

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, January 24, 2007

ASSEMBLY BILL 607 AMENDMENTS TO
EMERGENCY REPAIR PROGRAM REGULATIONS

PURPOSE OF REPORT

To request:

1. Adoption of the proposed emergency regulations to implement and administer statutory amendments to the Emergency Repair Program (ERP).
2. Authorization to file the proposed emergency regulations with the Office of Administrative Law (OAL).

DESCRIPTION

As a continuation of the provisions of the Williams settlement, Assembly Bill (AB) 607, Chapter 704, Statutes of 2006 (Goldberg) adopts various changes to the Education Code related to the ERP in order to expedite funding, and provide greater program flexibility to encourage participation in order to help ensure that all California school children have equal access to clean, safe, and functional school facilities. AB 607 adds a provision that would enable Local Educational Agencies (LEAs) to request grant funding under the ERP for projects that have not commenced or are not completed.

Additionally, AB 607 requires the list of schools that are eligible to participate in the ERP be updated every three years, in accordance with the school's Academic Performance Index (API) ranking. Schools ranked in deciles one to three based on the 2006 API would be considered eligible for funding based on the updated list in the 2007-08 fiscal year.

STAFF COMMENTS

By utilizing the State Allocation Board (SAB) Implementation Committee meetings as a forum to gather input from interested parties, the Office of Public School Construction (OPSC) has developed proposed amendments to the ERP Regulations, contained in the Attachment, to implement the changes detailed above.

Proposed regulation amendments also include changes to the *Application for Reimbursement and Expenditure Report*, Form SAB 61-03, which has been renamed *Grant Request*, Form SAB 61-03, and revised to accommodate either grant or reimbursement funding requests. Additionally, a new form, the *Expenditure Report*, Form SAB 61-04, was created to accommodate the submittal of the expenditure information and certification of project completion subsequent to the funding request. This was necessary because it is expected that the majority of projects will not be completed upon submittal of the initial *Grant Request*, and, therefore, the actual expenditures would have to be reported at a later date. The Form SAB 61-03 and the Form SAB 61-04 are included in the Attachment.

It is important to note that, although neither AB 607 nor the ERP Regulations specifically contemplate portable classroom replacement, this topic was included in Implementation Committee discussions as the OPSC has received requests from LEAs to replace portables with ERP funds. The OPSC will consider requests for portable classroom replacement on a case-by-case basis because in some circumstances it would be more cost effective to replace the portable rather than to repair each system or component in the portable.

STAFF COMMENTS (cont.)

In the discussions at the Implementation Committee meetings, an Implementation Committee member asked whether portables that were not purchased under the State Relocatable Phase-Out Plan could be provided to a district that was attempting to replace its own deteriorated portable under the ERP. Staff explored this possibility; however, at this time, Staff believes it is not a viable option for the Board. In order to provide districts with the means to seek grant funding for critical repairs, the OPSC will submit these regulations as emergency regulations to the OAL following adoption by the Board.

RECOMMENDATIONS

1. Adopt the proposed amendments to the regulations as shown on the Attachment and begin the regulatory process.
2. Authorize the OPSC to file these emergency regulations with the OAL.

BOARD ACTION

In considering this item, the Board approved Staff's recommendations with the exception of Regulation Section 1859.323.2(j). The Board requested that applications with requests for administrative fees not be presented for approval until the issue regarding the fees is brought back to the Board for discussion.

ATTACHMENT
PROPOSED AMENDMENTS TO THE
EMERGENCY REPAIR PROGRAM REGULATIONS
State Allocation Board Meeting, January 24, 2007

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Amend Regulation Section 1859.302 as follows:

Section 1859.302. Definitions.

For the purposes of these Subgroup 5.7 regulations, the terms set forth below shall have the following meanings, subject to the provisions of the Act:

"Accepted Application(s)" means a Local Educational Agency (LEA) has submitted the application and all documents to the Office of Public School Construction (OPSC) that are required to be submitted with the application as identified in the General Information and Required Documentation section of the Form SAB 61-03, *Grant Request*, (Rev. 01/07), as appropriate, and the OPSC has accepted the application.

"Act" means California Education Code (EC) Sections 17592.70 through 17592.73, inclusive, and 41207.5.

"Apportionment" means an allocation of funds by the Board for eligible School Facilities Needs Assessment Grant Program or Emergency Repair Program ~~expenditures~~ costs.

~~"Accepted Application(s)" means a Local Educational Agency (LEA) has submitted the application and all documents to the Office of Public School Construction (OPSC) that are required to be submitted with the application as identified in the General Information Section of the Form SAB 61-03, *Application For Reimbursement and Expenditure Report*, (New 02/05), as appropriate, and the OPSC has accepted the application.~~

"Board" means the State Allocation Board as established by Section 15490 of the Government Code.

"CBEDS Report" means the enrollment information provided through the California Basic Educational Data System (CBEDS) by the LEA to the California Department of Education (CDE).

"Certification of Eligibility" means the on-line worksheet provided by the OPSC and accessible through the OPSC Website at www.opsc.dgs.ca.gov for the purpose of a one-time determination of whether a school site meets the provisions of Section 1859.311(b).

