

INITIAL STATEMENT OF REASONS

SCHOOL FACILITY PROGRAM REGULATIONS

Section 1859.2. Definitions.

Specific Purpose of the Regulation

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

Need for the Regulation

It was necessary to provide definitions for specific words and terms that are used extensively in these regulations as it eliminates the need for restating definitions at every instance of use and to make a clarifying non-substantive change.

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

Specific Purpose of the Regulation

To make a minor non-substantive change.

Need for the Regulation

It was necessary to change the reference from Section 1859.160, which describes the former method of adjusting the school district's new construction eligibility, to Section 1859.162.2, the new method of adjustment provided in Assembly Bill (AB) 127, Chapter 35, Statutes of 2006.

Section 1859.60. Calculation to Determine Modernization Baseline Eligibility.

Specific Purpose of the Regulation

To add reference to a new category of projects eligible for SFP funding, as created by AB 127, in a context which is essential to carrying out the purpose of this regulation section.

Need for the Regulation

It was necessary to add the new rehabilitation component of the Charter School Facilities Program (CSFP) from AB 127, in the calculation of the age of a building for the purposes of timing future apportionments. It was also necessary to clarify under which specific program the age calculation should be made. The specific reference to modernization was removed to reflect the addition of a rehabilitation apportionment allowing for a broader term that encompasses both.

Section 1859.61. Adjustments to the Modernization Baseline Eligibility.

Specific Purpose of the Regulation

To add reference to a new category of projects eligible for SFP funding, as created by AB 127, in a context which is essential to carrying out the purpose of this regulation section.

Need for the Regulation

It was necessary to add the new CSFP rehabilitation component, from AB 127, in order to avoid duplicate funding under both the CSFP and the modernization program.

Section 1859.70.3. Available Funding for the Small High School Program.

Specific Purpose of the Regulation

To provide the appropriation for the Small High School Program authorized by AB 127.

Need for the Regulation

It was necessary to set forth the appropriation for funding apportionments, and the supporting Education Code sections, for funding applications under the Small High School Program.

Section 1859.70.4. Available Funding for High Performance.

Specific Purpose of the Regulation

To provide the appropriation for costs for designs and materials that promote energy and resource efficiency, use of recycled and low-toxin materials, and other facility components known as “high performance.”

Need for the Regulation

It was necessary to set forth the appropriation for funding apportionments for high performance requests in conformance with AB 127.

Section 1859.71.6. New Construction Additional Grant for High Performance.

Specific Purpose of the Regulation

To set forth the parameters and funding conditions for school districts to receive an additional grant for high performance for new construction projects.

Need for the Regulation

It was necessary to provide school districts with the funding conditions by which an additional grant for high performance will be calculated for new construction projects. It was also necessary to set forth the High Performance Rating Criteria (HPRC) for new construction as this will be used to evaluate the costs of design and materials that promote high performance schools. The HPRC will be determined by a point system adopted by the Green Building Initiative. The six categories used for the HPRC are as follows:

- Site
- Water
- Energy
- Materials
- Indoor Environmental Quality
- District Resolutions

New Construction projects on new sites must meet all requirements (prerequisites) in all HPRC categories; then, the school district may pick the credits they wish to pursue. To qualify for the High Performance Grant, school districts must achieve the minimum threshold of 32 points and could reach a maximum of 85. For those new construction projects that have a Division of the State Architect (DSA) received date prior to August 24, 2007, the minimum point threshold will be 28 points.

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

Specific Purpose of the Regulation

To set forth the parameters and funding conditions in order to receive an additional grant for high performance for modernization projects.

Need for the Regulation

It was necessary to provide school districts with the funding conditions by which an additional grant for high performance will be calculated for modernization projects. It was also necessary to set forth the High Performance Rating Criteria (HPRC) for modernization as this will be used to evaluate the costs of design and materials that promote high performance schools. The HPRC will be determined by a point system adopted by the Green Building Initiative. The six categories used for the HPRC are as follows:

- Site
- Water
- Energy
- Materials
- Indoor Environmental Quality
- District Resolutions

Additions to an existing site and modernization projects will be required to meet those requirements (prerequisites) that are within the scope of the project; then, school districts may pick the credits they wish to pursue. To qualify for the High Performance Grant, school districts must achieve the minimum threshold of 25 points and could reach a maximum of 81.

The High Performance Grant will be an incentive based grant that will provide from two to nine percent applied to the base grant to cover the entire costs of design and materials of a High Performance School. This incentive grant includes upfront costs for the High Performance School to be shared equally between the State and the school district.

Section 1859.78.9. Separate Apportionment for Modernization Reconfiguration under the Small High School Program.

Specific Purpose of the Regulation

To provide clarifying language that limits the amount of funding for each small high school created from reconfiguration.

Need for the Regulation

It was necessary to conform to AB 127, which provides \$200 million for the construction of new small high schools and the reconfiguration of existing high schools, which have a minimum of 1000 high school pupils, into two or more smaller high schools for the purpose of academic achievement and success in a small learning environment. The amendment will encourage greater district participation in the Small High School Program because each new small high school created may be eligible to receive up to \$500,000 for the purpose of reconfiguration.

