

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, October 25, 2006

REPAYMENT SCHEDULE FOR AMOUNTS DUE TO THE STATE

PURPOSE OF REPORT

To request:

1. Adoption of amendments to the School Facility Program (SFP) regulations to establish criteria for repaying amounts due to the State.
2. Authorization to file the proposed regulations on an emergency basis with the Office of Administrative Law (OAL).

DESCRIPTION

AB 1200, Chapter 1213, Statutes of 1991, specified that each school district's budget must address its ability to meet its financial commitments and demonstrate fiscal solvency and accountability. In view of this, the State has set minimum funding reserves that are monitored by county offices of education (COE). These district reserves are generally used as a barometer of a given district's fiscal solvency. Occasionally, districts that are not maintaining appropriate funding reserves and are unable to meet their short-term financial obligations are placed on a list maintained by the California Department of Education (CDE).

On occasion, a district may owe the State an amount that could cause financial distress and becoming subject to the requirements of AB 1200. Ultimately, districts that fall under the AB 1200 provisions may be placed on the CDE List of Negative and Qualified Certifications. Consequently, specific districts have requested that they be allowed to repay the amounts due over a longer period of time rather than a one-time lump sum payment or deduction from their school fund apportionment.

In May 2006, Staff presented emergency regulatory amendments to the State Allocation Board (SAB) that established criteria for repaying amounts due to the State. However, the OAL was unable to approve the proposed amendments without changes to current law. In September 2006, the Governor signed into law Assembly Bill (AB) 607, Chapter 704, Statutes of 2006, which will be effective January 1, 2007 and will provide the SAB the authority to establish repayment plans of up to five years for those school districts that are in severe financial distress.

AUTHORITY

Education Code (EC) Section 17076.10(c) authorizes the Office of Public School Construction (OPSC) to initiate collection procedures if a school district fails to make the required payment within 60 days. The OPSC shall notify the Controller and the school district in writing, and the Controller shall deduct an amount equal to the amount received by the school district from the school district's next principal apportionment or apportionments of state funds to the school district, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution.

AB 607, Chapter 704, Statutes of 2006, requires the SAB to approve a plan of equal annual payments, with interest, over a period of up to five years if the Board determines that repayment of the full liability within sixty days after the board's action would constitute a severe financial hardship, as defined by the board, for the school district. This bill would require the Controller to withhold certain amounts pursuant to the repayment plan.

AUTHORITY (cont.)

EC Section 17070.51(b)(1) authorizes the Board to approve a repayment schedule of no more than five years when the Board makes a finding that a material inaccuracy occurred. The school district shall repay to the Board an amount proportionate to the additional funding received as a result of the material inaccuracy including interest at the rate paid on moneys in the Pooled Money Investment Account, or at the highest rate of interest for the most recent issue of state general obligation bonds as established pursuant to Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater.

AB 1200, Chapter 1213, provides fiscal oversight responsibilities to COE's and mandates that all school districts maintain a special reserve account that has a minimum balance of three percent of their General Fund for future economic uncertainties. Districts that fail to maintain this amount may be placed on a CDE List of Negative and Qualified Certifications list.

STAFF COMMENTS

Absent a material inaccuracy finding from the SAB, there is currently no regulation addressing the SFP repayment of amounts due to the State over a period of time. It is not the objective of Staff to cause school districts to experience financial insolvency due to a financial close-out audit; therefore, regulations need to be established to allow school districts to repay refunds due to the State over a period of time, under specific circumstances to lessen the financial repayment burden.

Staff believes that in certain situations where school districts are in financial distress, or currently in financial hardship, the school districts should be afforded a repayment schedule of up to five years in lieu of a lump sum payment. The passage of AB 607 provides authorization to facilitate flexible repayment schedules that do not place the school districts in imminent financial harm. If the school district is unable to make the scheduled payment, the district will be subject to collection procedures.