"Cosmetic Repairs" means repairs that enhance the physical environment of the school and are not directly related to the mitigation of a health and safety hazard.

"Deferred Maintenance Program (DMP)" means the State deferred maintenance funding authorized by EC Sections 17582 through 17588, inclusive.

"Emergency Facilities Needs" means structures or systems that in their present condition pose an immediate threat to the health and safety of pupils and staff while at school.

"Emergency Repair Program (ERP)" means the repair program implemented under the Act, Senate Bill 6, Chapter 899, Statutes of 2004.

~~"Emergency Repair Program ERP Grant" means an Apportionment provided by the State to reimburse the LEA for eligible costs, pursuant to EC Section 17592.72 and Regulation Sections 1859.323, 1859.323.1, and 1859.323.2.~~

~~"Expended" means work has been completed, or services rendered, and a warrant has been issued for payment.~~

"Employee" means an individual that is a classified or certificated temporary, probationary or permanent employee receiving a warrant as payment from the LEA.

"Expended" means work has been completed, or services rendered, and a warrant has been issued for payment.

"Form SAB 61-01" means the *Needs Assessment Report*, Form SAB 61-01 (New 01/05), which is incorporated by reference.

"Form SAB 61-02" means the *Expenditure Report*, Form SAB 61-02 (New 02/05), which is incorporated by reference.

"Form SAB 61-03" means the ~~*Grant Request Application For Reimbursement and Expenditure Report*~~, Form SAB 61-03 ~~(New 02/05 Rev 01/07)~~, which is incorporated by reference.

"Form SAB 61-04" means the *Expenditure Report*, Form SAB 61-04 (New 01/07), which is incorporated by reference.

"Grant" means an apportionment for a request for an Emergency Repair Program project.

"Grant Adjustment" means an increase or a decrease in the Grant after review of the Form SAB 61-04.

"Interim Evaluation Instrument" means the evaluation tool developed pursuant to EC Section 17002(d)(2).

"Like-Kind Material/System" means a building material or system that is substantially identical in function to the existing building material or system to be replaced.

"Local Educational Agency (LEA)" means a school district or county office of education meeting the requirements of Section 14101(18)(A) or (B) of the federal Elementary and Secondary Education Act of 1965.

"LEA Representative" means a member of the LEA staff or other agent authorized to execute and file application(s) with the Board on behalf of the LEA and/or act as liaison between the Board and the LEA.

~~"Local Educational Agency (LEA)" means a school district or county office of education meeting the requirements of Section 14101(18)(A) or (B) of the federal Elementary and Secondary Education Act of 1965.~~

"Needs Assessment" means the review of the facilities conducted pursuant to the Section 1859.315(c), the Form SAB 61-01 and EC Section 17592.70.

"Needs Assessment Grant" means the funding provided pursuant to EC Section 17592.70(c) and Sections 1859.312 and 1859.313.

"Nonessential Repairs" means work that is not directly related to the mitigation of a health and safety hazard including, but not limited to, repairs to correct items not in compliance with Title 24 of the California Code of Regulations that existed prior to and are not an Emergency Facilities Needs.

"Office of Public School Construction (OPSC)" means the State office within the Department of General Services that assists the Board as necessary and administers the School Facilities Needs Assessment Grant Program and the Emergency Repair Program.

"Pupil" means a student enrolled in any grade Kindergarten through grade twelve including individuals with exceptional needs meeting the provisions of EC Section 56026.

"Ready for Apportionment" means a review of an Accepted Application has been completed by the OPSC and it has been determined that it meets all requirements of law for an Apportionment, and the OPSC will recommend approval to the Board.

"Routine Restricted Maintenance Account" means the account into which funds are deposited by LEAs pursuant to EC Section 17070.75.

"School Facilities Emergency Repair Account" means the account established by the OPSC pursuant to EC Section 17592.71(a).

"School Facilities Needs Assessment Grant Program" means the one-time assessment of school facilities implemented under the Act, Senate Bill 6, Chapter 899, Statutes of 2004.

"School Facility Program (SFP)" means the Leroy F. Greene School Facilities Act of 1998, commencing with EC Section 17070.10.

"Section" means a section in these Subgroup 5.7 regulations.

"Unfunded List" means an information list of unfunded projects including projects partially funded on a prorated basis pursuant to Section 1859.322 (b)(1).

"Web-Based Needs Assessment" means the on-line Form SAB 61-01 provided by the OPSC and accessible through the OPSC Website at www.opsc.dgs.ca.gov for the one-time purpose of submitting the Needs Assessment data electronically.

"Web-Based Progress Report Survey" means the on-line worksheet provided by the OPSC and accessible through the OPSC Website at www.opsc.dgs.ca.gov for the purpose of submitting a one-time report on the progress made toward completing the Needs Assessment.

~~"Web-Based Needs Assessment" means the on line Form SAB 61-01 provided by the OPSC and accessible through the OPSC Website at www.opsc.dgs.ca.gov for the one time purpose of submitting the Needs Assessment data electronically.~~

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.70, 17592.71, 17592.72 and 17592.73, Education Code.

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Amend Regulation Section 1859.318 as follows:

Section 1859.318. Supplement, Not Supplant, Needs Assessment Grant Funds.