An additional funding cycle will be set up under the same guidelines as the current Small High School Program:

- Districts must submit their academic reform strategy (ARS) to the California Department of Education (CDE) no later than February 1, 2007.
- CDE shall provide the OPSC applicant scores by April 1, 2007.
- Districts will be required to submit their new construction applications for the small high school no later than September 30, 2007, to ensure funding at the December 2007 SAB.
- Modernization Reconfiguration applications will continue to be accepted on a continuous basis until September 30, 2007.

Section 1859.83. Excessive Cost Hardship Grant.

Specific Purpose of the Regulation

To expand and clarify the regulation.

Need for the Regulation

Regarding excessive cost hardship grants for the Small High School Program, it was necessary to include reference to a new qualification criteria enacted by AB 127.

Section 1859.93.2. New Construction Adjusted Grant for the Small High School Program.

Specific Purpose of the Regulation

To expand and clarify the regulation.

Need for the Regulation

Regarding the Small High School Program, it was necessary to extend the application period and add other qualifying criteria for the program in conformance with AB 127.

Section 1859.160. General.

Specific Purpose of the Regulation

To expand and clarify the regulation pertaining to charter schools, and to make a non-substantive numerical correction.

Need for the Regulation

It was necessary to delete reference to Education Code Section "17078.50," which no longer exists, and replace it with "17078.52," which is the initial section pertaining to charter schools.

It was also necessary to add language for the new CSFP rehabilitation component, from AB 127, when referring to the filing of the Form SAB 50-09. In addition, it was necessary to clarify that documents must be provided when filing a Form SAB 50-09 to determine a charter school's financial soundness as required in Education Code Section 17078.53(e).

Section 1859.161. Preliminary Charter School Application Submittals.

Specific Purpose of the Regulation

To correct application submittal timelines relative to the Charter School Facilities Program (CSFP) bond funding as provided in AB 127.

Need for the Regulation

It was necessary to lengthen the duration of time between the passing of the bond and the beginning of the filing period due to new requirements that charter schools obtain additional documentation prior to submitting their CSFP applications for funding.

Section 1859.162. General Preliminary Charter School Apportionment Eligibility Criteria.

Specific Purpose of the Regulation

To change the preliminary apportionment eligibility criteria for those charter schools seeking CSFP funding pursuant to statute.

Need for the Regulation

Title: It was necessary to add clarifying language to the title to set this section apart from the following new criteria, provided by AB 127, that is specific either to new construction or rehabilitation.

Subsection (a): It was necessary to strike the language as it was struck in the new law from Education Code Section 17078.54(c)(3).

Subsection (b): The subsection was renumbered as a result of the elimination of Subsection (a), and the reference to Education Code Section 17078.53(c) and (e) was added as a result of the renumbering in the Education Code.

Subsection (c): It was necessary to strike the language as it was struck a result of the new law from Education Code Section 17078.56(c).

New Subsection (b): It was necessary to clarify the notification process as stated in law and to provide an evidence of notification requirement due to confusion over the certainty of notification delivery in past school facility bonds.

New Subsection (c): It was necessary to require a description of the intended project in order to guide applicants through the application procedures toward the intended school facilities.

Last Paragraph: It was necessary to require applicants that have already received preliminary apportionments to rescind their prior applications before applying for new funding under AB 127, to prevent the same project from tying up funds under two bond rounds and subsequent exclusion of other applicants.

Section 1859.162.1. Preliminary Charter School New Construction Apportionment Eligibility Criteria.

Specific Purpose of the Regulation

To describe the certification process that is necessary for a complete application when applying for funding for a charter school new construction project.

Need for the Regulation

It was necessary to add this section of regulation to reflect the new language provided in AB 127 that amends Education Code Section 17078.53(d)(2).

Subsection (a): It was necessary to clarify the method and documentation that will be required to satisfy the requirement in the above referenced law.

Subsection (b): It was necessary to state the requirement to update the school district's enrollment in order for the Office of Public School Construction (OPSC) to calculate the overcrowding preference points for that specific application should the program become oversubscribed.

Section 1859.162.2. Preliminary Apportionment Eligibility Adjustments for New Construction Projects.

Specific Purpose of the Regulation

To describe each way a district's new construction eligibility will be adjusted for funding a new construction project.

Need for the Regulation

It was necessary to add this section of regulation to reflect the new language provided in AB 127 that amends Education Code Section 17078.53.(g)(2).

Subsection (a): It was necessary to specify the eligibility adjustment to a school district's new construction baseline when a charter school applies for school facilities funding on its own behalf.

Subsection (b): It was necessary to specify the eligibility adjustment to a school district's new construction baseline when a school district applies for funding on behalf of a charter school. It was also necessary to provide reporting requirements.

Section 1859.162.13. Overlapping District Boundaries.

Specific Purpose of the Regulation

To make changes that reflect the new law and to clarify applicant responsibilities.

Need for the Regulation

Title: It was necessary to renumber this existing section due to the previous two sections being added.

1st Paragraph: It was necessary to remove language referring to the request of use of school district eligibility, to instruct the applicant that it is required to indicate the number of the district's unhoused pupils that will be served and to direct the applicant to sections of regulations that instruct them on application and eligibility criteria.

