts as set forth in Education Code Section 17078.72(e) and (f).

Education Code Section 17078.72(l) is added to the list of Authority citations because this new section was added by statute (SB 128).

Section 1859.194. Career Technical Education Facilities Program Matching Share Requirement.

Specific Purpose of the Regulation

To clarify that the local dollar-for-dollar matching share requirement for CTEFP projects applies to additional HPI grant funding as prescribed in Regulation Sections 1859.71.6 and 1859.77.4., in accordance with SB 128. To add Education Code Section 17078.72(l) to the list of Authority citations.

Need for the Regulation

It was necessary to add a clause to the first sentence of this Section to clarify that the local dollar-for-dollar matching share requirement for CTEFP projects applies to additional HPI grant funding for CTEFP projects as prescribed in Regulation Sections 1859.71.6 and 1859.77.4., and in accordance with SB 128. This is for the purpose of treating the HPI grant funding for CTEFP projects the same as the existing CTEFP project funding under the SFP Regulations.

Education Code Section 17078.72(l) is added to the list of Authority citations because this new section was added by statute (SB 128).

Section 1859.197. Fund Release Process.

Specific Purpose of the Regulation

To add new subsections (d) and (e) setting forth processing requirements for CTEFP projects requesting HPI grants, and to correct the existing subsections (d) and (e) as “(f)” and “(g).” To add Education Code Section 17078.72(l) to the list of Authority citations.

Need for the Regulation

It was necessary for the orderly review and processing of CTEFP projects applying for HPI grants, including such CTEFP projects that request participation in the Priority Funding Process, to make the following amendments:

- add new subsection (d) which requires districts/LEAs with approved CTEFP projects on the Unfunded List (Lack of AB 55 Loans) that request an Apportionment pursuant to Regulation Section 1859.90.1 or 1859.90.2 (“Priority Funding Process”) that includes a request for the HP BIG additional grant under Section 1859.71.6 or 1859.77.4, then the district must submit the necessary approvals from the DSA and/or the California Department of Education (CDE) at least 90 days prior to requesting an Apportionment;
- add new subsection (e) which requires districts/LEAs with approved CTEFP projects under Section 1859.197(a) and with approved reservations of funds pursuant to Section 1859.193(d) that request the HP BIG additional grant under Section 1859.71.6 or 1859.77.4, then the district must submit the necessary approvals from the DSA and/or the CDE at least 90 days prior to requesting an Apportionment;
- correct the existing subsections (d) and (e) as “(f)” and “(g)” respectively, due to the two new subsections (d) and (e) above being added. This is a non-substantive change for the purpose of maintaining consistency and continuity of the SFP Regulations.
- correct “1859.197(e)” to “1859.197(g)” in the text of the last sentence of this Section in order to reflect the proper subsection. This is a non-substantive change for the purpose of maintaining consistency and continuity of the SFP Regulations.

Education Code Section 17078.72(l) is added to the list of Authority citations because this new section was added by statute (SB 128).

SCHOOL FACILITY PROGRAM FORM

Application for Career Technical Education Facilities Funding, Form SAB 50-10 (Revised 04/12).

Specific Purpose of the Form

To implement SB 128 by adding Specific Instructions, data fields and certifications to allow school districts and LEAs with CTEFP projects to request the HP BIG, or remove the HP BIG request, and to state the number of DSA-approved high performance points.

Need for the Form

Pages 1 through 4, Heading. It was necessary to change the revision date of Form SAB 50-10 to reflect a revision date of “04/12” in order that SFP applicants can identify and submit the current version of this Form. This is a non-substantive change for the purpose of maintaining consistency and continuity of the SFP Regulations.

Page 1, Column 2, Specific Instructions, First Paragraph. It was necessary to add a new concluding sentence to instruct districts amending their HPI grant request to complete sections 1 and 14 only because these two amended sections on the Form are needed for the applicant to indicate whether they are adding or removing the HPI Grant request, and the number of DSA-approved HPI points. This amendment is needed to implement the statute (SB 128).

Page 2, Column 1, Specific Instructions, New #14. It was necessary to add instructions for applicants requesting the HPI additional grant to assure they have DSA approval of their plans and specifications, and to enter the number of HPI points that are prescribed in Section 1859.71.6 or Section 1859.77.4. This amendment is needed to implement the statute (SB 128).