Needs Assessment Grant funds remaining after the completion of the Needs Assessment must be used for repairs authorized in Section 1859.313(b) and must be used to supplement, not supplant, funds already available for routine, deferred, planned and scheduled maintenance, or emergency repairs of school facilities. In accordance with this requirement, the LEA must comply with all of the following in the 2005/2006 fiscal year:

- (a) Deposit the funding level required pursuant to EC Section 17070.75 in the Routine Restricted Maintenance Account, if participating in the SFP.
- (b) Deposit an amount equal to the State's matching share of the basic grant pursuant to EC Section 17584, if participating in the DMP.
- (c) If either (a) or (b) are not applicable, the district must budget an amount not less than the average maintenance budget for the three previous fiscal years.
- (d) In an effort to ensure that each of its schools is maintained in good repair, the LEA shall expend or encumber by issuing a purchase order or entering into a legal contract or document, or dedicate funds from the sources listed in subsections (a) through (c), above, to correct problems identified in the facilities inspection system required pursuant to EC Section 17070.75(e), which may include items listed in the DMP five-year plan, or the Interim Evaluation Instrument that do not qualify for funding as described in EC Section 17592.72(c)(1). For those projects eligible for ERP funding, the LEA may seek ~~reimbursement~~ funding at any time provided that the LEA has or will meet the above requirements.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.72 and 17592.73, Education Code.

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Amend Regulation Section 1859.320 as follows:

Section 1859.320. General.

An LEA seeking an ~~Emergency Repair Program~~ ERP Grant for ~~reimbursement~~ funding of costs for repairs or replacement of existing structural components or building systems that pose ~~(d)~~ a health and safety threat to the pupils or staff while at school, as defined by EC Section 17592.72(c)(1), shall submit to the OPSC a completed and file a Form SAB 61-03_ with the OPSC. ~~Each Form SAB 61-03 filed with the OPSC may consist of the repair or replacement of only one building component or system and any work directly related to that repair or replacement.~~

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.321 as follows:

Section 1859.321. Eligible Schools.

Eligible schools are determined as follows:

(a) For fiscal years 2004-05 to 2006-07, inclusive, a ~~An~~ LEA that has a school site meeting all of the following is eligible to submit a Form SAB 61-03:

~~(a1)~~ (a1) The school was identified on the list published by the CDE pursuant to EC Section ~~17592.70(b)~~ 17592.72.

~~(b2)~~ (b2) The school was newly constructed prior to January 1, 2000.

(b) For subsequent fiscal years, an LEA that has a school site that is identified by the CDE pursuant to EC Section 17592.72 is eligible to submit a Form SAB 61-03.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.322 as follows:

Section 1859.322. Emergency Repair Program Project Funding Order.

The Board shall ~~fund ERP applications~~ make apportionments on a monthly basis for Grants in the order of receipt of an Accepted Application and for Grant Adjustments in the order of receipt of a complete Form SAB 61-04, as follows:

- (a) If sufficient funding is available to provide funding to all applications presented that month, all applications will receive an full and final aApportionment of the eligible costs.
- (b) If funding is insufficient in any given month:
 - (1) ~~Apportionments~~ Grants will be provided to each application on a prorated basis with the balance placed on the Unfunded List, unless the proration will result in funding less than 25 percent of the eligible project costs. The proration shall be determined by dividing the total funds available by the total eligible costs of all applications Ready for Apportionment. All Grant Adjustments will be placed on the Unfunded List.
 - (2) If the proration, as determined in (1) above, will be less than 25 percent of the eligible project costs, the Board shall provide Grant funding at 100 percent of the eligible project costs of the Grants based on date order received until funds are no longer available and the remaining Grant applications shall be placed on the Unfunded List. All Grant Adjustments will be placed on the Unfunded List.
 - (3) The Board will continue to accept and process applications for the purpose of developing an Unfunded List based on the order of receipt of the Accepted Applications.

When funds become available, projects on the Unfunded List will be apportioned in the order of date received. From available funds, Grants will be funded first and Grant Adjustments will be funded second. After an Apportionment has been made by the Board, funds will be released automatically by the OPSC, ~~and~~ If local funds have been expended, the Apportionment must be used by the LEA to reimburse the special reserve fund and the original source of funds used to make the LEA expenditures for the ERP project.

Once ~~eight hundred million dollars (\$800,000,000) has been apportioned by the Board~~ all ERP funds have been depleted, any applications that have received a prorated Apportionment, a Grant, or a Grant Adjustment will be deemed a full and final Apportionment, any applications remaining fully unfunded on the Unfunded List will be returned to the LEA, and the Unfunded List shall be dissolved.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.71 and 17592.72, Education Code.

Amend Regulation Section 1859.323 as follows:

Section 1859.323. Eligible Project Costs.

~~Reimbursement~~ Funding will be provided to meet the LEA share of the repair costs of Emergency Facilities Needs as defined in Education Code Section 17592.72(c)(1). To be eligible for funding consideration, the total project cost request on the Form SAB 61-03 must be \$5000 or higher unless the LEA can justify its request for a lesser amount. ~~Reimbursement~~ Funding of eligible projects costs shall be limited to the minimum work required on existing structural components or building systems to mitigate the health and safety hazard.