2nd Paragraph: When there are overlapping boundaries, it is necessary to inform the applicant which district would assume the responsibilities associated with a charter school project.

Section 1859.163.1. Preliminary Charter School New Construction Apportionment Determination.

Specific Purpose of the Regulation

To make changes in conformance with AB 127.

Need for the Regulation

Title: It was necessary to add to the title to set the new construction part of the CSFP apart from the new CSFP Rehabilitation component of AB 127.

Subsection (a): It was necessary to strike the language in regard to funding caps to correspond with the same language that was struck in AB 127.

Subsection (a)(1)(A-E): It was necessary to explain that the base grant is determined by the number of students to be housed in the project and not the number of unhoused students that will be reduced from the district's eligibility. It was also necessary to adjust the pupil grants in (A) through (E) back to the 1998 dollar amounts that are adjusted annually pursuant to Regulation Section 1859.71 since the Proposition 55 regulations freezing the dollar amounts were struck from the Education Code, as a result of the elimination of project caps.

Subsection (a)(4)(A): It was necessary to correct the calculation for the General Site Grant.

Subsection (a)(4)(B): It was necessary to correct the calculation for the General Site Grant.

Subsection (a)(4)(C): It was necessary to correct the calculation for the General Site Grant.

Subsection (a)(5): It was necessary to strike the references to Regulation Section 1859.83(b)(1) and (b)(2) because those references refer to SFP apportionments, whereas the calculation must be based on the preliminary charter school apportionment.

Subsection (a)(5)(A): It was necessary to provide the detail related to the requirements for a 12 percent additional grant and to correct the reference to (a)(1) above.

Subsection (a)(5)(B): It was necessary to provide the detail related to the requirements for a four percent additional grant and to correct the reference to (a)(1) above.

Subsection (a)(6): It was necessary to correct the numbering so that the regulation refers to the correct regulation section listed above.

Subsection (a)(6)(B): It was necessary to strike the language that corresponds with the stricken language in AB 127 that amends Education Code Section 17078.56 (c) regarding site acreage caps.

Subsection (a)(7): It was necessary to add and strike references to prior additional grant sections so that the calculation for the geographic location grant was corrected.

Subsection (a)(8): It was necessary to add language to allow new charter school apportionments to include an additional funding reservation (inflation factor) so that the final apportionment incorporates annual changes to the construction cost index.

Subsection (a)(8)(A): It was necessary to describe the inflator factor calculation's first step.

Subsection (a)(8)(B): It was necessary to describe the inflator factor calculation's second step.

Subsection (a)(9): It was necessary to add language to instruct the applicant to inquire as to whether their application, depending on which school facilities bond reserved the project's funding in a preliminary apportionment, is required to initiate and enforce a Labor Compliance Program. Also, it was necessary to renumber the subsection due to the new section added above and to clarify that the grant is fifty percent of the amount to initiate and enforce a Labor Compliance Program.

Subsection (a)(10): It was necessary to renumber the subsection due to the new section added above and to change the numbering to include the added section when considering the types of grants that would be considered repayable in a lease.

Last Sentence: It was necessary to add language referring to annually adjusted grants to eliminate the need to restate the adjustment at every instance of applicability.

Section 1859.163.2. Preliminary Charter School Apportionment Site Acquisition Value.

Specific Purpose of the Regulation

To make changes in conformance with AB 127.

Need for the Regulation

It was necessary to delete the concluding reference to Education Code Section 17078.56 because AB 127 repealed the former subsection (c) of that section which pertained to this regulation section.

Section 1859.163.3. Establishment of Funds for Relocation/DTSC Fee and Hazardous Material/Waste Removal.

Specific Purpose of the Regulation

To add language that specifies the regulation is intended for applicants who applied for charter school funding under Proposition 55.

Need for the Regulation

It was necessary to name the date of the last CSFP funding contained in Senate Bill 15 (Proposition 55), in order to separate this regulation from the new AB 127, as the use of separate funds for relocation, Department of Toxic Substances Control and hazardous material/waste removal are not necessary now that the funding caps have been eliminated.

Section 1859.163.4. Preliminary Charter School Rehabilitation Apportionment Eligibility Criteria.

Specific Purpose of the Regulation

To add apportionment eligibility criteria for the new CSFP rehabilitation component as provided in AB 127.

Need for the Regulation

It was necessary to state that an apportionment for CSFP rehabilitation will require the submission of an application.

Subsection (a): It was necessary to add language in regard to the rehabilitation of existing buildings as allowed in the amended version of Education Code Section 17078.54(a) under AB 127.

Subsection (b): It was necessary to add language in regard to the age limit of eligible existing buildings corresponding to the amended version of Education Code Section 17078.54(a) under AB 127.

Subsection (c): It was necessary to specify that rehabilitation projects would not be approved for existing buildings that had previously been funded under the School Facilities Program as stated in the amended version of Education Code Section 17078.54(a) under AB 127.

Subsection (d): It was necessary to specify that the school district must agree to allow the charter school to rehabilitate the school district owned existing facilities.

Last Paragraph: It was necessary to provide the applicant with instructions on calculating the age of existing school district buildings.

Section 1859.163.5. Preliminary Charter School Rehabilitation Apportionment Determination.