There are currently several school districts that owe substantial sums of money to the State that will potentially invoke the provisions of AB 1200 if the amounts due are repaid in one lump sum payment. Also, these school districts do not fall under the material inaccuracy provisions that would provide for a longer repayment period. Staff is recommending that the proposed regulations be adopted to alleviate the potential for these school districts being placed on a fiscal watch list thereby hindering the districts ability to provide necessary facilities to all their students.

RECOMMENDATIONS

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

This Item was approved by the State Allocation Board on October 25, 2006.

ATTACHMENT

PROPOSED AMENDMENTS TO THE SCHOOL FACILITY PROGRAM REGULATIONS State Allocation Board Meeting, October 25, 2006

Amend Section 1859.106 as follows:

Section 1859.106. Program Accountability Expenditure Audit.

...

Should the OPSC conduct an audit of the district certifications or the expenditures for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, Education Code Section 17074.25 and Section 1859.79.2 for modernization projects, and Education Code Sections 17072.13 and 17072.14 for projects with additional costs imposed by the DTSC, 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 district must submit a warrant for any amount identified as being owed within 60 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures from the School Fund Apportionment as outlined in Education Code Section 17076.10(c).~~

Should the CDE make a finding that a project did not meet the standards that were adopted by the CDE pursuant to Education Code Section 17251(b) and (c) when the district had self-certified that the project met those standards pursuant to Education Code Section 17070.50(b), the Board may request that the CDE make a recommendation that the apportionment for the project be adjusted based on the CDE finding. Any adjustment in the apportionment shall be based on the percentage of space in the project that the CDE determined did not meet those standards. ~~Upon adoption of the finding by the Board, the district must submit a warrant for any amount identified as being owed within 60 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures from the School Fund Apportionment as outlined in Education Code Section 17076.10(c).~~

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17072.13, 17072.14, 17072.18, 17072.35, 17074.25, 17076.10, 17077.40, 17078.52 and 17251, Education Code.

Adopt Regulation Section 1859.106.1 as follows:

Section 1859.106.1. Repayment of State Funds.

Upon adoption of the audit findings by the Board and in lieu of the collection procedures outlined in Education Code Section 17076.10(c), a district may request a repayment schedule of up to five years, in equal annual installments, if the total repayment of State funds within 60 days of the Board action could cause the district to fall into fiscal distress. Districts requesting a repayment schedule must be in a severe hardship condition as evidenced by at least one of the following criteria:

- (a) The district is listed on the current CDE List of Negative or Qualified Certifications of School Districts and County Offices of Education.
- (b) The amount due to the State for one or more projects would cause the district to be listed on the CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education current report. The COE must submit both of the following documents to the OPSC on behalf of the district for consideration:
 - (1) A letter substantiating that the repayment will place the district on the CDE list.
 - (2) A CDE certification of negative financial condition.

The repayment schedule shall include interest at the same rate as that charged by the Pooled Money Investment Board on the date a repayment schedule is approved by the Board.

The repayment schedule will commence on July 1 of the fiscal year following the repayment schedule approval date.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35 and 17076.10(c)(2), Education Code.

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, October 25, 2006

AMENDMENTS TO THE SCHOOL FACILITY PROGRAM REGULATIONS
FOR THE GENERAL SITE DEVELOPMENT GRANT, SMALL HIGH SCHOOL PROGRAM,
AND CHARTER SCHOOL FACILITIES PROGRAM

PURPOSE OF REPORT

To request:

1. Adoption of technical and non-substantive amendments to the School Facility Program (SFP) regulations for the additional grant for general site development, the Small High School Program, and the Charter School Facilities Program.
2. Authorization to file the proposed regulations on an emergency basis with the Office of Administrative Law (OAL).

BACKGROUND

Proposed regulations to provide an additional grant for general site development were presented and approved by the State Allocation Board (SAB) at the June 2006 meeting. The regulations were subsequently approved on an emergency basis by the OAL on September 5, 2006. However, there was an error in the drafting of the regulation; therefore, the regulation language needs to be revised.

At the September 2006 SAB meeting, changes to the regulations were approved for the Small High School Program and the Charter School Facilities Program under the provisions of Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Nunez and Perata). Some minor errors were made in the drafting of the regulations; therefore, the regulation language needs to be revised.

