

## Amend Regulation Section 1859.2

### 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:

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"Current Replacement Cost" means \$346.60 per square foot for Toilet Facilities and \$192.60 per square foot for all other spaces. The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

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"Facility Hardship Square Footage Grant" means the grant per square foot provided for Facility Hardship replacement facilities pursuant to Sections 1859.82(a) or (b), excluding additional grants provided under Section 1859.82(a) and (b).

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"Form SAB 50-04" means the *Application For Funding*, Form SAB 50-04 (Revised ~~09/12~~05/13), which is incorporated by reference.

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"High Performance Rating Criteria" (HPRC) means the standard used to evaluate the costs of designs and materials that promote high performance schools. The HPRC will be using the Collaborative for High Performance Schools (CHPS) rating criteria model as identified in the CHPS *Best Practices Manual Volume III 2002 Edition and 2006 Edition, and 2009 CA-CHPS Criteria*, as incorporated by reference. For the purposes of the SFP, the HPRC contained in these regulations have been modified to focus on facility related components.

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"Rehabilitation Cost" means health and safety mitigation cost that is less than 50 percent of the ~~e~~Current ~~f~~Replacement ~~e~~Cost of the facility.

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"Seismic Rehabilitation Grant" means a grant allowable under Education Code Section 17075.10(a) and (b)(2) and Section 1859.82(a)(1)(A)2, excluding additional grants.

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.

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## Amend Regulation Section 1859.71

### Section 1859.71. Adjustment to the New Construction Grant.

The new construction per-unhoused-pupil grant amount, as provided by Education Code Section 17072.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.30 and the first adjustment shall be January, 1999.

The new construction per-unhoused-pupil grant amount, as provided by Education Code Section 17072.10(a), may be increased by an additional amount not to exceed six percent in a fiscal year, or decreased, based on the analysis of the current cost to build schools as reported on the Project Information Worksheet (~~New 09/07~~)(Revised 5/10) which shall be submitted with the Forms SAB 50-05 and 50-06 and as approved by the Board.

For any changes or additions to the regulations adopted by the Board in 1999, those changes shall be adjusted in accordance with this Section at the time the regulations are adopted.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.10 and 17072.11, Education Code.

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Amend Regulation Section 1859.71.6

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

- (a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in Subsections (b) or (c), as applicable, if all the following are met:
- (1) The project meets the mandatory measures of the California Green Building Standards, California Code of Regulations Title 24, Part 11, as applicable.
  - (2) The project includes all the prerequisites in each of the five HPRC to include Sustainable Sites, Water, Energy, Materials and Indoor Environmental Quality and related subcategory credits.
  - (3) Once the prerequisites in (a)(1) and (a)(2) have been met, the district may select the criteria and credits it wishes to pursue to determine point award. Category, criteria and associated points are as follows:
- (A) Sustainable Sites.
1. Site Selection:
    - a. Code compliance is a prerequisite.
    - b. Avoiding environmentally sensitive land equals one point;
    - c. Central location equals one point;
    - d. Joint-use of facilities equals one point;
    - e. Joint-use of parks equals one point;
    - f. Reduced footprint equals one point.
  2. Transportation:
    - a. Public transportation equals one point;
    - b. Bicycles / Human-powered transportation equals one point;
    - c. Minimize parking equals one point.
  3. Stormwater Management:
    - a. Construction site runoff control is a prerequisite;
    - b. Limit stormwater runoff equals one point;
    - c. Treat stormwater runoff equals one point.
  4. Outdoor Surfaces and Spaces:
    - a. Reduce heat islands – landscaping equals one point;
    - b. Reduce heat islands – cool roofs equals one point.
  5. Outdoor lighting: light pollution reduction equals one point.
- (B) Water.
1. Outdoor Systems:
    - a. Create water use budget is a prerequisite.
    - b. Reduce potable water use for non-recreational landscaping areas, ~~equals one to~~ is a maximum of two points.
    - c. Reduce potable water use for recreational area landscaping equals one point.
  2. Indoor Systems:
    - a. Reduce sewage conveyance from toilets and urinals equals one point;
    - b. Reduce indoor potable water use ~~equals one to~~ is a maximum of three points.
- (C) Energy.
1. Energy Efficiency:
    - a. Minimum energy performance based on the California Code of Regulations, Title 24, Part 6, 2008 also known as the California Energy Code, is a prerequisite.
    - b. Superior energy performance based on the California Code of Regulations, Title 24, Part 6, 2008 also known as the California Energy Code ~~equals one to~~ is a maximum of 13 points;
    - c. Natural ventilation equals one point;
    - d. Energy management system equals one point.
    - e. Plug loads monitored by an energy management system equals one point.
  2. Alternate Energy Sources: Renewable energy ~~equals one to~~ is a maximum of 15 points; one point for each five percent of the site's annual power consumption that is produced on site up to 40 percent and one point for each ten percent above 40 percent of the site's annual power consumption that is produced on site up to 90 percent and two points if 95 percent or more of the site's annual power consumption is produced on site.