Replacement of existing structural components or building systems is permissible provided the project is in compliance with provisions of Section 1859.323.1.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.323.1 as follows:

Section 1859.323.1. Replacement Projects

~~Full reimbursement~~ Funding of eligible replacement costs shall be provided only if it is more cost-effective to replace rather than repair a structural component or building system that poses a health or safety threat to pupils or staff

while at school. For purposes of this section, it is more cost-effective to replace a structural component or building system when the estimated cost of an eligible repair is at least 75 percent of the cost of replacement.

If the cost to repair the component or system is less than 75 percent of the current replacement cost and the district elects to replace the component or system, then ~~reimbursement~~ Grant funding shall be equal to the lesser of either:
(a) ~~The cost of repair divided by the estimated cost to replace, multiplied by the actual eligible replacement cost~~
(b) ~~The estimated cost of repair.~~ Projects that use this option are not eligible for an increase to the Grant at the time of Grant Adjustment pursuant to Section 1859.324.1.

If the request is for replacement components or systems, a cost comparison must be prepared ~~and submitted with the Form SAB 61-03 to the OPSC.~~ The cost comparison shall consist of a repair cost estimate and a Like-Kind Material/System replacement cost estimate provided by qualified individual(s) or firm(s).

Replacement of a structural component or building system shall be limited to the use of a Like-Kind Material/System except when the work in the project proposes to use an alternative building material or system which is requested by the LEA ~~and is less costly than a Like-Kind Material/System replacement.~~ The cost comparison must also include the estimated cost of replacement using an alternative building material or system. If replacement with an alternate material/system is more costly than replacement with a Like-Kind Material/System, the LEA will receive funding for the alternate material/system in an amount not to exceed the cost of replacement with a Like-Kind Material/System. If it is determined that the only possible replacement is with the alternate material/system, the LEA will receive funding for the actual cost of replacement with the alternate material/system.

If the request is for replacement components or systems that included structural deficiencies, the cost comparison must also include a report from a licensed design professional identifying the minimum work necessary to obtain Division of the State Architect's approval.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.323.2 as follows:

Section 1859.323.2. Ineligible Expenditures.

An Emergency Repair Program Grant may not be used for any of the following:

- (a) New square footage, components, or building systems that did not previously exist.
- (b) Nonessential Repairs.
- (c) Cosmetic Repairs.
- (d) Land acquisition.
- (e) Furniture and equipment.
- (f) Salaries of LEA employees except when permitted pursuant to Public Contract Code Section 20114.
- (g) Costs covered under warranty or by insurance.
- (h) Costs normally borne by others including, but not limited to, public utility companies.
- (i) Costs to repair or replace facilities with structural damage if the project meets the facility hardship or rehabilitation criteria set forth in School Facility Program Regulation Sections 1859.82 and 1859.83(e).
- (j) Any administrative and application filing fees.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.324 as follows:

Section 1859.324. ~~Reimbursement~~ Funding.

An Emergency Repair Program Grant shall be used to reimburse ~~fund the LEA's~~ for eligible costs, as defined by Sections 1859.323 and 1859.323.1, ~~that meet all of the following provisions as follows:~~

- (a) For schools ranked in deciles one to three, inclusive, based on the 2003 Academic Performance Index that meet requirements defined by Section 1859.321(a) and all of the following provisions:
- (a1) If contracts for services or work were signed for the project, contracts must have been entered into on or after September 29, 2004.
 - (b2) Funds must have been Expended on or after September 29, 2004 and prior to the submittal of the Form SAB 61-03 to the OPSC.
 - (3) Accepted Applications on or before June 30, 2007. If these ERP regulations are not in effect by March 31, 2007, LEAs may submit applications for 90 days following the effective date of the regulations.
- (b) For schools ranked in deciles one to three, inclusive, based on the 2006 Academic Performance Index that meet requirements defined by 1859.321(b) and all of the following provisions:
- (1) If contracts for services or work were signed for the project, contracts must have been entered into on or after July 1, 2005.
 - (2) Funds must have been Expended on or after July 1, 2005.
 - (3) Accepted Applications on or before June 30, 2010.
- (c) For schools ranked in deciles one to three, inclusive, based on the 2009 Academic Performance Index that meet requirements defined by 1859.321(b) and all of the following provisions:
- (1) If contracts for services or work were signed for the project, contracts must have been entered into on or after July 1, 2008.
 - (2) Funds must have been Expended on or after July 1, 2008.
 - (3) Accepted Applications on or before June 30, 2013.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Adopt Regulation Section 1859.324.1 as follows:

Section 1859.324.1. Grant Adjustments

After review of a Form SAB 61-04, projects that require a Grant Adjustment will be presented to the Board for approval based upon one of the following review determinations:

- (a) If the expenditures are less than the Grant, the Grant will be deemed the full and final apportionment for the project and the OPSC shall recommend to the Board that the Apportionment be reduced by the amount of savings realized by the LEA. The savings, which include any interest earned on the Grant funds, either declared by the LEA or determined by the OPSC, must be returned to the State. Upon the approval of the recommendation by the Board, the LEA must submit a warrant for any amount identified as being owed within 60 days of the Board's action. If the LEA fails to make the required payment within 60 days, the OPSC shall notify the Controller and the LEA in writing, and the Controller shall deduct an amount equal to the amount received by the LEA under this subdivision from the LEA's next principal apportionment or apportionments of state funds to the LEA, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution. Any amounts obtained pursuant to this Section shall be deposited into the School Facilities Emergency Repair Account and will be made available for the funding of future ERP Grants and Grant Adjustments.
- (b) If the expenditures are greater than the Grant apportionment, provided the additional expenditures are associated with the project's original scope, the OPSC shall recommend to the Board that the Apportionment be increased. The Grant Adjustment will be deemed as the full and final apportionment for the project.
- (c) If the expenditures are equal to the Grant, no further Board action is necessary. The Grant will be deemed as the full and final apportionment for the project.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.72 and 17592.73, Education Code.

Section 1859.325. School Facility Due Diligence.

To ensure that the LEA is exercising due diligence in the administration of its facility accounts and is using an Emergency Repair Program Apportionment to supplement existing funding for the maintenance of school facilities, the OPSC may conduct a review of the LEA's facility maintenance accounts pursuant to the provisions of Section 1859.328.

In the event that the Board finds that an LEA is failing to exercise due diligence or supplanting has occurred, the Board shall notify the county superintendent of schools in which the LEA is located and may deny future funding under these regulations.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.326 as follows:

Section 1859.326. ~~Emergency Repair Program Application~~ Expenditures and Audit.

The projects shall be subject to audit to ensure that the expenditures incurred by the LEA were made in accordance with the provisions of Sections 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.327, and 1859.328 through 1859.325, inclusive.

After a full and final Apportionment has been made pursuant to Regulation Section 1859.324.1, and should the OPSC ~~notifies~~ the LEA of an impending ERP audit of the expenditures reported on the Form SAB 61-034, an audit by the OPSC shall commence within six months. Once the audit has commenced, ~~t~~The OPSC shall complete the audit within six months of the notification unless additional information requested from the LEA has not been received.

Should the OPSC conduct an audit of the expenditures and information provided by the LEA, which may include certifications, for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of EC Section 17592.72(c) and Regulation Sections 1859.323 through 1859.325 329 inclusive, the OPSC shall recommend to the Board that the Apportionment be adjusted based on the audit findings. Upon adoption of the audit findings by the Board, the LEA must submit a warrant for any amount identified as being owed within ~~3060~~ 3060 days of the Board's action. If this does not occur, the OPSC shall initiate collection procedures as delineated in 1859.324.1(a).

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72 and 17592.73, Education Code.

Section 1859.327. Duplication of Emergency Repair Program Expenditures.

If the LEA's expenditures for the Emergency Repair Program Grant involve proposed work also included in a SFP or DMP project, the LEA must ensure all of the following:

- (a) No work or expenditures are duplicated.
- (b) After eliminating the work to be funded with the Emergency Repair Program Grant from the SFP or DMP project, the remaining work continues to meet the SFP or DMP requirements.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Amend Regulation Section 1859.328 as follows:

Section 1859.328. Supplement, Not Supplant, Emergency Repair Program Grant Funds.

Emergency Repair Program Grant funds must be used to supplement, not supplant funds already available for routine, deferred, planned and scheduled maintenance, or emergency repairs of school facilities. In accordance with these requirements, the LEA must comply with all of the following at the time the Accepted Application and the Form SAB 61-04 are ~~is~~ submitted to the OPSC:

- (a) Deposit the funding level required for the current fiscal year pursuant to EC Section 17070.75 in the Routine Restricted Maintenance Account, if participating in the SFP.
- (b) If participating in the DMP, the district:
 - (1) For applications submitted prior to January 1, 2006, has deposited an amount equal to the State's matching share of the maximum basic grant, calculated pursuant to EC Section 17584, for the latest available determination; and
 - (2) For applications submitted on or after January 1, 2006, has deposited an amount equal to the maximum basic grant, calculated pursuant to EC Section 17584, for the latest available determination; and
 - (3) Will deposit an amount equal to the maximum basic grant, calculated pursuant to EC Section 17584, for the next scheduled determination.
 - (4) Shall not transfer excess local funds in accordance with EC Section 17583 from the deposits made as specified in (2) and (3), above.
- (c) If either (a) or (b) are not applicable, the district must budget for the current fiscal year an amount not less than the average maintenance budget for the three previous fiscal years.
- (d) In an effort to ensure that each of its schools is maintained in good repair, the LEA shall expend or encumber by issuing a purchase order or entering into a legal contract or document, or dedicate funds from the sources listed in subsections (a) through (c), above, to correct problems identified in the facilities inspection system required pursuant to EC Section 17070.75(e), which may include items listed in the DMP five-year plan, or the Interim Evaluation Instrument that do not qualify for funding as described in EC Section 17592.72(c)(1). For those projects eligible for ERP funding, the LEA may seek ~~reimbursement~~ funding at any time provided that the LEA has or will meet the above requirements.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.72 and 17592.73, Education Code.