Specific Purpose of the Regulation

To provide the applicant with the calculation used to determine the amount of a CSFP rehabilitation project apportionment and to specify eligible square footage.

Need for the Regulation

1st Paragraph: It was necessary to explain the basis of the rehabilitation apportionment and to define the eligible square footage.

2nd Paragraph: It was necessary to specify how a rehabilitation apportionment would be calculated.

Subsection (a): It was necessary to refer to two possible calculations for the rehabilitation apportionment.

Subsection (a)(1): It was necessary to refer to the grant amount calculation that is determined below as being specifically applicable to rehabilitation square footage.

Subsection (a)(1)(A): It was necessary to describe the first step of the rehabilitation grant calculation, based on the square footage of classrooms in the project.

Subsection (a)(1)(B): It was necessary to describe the second step of the rehabilitation grant calculation, based on the additional square footage of any multi-purpose room in the project.

Subsection (a)(1)(C): It was necessary to describe the third step of the rehabilitation grant calculation, based on the additional square footage of any gymnasium in the project.

Subsection (a)(1)(D): It was necessary to describe the fourth step of the rehabilitation grant calculation, based on the additional square footage of any library in the project.

Subsection (a)(1)(E): It was necessary to describe the fifth step of the rehabilitation grant calculation, based on the additional square footage of any administration building in the project.

Subsection (a)(1)(F): It was necessary to instruct the applicant in the calculation of the total square footage in the project.

Subsection (a)(1)(G): It was necessary to instruct the applicant in the calculation of the rehabilitation grant amount based on square footage.

Subsection (a)(2): It was necessary to refer to the calculation that is determined below as being specifically applicable to the new construction grant amount based on State loading standards.

Subsection (a)(2)(A): It was necessary to describe the first step of the new construction grant amount calculation by determining the grade level of the students who will occupy each classroom.

Subsection (a)(2)(B): It was necessary to describe the second step of the new construction grant amount calculation by determining the number of students per classroom based on State loading standards.

Subsection (a)(2)(C): It was necessary to describe the last step of the new construction grant amount calculation by instructing the applicant to multiply the numbers determined in (B) above by the corresponding current pupil grants.

Subsection (b): It was necessary to inform the applicant of a grant available for small size projects that house 200 or fewer pupils.

Subsection (b)(1): It was necessary to inform the applicant of the small project size grant calculation for projects that house fewer than 101 pupils.

Subsection (b)(2): It was necessary to inform the applicant of the small project size grant calculation for projects that house between 101 and 200 pupils.

Subsection (c): It was necessary to inform the applicant of the availability and calculation of a grant for urban location, security requirements and impacted site and under which conditions the grant would be available.

Subsection (d): It was necessary to inform the applicant of the geographic location grant calculation available for projects that are considered remote according to Section 1859.83(a)

and to correct the lettering to include all the grants on which the geographic location grant calculation is based.

Subsection (e): It was necessary to inform the applicant of the grant available for projects that are required to install elevators.

Subsection (f): It was necessary to add language to allow new charter school apportionments, to include an additional funding reservation (inflation factor) so that the final apportionment incorporates annual changes to the construction cost index.

Subsection (f)(1): It was necessary to describe the inflation factor calculation's first step.

Subsection (f)(2): It was necessary to describe the inflation factor calculation's second step.

Subsection (g): It was necessary to inform the applicant of the grant available for a Labor Compliance Program, if required.

Subsection (h): It is necessary to inform the applicant that repayment of a lease for the matching share owed to the State will be based on the applicable grants listed above.

Last Sentence: To inform the applicant that the calculations in (a) through (e) are adjusted annually and do not necessarily represent the current dollar amount of the grants.

Section 1859.163.6. Preliminary Charter School Rehabilitation Apportionment Eligibility for Sites Previously Funded Under the SFP Modernization Program.

Specific Purpose of the Regulation

To provide clarifying language stating under what circumstances rehabilitation funding will be provided if a building was previously *partially* modernized with State funding.

Need for the Regulation

It was necessary to state that an applicant will not receive all of the rehabilitation grant calculated in Regulation Section 1859.163.5 if any part of the buildings being rehabilitated had been previously modernized under the SFP Modernization program.

Section 1859.163.7. Eligible Use of Charter School Facilities Program Rehabilitation Funds.

Specific Purpose of the Regulation

To provide clarifying language that states the scope of a project allowed under the CSFP rehabilitation program and to state the consequences of reconfiguring existing spaces originally dedicated for one purpose into another purpose.

Need for the Regulation

It was necessary to state that State funding may not be used to replace a classroom or Minimum Essential Facilities that were eliminated as a result of a CSFP rehabilitation project.

Section 1859.164. Application Funding Criteria.

Specific Purpose of the Regulation

To add language that specifies the procedure used when determining which application will be funded when two or more applications have the same merit, and to make a minor non-substantive grammatical change.

Need for the Regulation

4th Paragraph, 1st Sentence: It was necessary to strike and add language to correct a grammatical error.

4th Paragraph, 2nd Sentence: It was necessary to strike and add language to provide a broader term for the entity applying for CSFP funding since the existing term implies the exclusion of school districts when school districts can actually apply.