3. Commissioning and Training:
  - a. Fundamental building systems testing and training is a prerequisite.
  - b. Enhanced commissioning ~~equals one to~~ is a maximum of four points.
- (D) Materials
  1. Recycling: Storage and collection of recyclables is a prerequisite.
  2. Construction Waste Management:
    - a. Construction site waste management is a prerequisite.
    - b. Construction site waste management at 75 percent or above diverted ~~equals one to~~ is a maximum of two points.
  3. Building Reuse:
    - a. Reuse of structure or shell ~~equals one to~~ is a maximum of two points;
    - b. Reuse of interior non-structural elements equals one point.
  4. Sustainable Materials:
    - a. Recycled content equals ~~equals one to~~ is a maximum of two points;
    - b. Rapidly renewable materials and organically grown materials equals one point;
    - c. Organically grown materials equals one point;
    - d. Certified wood equals one point;
    - e. Salvaged materials ~~equals one to~~ is a maximum of two points.
    - f. Alternative: environmentally preferable products in lieu of a. through e. above ~~equals one to~~ is a maximum of seven points.
- (E) Indoor Environmental Quality.
  1. Lighting and Daylighting:
    - a. Daylighting ~~equals one to~~ is a maximum of four points;
    - b. View windows equals one point;
    - c. Electric lighting equals one point.
  2. Indoor Air Quality and Thermal Comfort:
    - a. Minimum requirements for minimum HVAC and construction indoor environmental quality is a prerequisite.
    - b. Minimum requirements for thermal comfort and moisture control is a prerequisite.
    - c. Minimum requirements for minimum filtration is a prerequisite.
    - d. Thermal displacement ventilation equals two points.
    - e. Enhanced filtration equals one point.
    - f. Low-emitting materials ~~equals one to~~ is a maximum of two points.
    - g. Ducted returns equals one point.
    - h. Controllability of systems ~~equals one to~~ is a maximum of two points.
    - i. Chemical and pollutant source control equals one point.
    - j. Mercury reduction equals one point.
  3. Acoustics:
    - a. Minimum acoustical performance is a prerequisite and equals two points.
    - b. Improved acoustical performance ~~equals one to~~ is a maximum of three points.
- (4) A minimum of four points must come from either (a)(3)(C)1.b. and/or 2.
- (5) The project, which includes a complete set of plans, must be submitted to and accepted by the DSA on or after May 20, 2006.
- (6) The DSA has reviewed the proposed project and concurs with the points specified in the HPRC.
- (7) The project will not receive funding from the Energy Efficiency Account.
- (8) For those projects accepted by the DSA prior to October 1, 2007, districts may utilize the *2002 CA-CHPS Criteria*, and the point standard will be in the range of 23 to 72 points. All prerequisites, credits and points obtained must be based on the *2002 Edition* requirements. Criteria and associated prerequisite or points as indicated in (a)(3)(D)2.a. and 4.c. and f. and (E)1.c. and 2.b. and district resolutions are ineligible, and (a)(4) is optional.
- (b) Excluding Career Technical Education Facilities, to determine the High Performance Incentive grant, multiply the New Construction Grant by the percentage allowance in accordance with the eligible high performance points as follows:
  - (1) For those projects accepted by the DSA prior to October 1, 2007, pursuant to (a)(8), in which the level of high performance attained, as concurred by the DSA, is a minimum of 23 points, the New Construction Grant will be multiplied by:
    - (A) Two percent at 23 points plus 0.03 percent for each point attained from 24 through 33 points; or
    - (B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or