Amend Regulation Section 1859.329 as follows:

Section 1859.329. Withdrawal and Amendment of Applications.

In the event an LEA has omitted ~~costs~~ expenditures from the Form SAB 61-03 at the time of submittal and the project has not received an Grant Apportionment from the Board, the LEA may withdraw its application and resubmit a revised Form SAB 61-03. The resubmitted application shall receive a new processing date by the OPSC. If the Board has already provided an Grant apportionment for the project, the LEA may request the additional cost on the Form SAB 61-04. Additional expenditures must be associated with the project's original scope. If the Board has already provided an ~~Apportionment~~ Grant Adjustment for the project, the LEA will not be able to receive additional funding for the project and the Apportionment provided by the Board will be considered full and final.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.72 and 17592.73, Education Code.

Adopt Regulation Section 1859.330 as follows:

Section 1859.330. Time Limit on Grant Apportionment.

The LEAs that receive ERP Grants shall comply with all of the following provisions:

- (a) When the Division of State Architect's review and approval is not required, within 12 months of the Grant apportionment the LEA shall:
 - (1) Complete the emergency repair or replacement; and
 - (2) Submit the Form SAB 61-04 to the OPSC.

(b) When the Division of State Architect's review and approval is required, within 18 months of the Grant apportionment the LEA shall:

- (1) Complete the emergency repair or replacement; and
- (2) Submit the Form SAB 61-04 to the OPSC.

If the LEA does not meet the Time Limit on Grant Apportionment, the Apportionment will be rescinded without further Board action. Within 60 days of the OPSC notification, the LEA must submit to the State a warrant for the amount of the Apportionment and any interest earned on State funds. If this does not occur, the OPSC shall initiate collection procedures as delineated in 1859.324.1(a). Any rescinded funds returned to the State will be made available for the funding of future ERP Grants and Grant Adjustments. The LEA may re-file Form SAB 61-03 to request a Grant for the rescinded projects provided it meets the provisions of Section 1859.324 at the time of re-filing.

Note: Authority Cited: Sections 17592.72 and 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Local Educational Agencies (LEAs) are encouraged to consider the utilization of “environmentally preferable purchasing” (EPP) for all their projects, including those projects seeking funding under the Emergency Repair Program (ERP). EPP is the procurement or acquisition of goods and services that have a lesser or reduced effect on human health and the environment when compared with competing goods or services that serve the same purpose. It provides an opportunity to improve the overall health and safety conditions at school facilities. Though the ERP is intended to provide funding for the minimal work necessary for the mitigation of health and safety risks, this objective can often be met with the utilization of EPP. More information about EPP products and sources can be found on the Green California Web site at www.green.ca.gov/EPP.

GENERAL INFORMATION AND REQUIRED DOCUMENTATION

The LEA shall use this form to apply for funding of Emergency Facilities Needs repairs under the Emergency Repair Program (ERP) at eligible schools sites as defined by Section 1859.321. An LEA must submit the following documentation with this form for each project requested on this application:

1. **Documentation:** Provide documentation that sufficiently substantiates the health and safety threat, which must include one or more of the following, as appropriate:
 - Signed copy of the Interim Evaluation Instrument (IEI) identifying the project as a health and safety threat
 - Copies of complaints made by parents, students, or staff referencing the problem
 - Inspection report by qualified individual(s) or firm(s)
 - Work orders that identify the health and safety threat
 - Photos showing the condition of the project prior to the repair work being performed
 - Other forms of documentation that substantiate the health and safety threat
2. **Cost Estimate:** All estimates must be as detailed as possible and no lump sum estimates will be accepted. Furthermore, the estimates must have been prepared by qualified individuals or firms. For force account labor projects, LEAs may provide an estimate by submitting a completed Force Account Labor Worksheet, which is available on the OPSC Web site.

The LEA must retain the following documents on file should the OPSC request them at the time of audit (see Part C. Certifications):

1. DSA Approved Plans and Specifications, if required
2. For Replacement Projects (pursuant to Regulation Section 1859.323.1), LEAs must retain a cost comparison on file which must include all of the following:
 - Estimate to Repair the system/component
 - Estimate to Replace the system/component with a Like-Kind Material/System
 - For alternative building material/system replacement projects, the LEA must additionally retain an Estimate to Replace the system/component with an alternative building material/system

All estimates must be as detailed as possible and no lump sum estimates will be accepted. Furthermore, the estimates must have been prepared by qualified individuals or firms but are not required to be prepared by the same person(s).

SPECIFIC INSTRUCTIONS

Part A. Project Information

The LEA must complete one Project Detail box for each Type of Project that will be/has been repaired or replaced.

- **DSA Approval:** If any of the work indicated in any of the Project Detail boxes requires DSA approval, the LEA must check “Yes.” Otherwise the LEA must check “No.”
- **Type of Project:** Choose project type indicating the type of building system or structural component the project is addressing. The LEA may indicate only one building system or structural component per Project Detail box completed. Multiple Project Detail boxes may be completed. Use additional sheets if necessary.
- **Project(s) Cost:** Provide the total eligible cost based on the LEA’s estimate(s) and/or actual cost(s).
- **Statement of Health and Safety Condition:** Provide a concise statement of the condition(s) and how it posed/poses a threat to the health and safety of the students and staff at the school site.
- **Type of Health/Safety Document(s) Attached:** Check the box(es) that identifies the type of health/safety document(s) enclosed with the LEA’s application submittal.