5th Paragraph: It was necessary to add language to inform the applicant of criteria that will be used to determine the funding priority of applications of equal merit that have the same received date.

Subsection (a): It was necessary to add language to inform the applicant that an application from an entity that has not already received funding from specified public sources will have a higher priority than an application that has received funding in the event the criteria above results in a tie.

Subsection (b): It was necessary to add language to inform the applicant that an application that uses an existing facility will have a higher priority over an application that builds a new facility in the event the criteria above results in a tie.

Subsection (c): It was necessary to add language to inform the applicant that an application that relieves overcrowding to the highest degree will receive priority for funding in the event the criteria above results in a tie and to provide the calculation used to determine the percentage used to compare applications.

Last Paragraph: It was necessary to add language to inform the applicant that a lottery system would be used in the event the criteria above should result in a tie.

Section 1859.164.1. Calculation of Preference Points.

Specific Purpose of the Regulation

To make minor non-substantive changes, to add language that reflects the new law and to revise the calculation of preference points.

Need for the Regulation

1st Paragraph: It was necessary to re-letter the subsections that relate to the preference point categories in order to add a fourth category in regard to preference given to existing facilities as stated in the new legislation in Education Code Section 17078.56(b) and to adjust the total number of preference points available.

Subsection (a), 1st Sentence: It was necessary to add a third option from which to draw low-income data so that applicants could more accurately report the low-income date for their proposed project.

Subsection (a), 2nd Sentence: It was necessary to add and strike language to acknowledge that a third choice was added to the first sentence.

Subsection (b), 1st Paragraph: It was necessary to strike and add language to clarify and to distinguish the first paragraph and chart as the first step in calculating the degree of which the project will relieve overcrowding. See examples of calculation following subsection (b), 3rd paragraph.

Subsection (b), 2nd Paragraph: It was necessary to add language to explain that the first chart is the maximum number of points an application would be able to receive and to instruct the applicant in the calculation of the second component of the preference point category, the “effort” percentage, and to refer the applicant to the chart that follows the second paragraph. See examples of calculation following subsection (b), 3rd paragraph.

Subsection (b), 2nd Chart: It was necessary to add language to provide the applicant with the percentage of overcrowded category points the application will receive corresponding to the “effort” percentage calculated in the second paragraph. See examples of calculation following subsection (b), 3rd paragraph.

Subsection (b), 3rd Paragraph: It was necessary to add language to instruct the applicant in the third step of the overcrowded preference point category which requires the final number of preference points to be determined by applying the percentage in the “Ratio of Overcrowded Points Awarded” column of the second chart to the “Preference Points Assigned” column of the first chart.

EXAMPLES:

Project Capacity	# housed (determined by certification)	effort to relieve overcrowding (#housed/project capacity)	Resulting ratio of points
100	42	42/100 or 42%	100%
500	100	100/500 or 20%	60%
350	15	15/350 or 4.3%	20%
200	60	60/200 or 30%	80%

Subsection (c): It was necessary to strike and add language to change the number of preference points for non-profit entities to more equitably distribute the total possible number of preference points in each of the four categories specified in the Education Code including the new category added in Subsection (d).

Subsection (d): It was necessary to add language that requires preference be given to existing facilities in addition to the original three categories corresponding to the requirement in Education Code Section 17078.56(b).

Section 1859.164.2. Preliminary Charter School Apportionment Fund Release.

Specific Purpose of the Regulation

To make minor non-substantive changes and to add conditional language for fund releases.

Need for the Regulation

Subsection (a): It was necessary to add references to sections to allow rehabilitation projects to be eligible for the early release of design funds.

2nd Paragraph: It was necessary to add language that requires all fund releases, regardless of which legislation or bond that it originated from, to have the Charter School Agreements executed first as required by legal counsel opinion.

Section 1859.165. Conversion of Preliminary Charter School Apportionment.

Specific Purpose of the Regulation

To strike language that is no longer accurate under AB 127.

Need for the Regulation

It is necessary to strike language that refers only to the receipt of a new construction adjusted grant, considering that projects receiving a preliminary apportionment with the addition of the rehabilitation component of AB 127 will also be eligible to receive an adjusted grant.

Section 1859.166. Time Limit on Preliminary Charter School Apportionment.

Specific Purpose of the Regulation

To make changes to reflect the new law and to provide eligibility adjustment directives for rescinded applications.

Need for the Regulation

Subsection (b)(2): Due to the changes in eligibility requirements provided in AB 127, specifically in Education Code Section 17078.54(c)(3), it was necessary to strike and add language in regard to the adjustment to a school district's new construction eligibility should a CSFP preliminary apportionment be rescinded.

Subsection (c)(2): Should a CSFP new construction preliminary apportionment that received early fund releases be rescinded, it was necessary to add language to specify that a school district's new construction eligibility will be adjusted according to the number of unhoused students the school district certified would be housed in the charter school project. The adjustment would be based on a ratio of the number of certified unhoused students compared to the number of students in the charter school application and then applied to the eligible expenditures. In addition, it was necessary to add language to state that any funds released would still be subject to a fifty percent local matching share requirement.

Section 1859.167. Final Charter School Apportionment.