- (C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or
- (D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 72 points.
- (2) For those projects accepted by the DSA utilizing the *2006 CA-CHPS Criteria*, in which the level of high performance attained as concurred by the DSA is a minimum of 27 points, the New Construction Grant will be multiplied by:
  - (A) Two percent at 27 points plus 0.050 percent for each point attained from 28 through 33 points; or
  - (B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or
  - (C) four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or
  - (D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 75 points.
- (3) For those projects accepted by the DSA utilizing the *2009 CA-CHPS Criteria*, in which the level of high performance attained as concurred by the DSA is a minimum of 27 points, the Board shall provide \$150,000 one time per school site as a High Performance Base Incentive Grant. In addition, the New Construction Grant will be multiplied by:
  - (A) 2.35 percent at 27 points; or
  - (B) 2.59 percent at 28 points plus 0.24 percent for each point attained from 29 through 33 points; or
  - (C) Four percent at 34 points plus 0.36 percent for each point attained from 35 through 47 points; or
  - (D) 9.05 percent at 48 points plus 0.060 percent for each point attained from 49 through 88 points.
- (c) For Career Technical Education Facilities Projects accepted by the DSA utilizing the 2009 CA-CHPS Criteria, in which the level of high performance attained as concurred by the DSA is a minimum of 27 points, the Board shall provide \$150,000 one time per school site as a High Performance Base Incentive Grant.

If there are no funds remaining in the High Performance School Account or the funds remaining are insufficient to fully fund the additional grant authorized in Subsections (b) or (c), the district may either withdraw its application and resubmit it should additional funds be made available in the High Performance School Account or continue with the new construction project and accept a full and final apportionment without the additional grant authorized by Subsections (b) or (c).

Any funds apportioned pursuant to this Section shall be expended only on high performance related costs (and components as approved by the OPSC).

Note: Authority cited: Sections 17070.35 and 17078.72(l), Education Code.

Reference: Section 101012(a)(8), Education Code.

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#### Amend Regulation Section 1859.74.5

##### Section 1859.74.5. New Construction Additional Grant for District-Owned Site Acquisition Cost.

- (a) As an alternative to site acquisition funding provided by Sections 1859.74, 1859.74.2, 1859.74.3 and 1859.74.4, the Board shall provide an additional grant, in addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71 and 1859.71.1 for one half of the value of the district- owned site as determined in (b) provided all the following criteria are met:
  - (1) The site has been owned by the applicant district for a period of at least five years from the date the Approved Application is received by the OPSC. The district may demonstrate ownership of the site by any of the following:
    - (A) A grant deed.
    - (B) Escrow closing statement.
    - (C) Order of immediate possession.
    - (D) Other evidence satisfactory to the Board.
  - (2) The district-owned site was not purchased with funds made available from the LPP, the SFP or Proposition 1A.
  - (3) The district-owned site has been productively used by the applicant district for the entire five-year period immediately ~~proceeding~~preceding the date the Approved Application is submitted to the OPSC for any of the following:
    - (A) The applicant's district administrative facility.
    - (B) A childcare or preschool program operated by the applicant district.
    - (C) An adult education program operated by the applicant district.

- (D) Any other non-school productive use as determined by the Board.
- (4) At least 75 percent of the useable acres of the district-owned site contained buildings and/or General Site Development that was used for the entire five year period for the qualifying purpose identified in (a)(3).
- (5) The CDE has determined that the district-owned site is not otherwise available as a school site.
- (6) The district has completed a cost benefit analysis as described in Section 1859.74.6 which indicates the current estimated value of the district-owned site is less than the current estimated value of an alternative site in the district.
- (7) The district-owned site is approvable by the CDE for school purposes.

If all the criteria in items (a)(1) through (a)(7) are met, the OPSC will recommend to the Board that it make a finding that the non-school function on the site must be discontinued or relocated in order to utilize the site as a school site.