Part B. Total Grant Request

Provide the Total Grant Request based on the combined total of the LEA’s estimate(s) and/or actual cost(s) for all Types of Projects requested on this application. If the Total Grant Request is less than \$5,000.00, the LEA must justify its request in the space provided.

Part C. Certifications

The LEA representative must complete this section.

LOCAL EDUCATIONAL AGENCY (LEA)	APPLICATION NUMBER (OPSC USE ONLY) 61/
SCHOOL NAME	FIVE-DIGIT DISTRICT CODE (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY)
COUNTY	SEVEN-DIGIT SITE CODE (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY)

PROJECT TYPES:

- Communication Systems
- Electrical
- Fire Detection/Alarm and/or Sprinkler System
- Flooring Systems
- Gas
- Hazardous Materials
- HVAC
- Paving
- Pest/Vermin Infestation
- Plumbing
- Roofing
- Structural Damage
- Wall Systems
- Windows/Doors/Gates
- Other

A. PROJECT DETAIL (Complete one box for each type of project at this site. Use additional sheets if necessary.):

Will any of the work in the project(s) contained in this Grant Request require DSA approval? Yes No

1. Type of Project (choose one from Project Types above): _____
 Project(s) Cost: Estimate Actual (check all that apply) \$ _____
 Statement of Health and Safety Condition: _____
 Type of Health/Safety Document(s) Attached: Photo IEL Complaint Work Order Inspection Report Other _____

2. Type of Project (choose one from Project Types above): _____
 Project(s) Cost: Estimate Actual (check all that apply) \$ _____
 Statement of Health and Safety Condition: _____
 Type of Health/Safety Document(s) Attached: Photo IEL Complaint Work Order Inspection Report Other _____

3. Type of Project (choose one from Project Types above): _____
 Project(s) Cost: Estimate Actual (check all that apply) \$ _____
 Statement of Health and Safety Condition: _____
 Type of Health/Safety Document(s) Attached: Photo IEL Complaint Work Order Inspection Report Other _____

4. Type of Project (choose one from Project Types above): _____
 Project(s) Cost: Estimate Actual (check all that apply) \$ _____
 Statement of Health and Safety Condition: _____
 Type of Health/Safety Document(s) Attached: Photo IEL Complaint Work Order Inspection Report Other _____

B. TOTAL GRANT REQUEST: § _____

If the Total Grant Request is less than \$5,000.00, the LEA must justify this request in the space below.

C. CERTIFICATIONS

I certify, as the LEA Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized representative by the governing board of the LEA as of _____ ; and,
- The repairs in this project were/are necessary to mitigate conditions that pose(d) a threat to the health and safety of pupils or staff while at school; and,
- The LEA has/will complied/comply with all laws pertaining to the repair of its school facilities;
- The LEA has/will complied/comply with the Public Contract Code; and,
- The LEA has satisfied the supplement, not supplant requirement as defined in Section 1859.328; and,
- The contracts for services or work in this project were not entered into prior to the date specified in Section 1859.324; and,
- The LEA understands that some or all of the funding for the project may be returned to the State as a result of an audit finding pursuant to Regulation Section 1859.326 and 1859.327;
- The LEA will/has comply/complied with Regulation Section 1859.323.2(h) when making repairs to leased facilities; and
- The LEA has on file all cost estimates required for replacement projects as stipulated in the General Information and Required Documentation section on this form and will make these documents available in the event the OPSC requests them for purposes of audit; and,
- The LEA will/has obtain/obtained the Division of State Architect's approval of the plans and specifications, if required, which will be/are on file at the LEA office for OPSC review; and
- The LEA will/has retain/retained on file all appropriate support documentation for this project. For the list of necessary documents please refer to the General Information and Required Documentation section of the Form SAB 61-04.
- This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.

I certify under penalty of perjury under the laws of the State of California that the statements in this application and supporting documents are true and correct.

NAME OF LEA REPRESENTATIVE (PRINTED OR TYPED)	TITLE		
SIGNATURE OF LEA REPRESENTATIVE	DATE		
ADDRESS	CITY	STATE	ZIP
TELEPHONE NUMBER	E-MAIL ADDRESS		

GENERAL INFORMATION AND REQUIRED DOCUMENTATION

A Local Educational Agency (LEA) may use this form to report expenditures under the Emergency Repair Program (ERP) that support the Grant previously received. The LEA must retain the following documents, as appropriate, on file should the OPSC request them at the time of audit:

- Construction Contract(s) and supporting documentation [pursuant to Public Contract Code (PCC) Section 20111(b)]
- Schedule of Values
- DSA Approved Plans and Specifications and any change orders
- Cost comparison pursuant to Regulations Section 1859.323.1
- Purchase Order(s) and/or Purchase Agreement(s)
- Architect Agreement(s) and Schedule of Fees
- Qualification Appraisal documents (pursuant to Government Code 4526)
- Copy of Vendor Invoices
- Copy of Warrant(s) or Payment Voucher(s)
- For Force Account Labor Projects [pursuant to PCC Section 20114(a)], the OPSC Force Account Labor Worksheet or other documentation that contains the following information:
 - *Employee name(s)*
 - *Number of hours each employee spent on project*
 - *Hourly wages*

SPECIFIC INSTRUCTIONS

Part A. Project Detail

The LEA must complete one Project Detail line for each corresponding Project Detail box that was previously reported on the Form SAB 61-03. LEAs may print additional copies of page 2 as necessary to complete expenditure information.