Specific Purpose of the Regulation

To add language to specify that the regulation is intended for applicants that received apportionments under Proposition 55.

Need for the Regulation

Subsection (a): It was necessary to strike and add language to differentiate final charter school apportionments from the Proposition 55 school facilities bond which has different criteria.

Subsection (a)(1): It was necessary to strike language in regard to the particular year a charter school facility account was provided by a school facilities bond and to replace it with a broader term to incorporate references to the charter school facility account provided for in AB 127 and any future school facilities bonds.

Subsection (a)(2)(A): It was necessary to strike language in regard to the particular year an unrestricted charter school fund was provided by a school facilities bond and to replace it with a broader term to incorporate references to the unrestricted charter school fund provided for in AB 127 and any future school facilities bonds.

Subsection (a)(2)(B): It was necessary to strike language in regard to the particular year an unrestricted charter school fund was provided by a school facilities bond and to replace it with a broader term to incorporate references to the unrestricted charter school fund provided for in AB 127 and any future school facilities bonds.

Subsection (b): It was necessary to strike and add language to differentiate final charter school apportionments from the Proposition 55 school facilities bond which has different criteria.

Subsection (b)(2): It was necessary to strike the reference to Regulation Section 1859.163.1(a)(1) to allow for a final apportionment commensurate with the construction cost index in place at the time of conversion.

Subsection (b)(3): It was necessary to renumber the reference to the additional grant due to the renumbering of the subsections in Regulation Section 1859.163.1(a), and to strike the reference to Regulation Section 1859.163.1(a) and the end of the sentence because it no longer reflects the correct calculation.

Subsection (b)(6): It was necessary to strike the reference to Regulation Section 1859.163.1 because the calculation in that section no longer applies to the projects funded under Proposition 55.

Subsection (b)(6)(A): It was necessary to strike the reference to Regulation Section 1859.163.1 because the calculation in that section no longer applies to the projects funded under Proposition 55.

Subsection (b)(6)(C): It was necessary to strike the reference to Regulation Section 1859.163.1 because the calculation in that section no longer applies to the projects funded under Proposition 55. The words "for construction costs" were added to clarify the subject of this preliminary apportionment calculation.

Section 1859.167.1. Final Charter School Apportionment Conversion Site Acquisition Guidelines for Projects Apportioned on February 23, 2005.

Specific Purpose of the Regulation

To add language to specify that the regulation is intended for applicants that received apportionments under Proposition 55.

Need for the Regulation

It was necessary to add language in the title to differentiate final charter school apportionment conversion site acquisition guidelines for the Proposition 55 school facilities bond apportionment recipients which have different criteria.

Section 1859.169.1. Charter School Project Savings.

Specific Purpose of the Regulation

To specify that any savings from a CSFP apportionment will be returned to the State.

Need for the Regulation

It was necessary to add language to reflect the requirement specified by Education Code Section 17078.58(d).

Technical Documents Relied Upon

The State Allocation Board's Action item, dated September 27, 2006, entitled "Assembly Bill (AB) 127 Amendments to Program Regulations."

The State Allocation Board's Action item, dated October 25, 2006, entitled "Amendments to the School Facility Program Regulations for the General Site Development Grant, Small High School Program, and Charter School Facilities Program."

Alternative 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.

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 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. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

SCHOOL FACILITY PROGRAM FORMS

Application for Funding, Form SAB 50-04 (Revised 09/06)

Specific Purpose of Form

For school districts and charter schools to apply for a final and full apportionment for their new construction, modernization or rehabilitation projects, to request separate site or design apportionments if eligible or to apply for facility hardship or advance funding for evaluation and response action.

Need for the Form

Page 2, 1st column under “Type of Application”: It was necessary to add language to allow the applicant to apply for a rehabilitation as well as new construction final charter school apportionment to reflect the new addition of the rehabilitation component in AB 127.

Page 2, 2nd column under “Type of Project”: It was necessary to instruct the applicant to supply the square footage of a rehabilitation project.

Page 3, 2nd column under “Excessive Cost Hardship Request”: In order for a rehabilitation applicant to request excessive cost hardship grants, it was necessary to add the new rehabilitation component of the CSFP to the list of eligible application types.

Page 5, 1st column under “Type of Application – Check Only One”: It was necessary to add a check box to allow the applicant to apply for a rehabilitation as well as new construction final charter school apportionment to reflect the new addition of the rehabilitation component in AB 127.

Page 5, 2nd column under “Type of Project”: It was necessary to add blank lines so that the applicant can supply the amounts of toilet and non-toilet square footage in a rehabilitation project.

Page 6, 1st column under “Excessive Hardship Request”: In order for a rehabilitation applicant to request excessive cost hardship grants, it was necessary to add the new rehabilitation component to the second title.

Page 7, 1st column under “Architect of Record or Licensed Architect Certification”: It was necessary to add rehabilitation in addition to modernization in the certifications having to do with the project producing more or less classrooms than was originally in the school facilities.

Page 7, 1st column under “Architect of Record or Design Professional Certification”: It was necessary to add the rehabilitation component of the CSFP to the certification that the project is 60% commensurate just like all other SFP projects.