A district may request the Board make a finding that the non-school function on the district-owned site must be discontinued or relocated in advance of submittal of a funding application provided it meets all the criteria in (a).

- (b) The value of the district-owned site shall be the sum of all the following:
  - (1) The value of the district-owned site determined by an appraisal made or updated no more than six months prior to submittal of the Approved Application to the OPSC. The appraisal shall include any buildings on the site and shall be made using the guidelines in Section 1859.74.1.
  - (2) The approved relocation expense of the district-owned site that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance. Do not include relocation expense applicable to the relocation of district personnel, district buildings/furnishings or district equipment.
  - (3) Four percent of the appraised value determined in (b)(1), but not less than \$50,000. This amount shall provide an allowance for appraisals, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
  - (4) The estimated DTSC costs for review, approval, and oversight of the POESA and the PEA applicable to the district-owned site.

The amounts above shall be reduced, on a prorated basis, by the percentage of any excess acreage of the district- owned site that exceeds the master plan site acreage approved by the CDE.

If the acreage of the district-owned site is less than the site size recommended by the CDE for the master planned project capacity and the district plans on acquiring additional acreage as part of the project, the additional acreage, up to the CDE recommended site size, may be funded under the provisions of Section 1859.74.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12 and 17251, Education Code.

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#### Amend Regulation Section 1859.77.4

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

- (a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in Subsections (b) or (c), as applicable, if all the following are met:
  - (1) The project meets the mandatory measures of the California Green Building Standards, California Code of Regulations Title 24, Part 11, as applicable.
  - (2) The project includes all the prerequisites in each of the five HPRC to include Sustainable Sites, Water, Energy, Materials and Indoor Environmental Quality that are within the scope of the project, and related subcategory credits.
  - (3) Once the prerequisites in (a)(1) and (a)(2) have been met, the district may select the criteria and credits it wishes to pursue to determine point award. The category, criteria and associated points are as indicated in

Section 1859.71.6(a), with the exception of (a)(3)(C) 2., Alternate Energy Sources, that has an amended point allowance that equals three to nine points; three points for the first five percent plus one point for each additional five percent thereafter of the site's annual power consumption that is produced on site not to exceed 35 percent; and the exception of (a)(3)(E)(2)f., Low emitting materials, that has an amended point allowance equal to one to four points.

- (4) A minimum of four points must come from either Section 1859.71.6(a)(3)(C)1.b. and/or 2.
- (5) The project, which includes a complete set of plans, must be submitted to and accepted by the DSA on or after May 20, 2006.
- (6) The DSA has reviewed the proposed project and concurs with the points specified in the HPRC.
- (7) The project will not receive funding from the Energy Efficiency Account.
- (8) For those projects accepted by the DSA prior to October 1, 2007, districts may utilize the *2002 CA-CHPS Criteria*, and the point standard will be in the range of 23 to 72 points. All prerequisites, credits and points obtained must be based on the *2002 Edition* requirements. Criteria and associated prerequisite or points as indicated in Section 1859.71.6 (a)(3)(D)2.a. and 4.c. and f. and (E)1.c. and 2.b. and district resolutions are ineligible, and (a)(4) is optional.
- (b) Excluding Career Technical Education Facilities, to determine the High Performance Incentive grant, multiply the appropriate grant listed in (1), (2), (3), (4), or (5) below ~~New Construction or Modernization Grant, as appropriate,~~ by the percentage allowance in accordance with the eligible high performance points ~~as follows~~ in (6), (7), or (8):
  - (1) New Construction Grant
  - (2) Modernization Grant
  - (3) Facility Hardship Square Footage Grant
  - (4) Seismic Rehabilitation Grant
  - (5) Modernization Excessive Cost Hardship Grant pursuant to Section 1859.83(e), excluding additional grants.
- (~~4~~6) For those projects accepted by the DSA prior to October 1, 2007, pursuant to (a)(8), in which the level of high performance attained, as concurred by the DSA, is a minimum of 23 points, the New Construction or Modernization Grant, as appropriate, will be multiplied by:
  - (A) Two percent at 23 points plus 0.03 percent for each point attained from 24 through 33 points; or
  - (B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or
  - (C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or
  - (D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 72 points.
- (~~2~~7) For those projects accepted by the DSA utilizing the *2006 CA-CHPS Criteria*, in which the level of high performance attained as concurred by the DSA is a minimum of 20 points, the New Construction or Modernization Grant, as appropriate, will be multiplied by:
  - (A) Two percent at 20 points plus 0.025 percent for each point attained from 21 through 33 points; or
  - (B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or
  - (C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or
  - (D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 77 points.
- (~~3~~8) For those projects accepted by the DSA utilizing the *2009 CA-CHPS Criteria*, in which the level of high performance attained as concurred by the DSA is a minimum of 20 points, the Board shall provide \$250,000 one time per school site as a High Performance Base Incentive Grant. In addition, the New Construction or Modernization Grant, as appropriate will be multiplied by:
  - (A) 2.18 percent at 20 points plus 0.025 percent for each point attained from 21 through 26 points; or
  - (B) 2.35 percent at 27 points plus 0.24 percent for each point attained from 28 through 33 points; or
  - (C) Four percent at 34 points plus 0.36 percent for each point attained from 35 through 47 points; or
  - (D) 9.05 percent at 48 points plus 0.060 percent for each point attained from 49 through 84.
- (c) For Career Technical Education Facilities Projects accepted by the DSA utilizing the 2009 CA-CHPS Criteria, in which the level of high performance attained as concurred by the DSA is a minimum of 20 points, the Board shall provide \$250,000 one time per school site as a High Performance Base Incentive Grant.