Page 2, Column 1, Specific Instructions, New #15. It was necessary to add the instruction to applicants to complete the Certifications section of the Form because such an instruction is consistent with the other SAB Forms, but was inadvertently omitted from this Form. This is a non-substantive change for the purpose of maintaining consistency and continuity of the SFP Regulations.

Page 3, Column 1, #1. It was necessary to add the new category of applications for "Separate HPI grant request [Section 1859.107]" with boxes to either add or remove the HPI Grant in order to allow school districts/LEAs with CTEFP projects to either request an HPI Grant or remove the request in order to implement the statute (SB 128).

Page 3, Column 2, New #14. It was necessary to add this new Section and box for the CTEFP applicant to verify that it has DSA approval of its plans and specifications, and to enter the number of DSA-approved HPI points. This is for the purpose of implementing the statute (SB 128).

Page 3, Column 2, #15. It was necessary to re-number the Certification as "15" because of new #14 added directly above it. This is a non-substantive change for the purpose of maintaining consistency and continuity of the SFP Regulations.

Page 4, Column 2, New Bullet #6. It was necessary to add a new certification which must be acknowledged and signed by the district or LEA representative that HP BIG additional grants shall be rescinded if the DSA review of plans and specifications does not confirm the necessary points to qualify under Section 1859.71.6 or 1859.77.4.

Page 4, Column 2, New Bullet #7. It was necessary to add a new certification which must be acknowledged and signed by the district or LEA representative that the district/LEA has considered the feasibility of using designs and materials for its projects that promote the efficient use of high performance, recycled, low toxin, and acoustics conducive components. This certification is consistent with other SAB Forms.

Page 4, Column 2, New Bullet #8. It was necessary to add a new certification which must be acknowledged and signed by the district or LEA representative that if the district/LEA is requesting the HP BIG, the school governing board must have a resolution on file that demonstrates support for the HP BIG and the intent to incorporate high performance components in future projects. This certification is consistent with other SAB Forms.

HPI Grants were authorized by AB 127 [Education Code Sections 17070.96 and 101012(a)(8)] and implemented into the SFP Regulations for school districts using designs and materials in new construction and modernization projects for efficiencies in the following categories:

- Sustainable Sites
- Energy
- Water
- Materials
- Indoor Environmental Quality

The existing SFP regulations list all qualifying high performance components with assigned “points” and a threshold of total points to qualify for HP BIGs in the amount of:

- \$150,000 for new construction projects on new sites, and
- \$250,000 for new construction projects on existing sites and for modernization projects.

No reasonable alternatives were considered for the proposed regulatory amendments because they implement the statute (SB 128). The proposed amendments do not mandate the use of specific technologies, equipment, actions or procedures. The amendments were adopted by the State Allocation Board (SAB) at its meeting on April 25, 2012, and there were no opposing public comments.

Office of Administrative Law Regulations, Title 1, Section 20(c)(1)

The State Allocation Board's (SAB's) School Facility Program Forms are maintained and readily accessible through our Web site. It would be cumbersome, unduly expensive, or otherwise impractical to publish the above SAB Form in the California Code of Regulations. Therefore, it is not necessary to publish the Form in the California Code of Regulations.

Office of Administrative Law Regulations, Title 1, Section 20(c)(2)

The State Allocation Board's School Facility Program Forms are made available upon request and through our Web site, and continue to be made available upon request and through our Web site.

Technical Documents Relied Upon

The State Allocation Board's Action item, dated April 25, 2012, entitled “Career Technical Education Facilities Program Regulatory Amendments.”

The Economic Impact Assessment prepared pursuant to Government Code Section 11346.3(b).

Alternatives to the Proposed Regulatory Action that would be as Effective and Less Burdensome to Private Persons

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulations or would be as effective and less burdensome to affected private persons than the proposed regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Economic Impact on Small Business

The SAB has determined that the proposed regulations do not affect small businesses.

Finding of Significant Adverse Economic Impact on Businesses

The SAB has determined that the adoption of the regulations will not affect businesses, including small businesses, because they are not required to comply with or enforce the regulations, nor will they benefit from or be disadvantaged by the regulations.

Impact on Local Agencies or School Districts

The SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. They will not require local agencies, school districts or LEAs to incur additional costs in order to comply with the proposed regulations.