Page 7, 2nd column under “Certification”: It was necessary to add the certification referring to Regulation Section 1859.163.6 to make sure that the applicant knows that an apportionment for funding may be off set by previous modernization funding the project may have been granted. In addition, it was necessary to add the rehabilitation component of the CSFP to the certification that the project received California State Department of Education plan approval.

Fund Release Authorization, Form SAB 50-05 (Revised 09/06)

Purpose of Form

An applicant uses this form to get previously apportioned funds released to the county treasury for the school district's project with the exception of design funds which do not require the filling out of a form.

Need for the Form

Page 1, 2nd column under "Part II. Preliminary Charter School Apportionment": It was necessary to reorganize the form into specific instructions for the different types of fund releases due to the increased complication of requirements for each and, subsequently, to instruct the applicant on how to get separate design and/or site apportionment funds released.

Page 1, 2nd column under "Part IV. New Construction/Modernization/Charter School Rehabilitation": It was necessary to reorganize the form into specific instructions for the different types of fund releases due to the increased complication of requirements for each and, subsequently, to give the applicant a detailed description of the information to place on the form for a fund release.

Page 2, 1st column under "Part II. Preliminary Charter School Apportionment": It was necessary to have the applicant certify that the charter school, school district and the State have signed the Charter School Agreements for design only apportionments and for separate site apportionments.

Page 2, 2nd column under "Part IV. New Construction/Modernization/Charter School Rehabilitation": It was necessary to add the rehabilitation component of the program to the title and to have the applicant certify that the charter school, school district and the State have signed the Charter School Agreements.

Page 3, Certification at bottom of page, 3rd line (second bullet): It was necessary to add the rehabilitation component of the program to the certification.

Application for Charter School Preliminary Apportionment, Form SAB 50-09 (Revised 09/06)

Purpose of Form

This form is used to request a preliminary apportionment for the new construction or rehabilitation of charter school facilities.

Need for Form

Page 1, 1st column under "General Instructions", 1st paragraph: It was necessary to add the rehabilitation component of the program in conformance with AB 127.

Page 1, 1st column under "General Instructions", 3rd paragraph: It was necessary to strike the reference to the district providing eligibility because the district no longer necessarily has to have eligibility under AB 127.

Page 1, 1st column under “General Instructions”, 4th paragraph: It was necessary to provide language to instruct the applicant of the information and documentation required for any charter school preliminary apportionment whether it be for new construction or rehabilitation.

Page 1, 1st column under “General Instructions”, 5th paragraph: For new construction applicants, it was necessary to instruct the applicant of the documentation required in addition to the application.

Page 1, center of 2nd column under “General Instructions”: For rehabilitation applicants, it was necessary to instruct the applicant of the documentation required in addition to the application.

Page 1, 2nd column under “General Instructions”, 4th paragraph: It was necessary to strike and add language to add the rehabilitation component of the program and to specify that site acquisition for associated is new construction projects.

Page 2, 1st column under “Specific Instructions”: It was necessary to strike specific notification delivery requirement language and replace it with a broader policy to allow for more options to deliver notification as long as it is verifiable. In addition, it was necessary to specify that a school district certification and enrollment update are required, to remove language that refers to the use of a school district’s eligibility and to add new language that refers to the new method for adjusting a school district’s eligibility.

Page 2, 1st column under “Type of Application”: It was necessary to renumber the references to the form boxes because an extra box was added for additional information needed on new construction projects due to the new school district certification required in AB 127.

Page 2, 1st column under “Type of Project”: It was necessary to strike the language that refers to grade levels and types of pupils assigned to the project because it was expanded and moved lower on the form under “Additional Information-New Construction Only” in order to capture the school district certified pupils assigned in addition to the pupils assigned by the applicant.

Page 2, 1st column under “Number of Classrooms/Useable Acres”: It was necessary to instruct the applicant to obtain the estimated Proposed Useable Acres from the California Department of Education and to strike the language that corresponded with the language that was stricken from the Education Code by AB 127 that referred to acreage caps.

Page 2, 2nd column under “Additional Project Information – New Construction Only”: It was necessary to instruct the applicant to provide the number and grade level of the school district’s unhoused students that will be attending the charter school according to the school district’s certification and the number and grade level of pupil grants for which the charter school is applying.

Page 2, 2nd column under “Increase in Preliminary Apportionment – New Construction Only”: It was necessary to renumber this section due to the new section added above it. It was also necessary to add to the title to distinguish it from the new rehabilitation component of the program. For consistency, the order of “d.”, “e.” and “f.” were changed to correspond with the same order of these additional grants under the School Facility Program regulations. Last, it was necessary to renumber the regulation sections in “e.” and “f.” to correspond with the new renumbered sections in the regulations explained earlier in this Initial Statement of Reasons.

Page 2, 2nd column under “Additional Project Information - Rehabilitation”: It was necessary to request that the applicant supply the number of square feet contained in the proposed project because the funding is based on the square footage.

Page 2, 2nd column into Page 3, 1st column under “Increase in Preliminary Apportionment-Rehabilitation Only”: It was necessary to provide references to the CSFP regulations for information on whether the applicant’s project would be eligible for increases to a rehabilitation grant and to instruct the applicant to check the applicable boxes.