If there are no funds remaining in the High Performance School Account or the funds remaining are insufficient to fully fund the additional grant authorized in Subsections (b) or (c), the district may either withdraw its application and resubmit it should additional funds be made available in the High Performance School Account or continue with the addition to an existing site/modernization project and accept a full and final apportionment without the additional grant authorized by Subsections (b) or (c).

Any funds apportioned pursuant to this Section shall be expended only on high performance related costs (and components as approved by the OPSC).

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## Amend Regulation Section 1859.82

### 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.
- (A) If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to the OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the Current Replacement Cost of the classroom or related facility. The cost/benefit analysis may include applicable site development costs as outlined in Section 1859.76. The cost/benefit analysis shall not include increased costs associated with high performance related costs or components, with the exception of those high performance components that were pre-existing in the classroom or related facility. If the cost to remain in the classroom or related facility is less than 50 percent of the Current Replacement Cost, the district may qualify for either grant below, as applicable:
1. Modernization Excessive Cost Hardship Grant for Rehabilitation Costs pursuant to Section 1859.83 (e), or
2. a grant not to exceed 50 percent of the cost estimate that has been reviewed and approved by the OPSC and approved by the board for seismic rehabilitation.
- (B) If the request is for replacement facilities that included structural and/or seismic deficiencies, the cost/benefit analysis must also include a report from a licensed design professional identifying the minimum work necessary to obtain DSA approval. The report must contain a detailed cost estimate of the repairs. The cost/benefit analysis shall not include increased costs associated with high performance related costs or components, with the exception of those high performance components that were pre-existing in the classroom or related facility. The report and cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Construction Cost Publication and, at the OPSC's discretion, the DSA. For seismic deficiencies of the Most Vulnerable Category 2 Buildings, the report and the cost estimate for the minimum work necessary must be reviewed by the DSA.
- (C) The seismic mitigation projects must meet all of the following requirements:
1. The construction contract was executed on or after May 20, 2006;
  2. The project funding provided shall be for the minimum work necessary to obtain DSA approval;
  3. The building is designed for occupancy by students and staff; and
  4. The DSA concurs with a report by a structural engineer, which identifies structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event. If the unacceptable risk of injury is due to the presence of faulting, liquefaction or landslide, these hazards must be documented by a geologic hazards report prepared by an engineering geologist in accordance with California Building Code, Part 2, Chapter 18, section 1803A and with the concurrence of the California Geological Survey.

The structural engineer's report shall conform to the guidelines prepared by the DSA, in accordance with Education Code Section 17310.