- **Type of Project:** Choose project type indicating the type of building system or structural component for which the LEA previously requested funding on the Form SAB 61-03. The LEA may indicate only one building system or structural component per line. The numbered lines must correspond with the numbered Project Detail boxes on the Form SAB 61-03.
- **Project(s) Cost:** Provide a breakdown of the total eligible cost based on the LEA's actual cost(s).

Part B. Total Expenditure Amount

Provide the total expenditures based on the combined Total Project Cost(s) as reported in the Project Details box(es).

Part C. Certifications

The LEA representative must complete this section.

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LOCAL EDUCATIONAL AGENCY (LEA)	APPLICATION NUMBER 61/
SCHOOL NAME	FIVE-DIGIT DISTRICT CODE (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY)
COUNTY	SEVEN-DIGIT SITE CODE (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY)

PROJECT TYPES:

- Communication Systems
- Electrical
- Fire Detection/Alarm and/or Sprinkler System
- Flooring Systems
- Gas
- Hazardous Materials
- HVAC
- Paving
- Pest/Vermin Infestation
- Plumbing
- Roofing
- Structural Damage
- Wall Systems
- Windows/Doors/Gates
- Other

A. PROJECT DETAIL

Complete one Project Detail line for each Type of Project as previously reported on the Form SAB 61-03. LEAs may print additional copies of this page as necessary to complete expenditure information.

TYPE OF PROJECT (INDICATE PROJECT TYPE FROM ABOVE)	DSA NUMBER (IF APPLICABLE)	PLANNING COST	REPAIR/REPLACEMENT COST	TESTING	INSPECTION	TOTAL PROJECT COST
1.		\$	\$	\$	\$	\$
2.		\$	\$	\$	\$	\$
3.		\$	\$	\$	\$	\$
4.		\$	\$	\$	\$	\$
5.		\$	\$	\$	\$	\$
6.		\$	\$	\$	\$	\$
7.		\$	\$	\$	\$	\$
8.		\$	\$	\$	\$	\$
9.		\$	\$	\$	\$	\$
10.		\$	\$	\$	\$	\$
11.		\$	\$	\$	\$	\$
12.		\$	\$	\$	\$	\$
13.		\$	\$	\$	\$	\$
14.		\$	\$	\$	\$	\$
TOTALS		\$	\$	\$	\$	\$

B. TOTAL EXPENDITURE AMOUNT (Combined Project Detail Totals): \$ _____

C. CERTIFICATIONS

I certify, as the LEA Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized representative by the governing board of the LEA as of _____; and,
- The LEA has on file all appropriate support documentation as stipulated in the General Information and Required Documentation section on this form and will make these documents available in the event the OPSC requests them for purposes of audit; and,
- The repairs in this project were necessary to mitigate conditions that posed a threat to the health and safety of pupils or staff while at school; and,
- The expenditures reported are within the original scope of the work identified in the Grant Request for this project; and,
- The LEA has complied with all laws pertaining to the repair of its school facilities; and,
- The LEA has complied with the Public Contract Code; and,
- The LEA has satisfied the supplement, not supplant requirement as defined in Section 1859.328; and,
- The expenditures for this project did not duplicate expenditures included in a School Facility Program, Deferred Maintenance Program or ERP project; and,
- The construction activities for this project(s) are completed; and,
- The LEA has complied with Regulation Section 1859.323.1 when replacing systems or components and has obtained a cost comparison which is on file at the LEA office for OPSC review; and,
- The LEA has complied with Regulation Section 1859.323.2(h) when making repairs to leased facilities; and
- The contracts for services or work in this project were not entered into prior to the date specified in Section 1859.324; and,
- The LEA understands that expenditures occurring after the submittal of this Expenditure Report are ineligible for reimbursement; and,
- Unless the project is determined to require a Grant Adjustment pursuant to ERP regulations Section 1859.234.1, that the grant amount previously provided by the Board shall be deemed a full and final apportionment, and that all Grant Adjustments are full and final; and,
- The LEA understands that some or all of the funding for the project may be returned to the State as a result of an audit pursuant to Regulation Sections 1859.326 and 1859.327; and,
- The LEA has obtained the Division of State Architect's approval of the plans and specifications, if required, which are on file at the LEA office for OPSC review; and
- This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.

I certify under penalty of perjury under the laws of the State of California that the statements in this application and supporting documents are true and correct.

NAME OF LEA REPRESENTATIVE (PRINTED OR TYPED)	TITLE		
SIGNATURE OF LEA REPRESENTATIVE	DATE		
ADDRESS	CITY	STATE	ZIP
TELEPHONE NUMBER	E-MAIL ADDRESS		