Page 3, 1st column under “Labor Compliance Program”: It was necessary to instruct the applicant to indicate whether or not the project would have to have a Labor Compliance Program pursuant to Labor Code Section 1771.7.

Page 3, 1st column under “Priority Order”: It was necessary to renumber this section due to four new sections that were added to the form before it which include parts “4.”, “6.”, “7.” and “8.”

Page 3, 1st column under “Charter School Information”: It was necessary to renumber this section due to four new sections that were added to the form before it which include parts “4.”, “6.”, “7.” and “8.” In addition, it was necessary to strike language referring to information contained in “e.” because the low-income calculation is determined by the number of students eligible for the free/reduced lunch program and not the number actually participating.

Page 3, 2nd column. It was necessary to renumber the “Certification” section due to the sections added before it.

Page 4, 1st column under “Type of Application-Check Only One”: It was necessary to add the rehabilitation component of the program as a choice of application type and to specify that the other type of preliminary apportionment is for new construction.

Page 4, 1st column under “Type of Project”: It was necessary to strike the language that refers to grade levels and types of pupils assigned to the project because it was expanded and moved lower on the form under “Additional Information-New Construction Only” in order to capture the school district certified pupils assigned in addition to the pupils assigned by the applicant. It was also necessary to add language that asks for the name of the district in which the charter school is physically located so that OPSC can monitor school district related requirements.

Page 4, 1st column under “Additional Project Information-New Construction Only”: It was necessary to provide space for the applicant to report the number and grade level of pupil grants for which the charter school is applying and, in addition, the number and grade level of the school district’s unhoused students that will be attending the charter school according to the school district’s certification. It was also necessary to request whether the new construction project is an addition to an existing site and for the name of the school site due to the need to consider the whole site, including the new addition, when processing the application.

Page 4, 1st column into the 2nd column under “Increase in Preliminary Apportionment – New Construction Only”: It was necessary to renumber this section due to the new section that was added just above it. It was also necessary to add to the title to distinguish it from the new rehabilitation component of the program. For consistency, the order of “d.”, “e.” and “f.” were changed to correspond with the same order of these additional grants under the School Facility Program regulations.

Page 4, 2nd column under “Additional Project Information – Rehabilitation Only”: It was necessary to request that the applicant supply the number of both non-toilet and toilet square footage contained in the proposed project because the funding is based on those square footage amounts.

Page 4, 2nd column under “Increase in Preliminary Apportionment – Rehabilitation Only”: It was necessary to list all of the possible increases to the rehabilitation preliminary apportionment so that the applicant can check the boxes that apply.

Page 4, 2nd column under “Labor Compliance Program”: It was necessary to have the applicant indicate whether or not the project would have to have a Labor Compliance Program pursuant to Labor Code Section 1771.7.

Page 4, 2nd column. It was necessary to renumber “Priority Order” due to the sections added before it.

Page 4, 2nd column. It was necessary to renumber “Charter School Information” due to the sections added before it.

Page 5, 1st column under “Certification”: It was necessary to renumber due to the prior sections that were added to the form. It was also necessary to add certifications that the applicant and the school district have considered existing facilities according to Education Code Section 17078.53(e). In addition, for charters schools applying on their own behalf, it was necessary to add a certification that the charter school has an agreement with the school district to rehabilitate the district’s facilities or that the charter school and school district have complied with the unhoused pupil certification requirements in Regulation Section 1859.162.1.

Technical Documents Relied Upon

The State Allocation Board’s Action item, dated September 27, 2006, entitled “Assembly Bill (AB) 127 Amendments to Program Regulations.”

Alternatives to the Proposed Regulatory Actions 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.

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

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

STATE SCHOOL DEFERRED MAINTENANCE PROGRAM REGULATIONS

Section 1866.4. Five Year Plan Requirements.

Specific Purpose of the Regulation

To add reference to a new category of projects eligible for SFP funding, as created by AB 127, in a context which is essential to carrying out the purpose of this regulation section.

Need for the Regulation

This section sets forth guidelines for school districts to file with the Board a five year plan for deferred maintenance needs of the district, and to revise the five year plan after work listed thereon has been performed using certain State funding programs. It was necessary to add the new category of charter school rehabilitation projects as one of the referenced State funding programs, because this type of project was created by AB 127 (codified at Education Code Section 17078.54).

Section 1866.13. Duplication of Applications.

Specific Purpose of the Regulation

To add reference to a new category of projects eligible for SFP funding, as created by AB 127, in a context which is essential to carrying out the purpose of this regulation section.

Need for the Regulation

This section protects against duplicate apportionments of State funds by requiring school districts to exclude work in deferred maintenance extreme hardship projects from being funded in SFP modernization projects, and to eliminate from five year plans any projects that will be funded as SFP modernization projects or Federal Renovation Program projects. It was necessary to add the new category of funding for charter school rehabilitation projects as requiring elimination of such projects from five year plans, because this type of project was created by AB 127 (codified at Education Code Section 17078.54).

Technical Documents Relied Upon

The State Allocation Board's Action item, dated September 27, 2006, entitled "Assembly Bill (AB) 127 Amendments to Program Regulations."

Alternative 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.

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 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. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.