- (D) Notwithstanding Sections 1859.93 and 1859.93.1, all applications for the seismic mitigation of the Most Vulnerable Category 2 Buildings shall be funded in the order of receipt of an Approved Application for funding.
- (E) If an Application for the seismic mitigation of the Most Vulnerable Category 2 Buildings cannot be fully apportioned or approved for placement on the Unfunded List (Lack of AB 55 Loans) because insufficient funding is available, the applicant may accept the remaining funding amount or refuse funding entirely. If partial funding is accepted, the applicant will remain eligible for the additional amount of seismic funds, up to the initial funding request, if funds become available within the Seismic Mitigation Program authority amount of \$199.5 million. If funding is refused, the Board shall consider funding the next project eligible for funding pursuant to this Section.

For any Application for the seismic mitigation of the Most Vulnerable Category 2 Buildings not apportioned or approved for placement on the Unfunded List (Lack of AB 55 Loans) pursuant to this Section, the application shall be returned to the applicant.

- (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, and high performance incentive pursuant to Section 1859.77.4 provided that the high performance points attained are related to the scope of the Facility Hardship project. 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).

Any grants provided pursuant to either (1) or (2) above will be reduced for any space deemed available by the Board in the district, the HSAA or Super HSAA that could be used to house some or all of the displaced pupils, fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

If the district qualifies for rehabilitation of facilities on the same site pursuant to subsection (a)(1)(A)2, the district is eligible for a seismic rehabilitation grant. The grant provided is pursuant to subsection (a)(1)(A)2 and EC Section 17075.10(b)(2). Additional funding may be provided for a high performance incentive grant pursuant to Section 1859.77.4. For any project for which the construction contract is awarded on or after January 1, 2012, the seismic rehabilitation 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, and high performance incentive pursuant to Section 1859.77.4 provided that the high performance points attained are related to the scope of the Facility Hardship project. 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).

Any grants provided pursuant to (b) above, shall be reduced by fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

The square footage provided, after accounting for all useable facilities on the site, shall not exceed the following:

<i>Facility</i>	<i>Elementary School Pupils</i>	<i>Middle School Pupils</i>	<i>High School Pupils</i>
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum 4,000 sq. ft.	5.3 sq. ft. per pupil minimum 5,000 sq. ft.	6.3 sq. ft. per pupil minimum 8,200 sq. ft.
Toilet	3 sq. ft. per pupil minimum 300 sq. ft.	4 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
Gymnasium (includes shower/locker)	N/A	12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.	15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.
School Administration	3 sq. ft. per pupil minimum 600 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft.	4 sq. ft. per pupil minimum 800 sq. ft.
Library/Media Center	2.3 sq. ft. per pupil plus 600 sq. ft.	3.3 sq. ft. per pupil plus 600 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft.

Any facilities eligible for facility hardship not shown in the above chart or for Alternative Education facilities not shown in the table in Section 1859.77.3(a)(5) shall be eligible for replacement square footage equal to the facilities replaced. For an Alternative Education school eligible for a facility hardship, utilize the square footage provided in Section 1859.77.3(a)(5), with the exception of toilet and administration where the chart above shall be utilized.

A district may request a determination of eligibility for facility hardship funding in advance of project funding.

- (c) A district seeking replaced facilities as a result of either (a) or (b) above must submit Form SAB 50-04 for the replaced facilities:
- (1) Within 18 months if the replacement facilities will be located on the same site.
  - (2) Within 24 months if the replacement facilities will be located on a replacement site.

If an Approved Application for the replaced facility is not accepted within the time periods identified in (c)(1) or (c)(2)

above, the Board shall re-review the criteria submitted by the district for replacement of the facility prior to apportionment of the replaced facility.

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.

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### Amend Regulation Section 1859.83

#### 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:

....

- (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. The cost/benefit analysis shall not include increased costs associated with high performance related costs or components, with the exception of those high performance components that were pre-existing in the classroom or related facility. If the district qualifies, the district is eligible for funding of ~~r~~Rehabilitation ~~e~~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. An additional grant may be provided for high performance incentive pursuant to Section 1859.77.4 provided that the high performance points attained are related to the scope of the Facility Hardship project. 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 1859.78.1(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, 17077.45 and 17250.30, Education Code; and Section 1771.3, Labor Code.