

Section 1859.2. Definitions.

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"Form SAB 50-05" means the *Fund Release Authorization*, Form SAB 50-05 (Revised ~~06/12/10~~10/12), which is incorporated by reference.

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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 1859.90.2. Priority Funding Process.

The priority funding 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 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. Requests must be physically received by the OPSC by the 30th calendar day to be considered valid. During any priority funding 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 priority funding 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does not physically receive an original signature copy of the Form SAB 50-05 within the appropriate time limit shall be rescinded without further Board action.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) Acknowledgement that, if the district submits the Form SAB 50-05 on or after July 1, 2013 and is required to submit an LCP third party report, pursuant to Section 1859.97(b), the report will be submitted to the OPSC and the DIR at least 60 days prior to submitting the Form SAB 50-05; and
- ~~(4)~~ (5) For those receiving an Apportionment, acknowledgement that by participating in the priority funding process, the district or charter school is waiving its right to a standard 18 month timeline for fund release submittal.

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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.

Adopt Regulation Section 1859.97.

Section 1859.97. Labor Compliance Program Documentation for Fund Release.

As required pursuant to Labor Code Section 1771.7 subdivisions (a) and (b), 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 shall initiate and enforce, or contract with a third party to initiate and enforce, an LCP, with respect to that project. For purposes of obtaining the release of bond funds from the Board, the following LCP requirements shall be met:

- (a) The district shall submit a written finding to the OPSC and the DIR that the district has initiated and enforced, or has contracted with a third party to initiate and enforce, the LCP with respect to that project.
- (b) Where the construction contract was signed either prior to the district's LCP being approved by the DIR or prior to the district entering into a contract with a third party to implement the LCP, the district shall be determined to have complied with Labor Code Section 1771.7(a), only upon satisfaction of all of the following:
 - (1) The DIR has approved either the district's or the third party LCP, and such approval had not been revoked at the time of implementing the LCP.
 - (2) The district or the third party with whom the district contracted to implement its LCP submitted an application for approval of its LCP in accordance with the DIR's LCP regulations prior to January 1, 2012;
 - (3) The district submits the report of a third party that has been approved by the DIR to operate an LCP in accordance with DIR LCP regulations, and such approval has not been revoked as of the date of the report. In the case of a district that has entered into a contract with a third party to implement the LCP, the report must be prepared by a different third party that has been approved by DIR to implement an LCP, and such approval had not been revoked as of the date of the report. The report must be submitted to the OPSC and the DIR and include all of the following:
 - (A) Verification that the applicable duties of an LCP were performed on the project as set forth in Labor Code Section 1771.5(b) and DIR regulations; and
 - (B) Verification that the performance of the applicable LCP duties began within one month after the commencement of the construction work on the project as set forth in Labor Code Section 1771.7(b); and
 - (C) A written record of the LCP's confirmation of payroll records for each month in which a contractor or subcontractor reports having workers employed on the public work pursuant to Title 8 California Code of Regulations, Section 16432(c).
 - (4) The district shall provide notice to each worker for which confirmation of payroll records has been performed pursuant to Title 8 California Code of Regulations, Section 16432(c), informing that the district has submitted a written report to the OPSC that the district has initiated and enforced, or contracted with a third party to initiate and enforce, a labor compliance program on the project to monitor and ensure the payment of prevailing wages to workers. The notice shall inform these workers of the manner in which they may contact the OPSC and the DIR concerning the accuracy of the report set forth in subsection (b)(3) above.
 - (5) The district shall provide the DIR a copy of the report set forth in subsection (b)(3) above at the same time the report is submitted to the OPSC. The DIR may notify the OPSC if the DIR determines the verifications in the awarding body's report to be incorrect.
 - (6) The report shall not be determined to comply with Labor Code Section 1771.7(a) if the DIR submits the notice described in subsection (5) above within 60 calendar days of receiving the report in subsection (b)(3) above.

Note: Authority cited: Sections 17070.35, Education Code.

Reference: Sections 17072.32 and 17074.16, Education Code and Sections 1771.5 and 1771.7, Labor Code.