AUTHORITY

EC Section 17072.12 states that the Board may provide funding for assistance in site development and acquisition. The SAB's Legal Counsel has opined, "Because the SFP does not define site development, the Board may adopt regulations to define and clarify the types and amounts of site development assistance that can be provided."

EC Section 17072.10(c)(1) provides funding for a pilot program to build small high schools when school districts propose to build a small high school as part of its academic reform strategy. EC Section 17074.32 further provides additional funding for modernization projects that include the reconfiguration of an existing high school into two or more small high schools.

EC Sections 17078.52 through 17078.66 established the Charter School Facilities Program of which several sections were amended as a result of AB 127 revising many aspects of the Program.

EC Section 101012(5) provides up to \$200 million for the small high school pilot program.

STAFF COMMENTS

Regulation 1859.76 provides additional grants for site development costs, including service site, offsite, utilities, and general site development. The regulation stipulates that the SAB shall provide funding equal to 50 percent of the approved site development costs. The proposed regulation language in Attachment A corrects the grant calculation as it was intended to be written to ensure that school districts receive the funding that is needed in order to complete their projects.

Proposition 1D, which includes the additional funding for the Small High School Program and revises the Charter School Facilities Program, is being presented to the voters at the November 2006 election. AB 127 provides up to \$200 million to continue the pilot program created by AB 1465, Chapter 894, Statutes of 2004 (Chan), for the creation

STAFF COMMENTS (cont.)

of small high schools. However, when amending the regulations to provide the additional funding provided by AB 127, the reference to Education Code (EC) Section 17074.32, which provides the funding for the reconfiguration of existing high schools into two or more small high schools, was inadvertently omitted. Should the bond be approved, the amended regulations need to be approved, as shown on Attachment B, so projects eligible to participate in these programs may be funded on a timely basis.

RECOMMENDATIONS

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

This Item was approved by the State Allocation Board on October 25, 2006.

ATTACHMENT A

PROPOSED AMENDMENTS TO THE
SCHOOL FACILITY PROGRAM REGULATIONS
State Allocation Board Meeting, October 25, 2006

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Section 1859.76. New Construction Additional Grant for Site Development Costs.

In addition to any other funding authorized by these Regulations, the Board shall provide funding equal to 50 percent of the following approved site development and applicable design costs:

- (a) Service site development cost, within school property lines for:
 - (1) Site clearance including the removal of trees, brush, and debris.
 - (2) Demolition and removal of existing buildings and site improvements which lie in the footprint of a proposed building or proposed site development.
 - (3) Removal and rerouting of existing utility service which lie in the footprint of a proposed building or proposed site development.
 - (4) Rough grading including cut and fill, and leveling and terracing operations required in the design of the project.
 - (5) Soil compaction adhering to common engineering practices and engineered fill that is required by a soils report that is available for review by the OPSC.
 - (6) On-site drainage facilities including inlets below grade drainage facilities and retention basins.
 - (7) Erosion control improvements such as plant material, temporary sprinkler systems, jute mesh and straw, due to embankments having a slope of at least two to one and a vertical height greater than six feet.
 - (8) Outside stairways, handicap ramps and retaining walls due to embankments having a slope of at least two to one and a vertical height greater than six feet.
 - (9) Relocation of existing portable buildings which lie in the footprint of a proposed building or proposed site development including the cost for set-up and utilities if the portable will be relocated on the same site. If the portable will be moved to another site, only the costs to move the portable to the new location.
 - (10) Fire code requirements on site that are not a part of the building.
 - (11) Funding for parking structures on a new construction project when all the following have been met:
 - (A) The new construction project will be located on site acreage that is less than 50 percent of the site size recommended by the CDE for the master planned project capacity.
 - (B) The number of parking stalls to be funded does not exceed 2.25 for each classroom constructed in an elementary or middle school project.
 - (C) The number of parking stalls to be funded does not exceed six for each high school classroom constructed in a high school project that will serve 9-12 pupils.
 - (D) The state grant does not exceed \$7,500 per parking stall. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71.
 - (E) The parking structure is any of the following:
 - 1. It is multilevel and has at least two floors of parking space.
 - 2. It is single level with site development above the single level parking space.
 - 3. It is single level that is subterranean or below ground level with site development above the single level parking space.
 - 4. It is single level with buildings above the single level parking space.
 - (12) Removal and relocation of portable classrooms on a site eligible for replacement pursuant to Section 1859.82(a) that are available for housing pupils pursuant to Section 1859.35(a).
- (b) Off-site development cost on up to two immediately adjacent sides of the site, for the following:
 - (1) Curbs, gutters and paving of streets not to exceed one-half the mandated local street code requirements. When the existing streets are to be widened inward toward the property line from the existing face of the curb, all new street improvements lying within the one-half of mandated street width adjacent to the project.
 - (2) Sidewalks mandated by local ordinances.
 - (3) Street lighting, planting areas, street signs, traffic signals, trees or other costs mandated by local ordinances.
 - (4) City and/or county or special district fees pursuant to active ordinances.
 - (5) Reasonable cost for storm drains to point of connection.
 - (6) Funding for safety paths for pedestrian use beyond two immediately adjacent sides of the site necessary for a safe route to the new school site when the following conditions are met:

- (A) The school district governing board has made a finding at a public hearing that pedestrian safety concerns require improvements in the form of safety paths to provide access to the school site, and the Department of Education concurs with that finding.
- (B) The improvements are limited to the work necessary to install concrete, asphalt, gravel or other paving necessary to provide the safe paths.
- (C) The state grant does not exceed \$50,000.
- (D) The improvements do not include any cost for the acquisition of land, easements or other rights-of-way.
- (E) The SAB has determined that development of additional pedestrian paths is reasonable.
- (c) Utility service costs associated with the CDE approved site size that are necessary to serve the master planned capacity of the site as follows:
 - (1) Water: Installation of water supply line(s) and connection fees from the utility company connection to the meter, meters not provided by the serving utility, or installation of a domestic water system (i.e. well, pump, tank).
 - (2) Sewage: Installation of main sewage disposal line from the utility company connection to the first building lateral and if applicable, connection fees. Installation of a sewage treatment/disposal system and a main disposal line from the treatment system to the nearest building lateral of the collection system.
 - (3) Gas: Installation of main supply line and connection fees from utility company to meter and connection fee if applicable. Installation of meters not provided by the utility. Connection of a liquefied petroleum system (and tank) from the main supply line to the first building lateral.
 - (4) Electric: Installation of service from the utility to the building switchboard. Primary electric service runs from the utility company's point of connection to the transformer. Secondary electric service runs from the transformer to the switchboard. Connection fee, transformer pads and protective devices.
 - (5) Communication systems: Installation of service from the company to the nearest distribution center.
- (d) General Site Development costs within school property lines for an addition to an existing school site project wherein additional acreage is acquired, with the exception of existing school site acreage that is leased pursuant to Section 1859.22, or a new school project, determined as follows:
 - (1) \$19,200 per Useable Acre as approved by the CDE, ~~when funding is provided pursuant to Section 1859.74 or 1859.74.5~~ This sum may be increased by the percentage identified in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.
 - (2) 6 percent of the State and district share for Elementary School Pupils and Middle School Pupils and 3.75 percent of the State and district share for High School Pupils of the New Construction Grant. For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the district on the Form SAB 50-04.
 - (3) 6 percent of the State and district share for Elementary School Pupils and Middle School Pupils and 3.75 percent of the State and district share for High School Pupils of the funding provided by Sections 1859.71.2, 1859.72, 1859.73, 1859.73.2, 1859.82, 1859.83(a),(b) and (c) and 1859.125(a).

Subsection (d) of this section shall be suspended no later than January 1, 2008, unless otherwise extended by amendments as adopted by the Board.

The district must submit a detailed cost estimate for all requests for site development work, with the exception of General Site Development, and any justification documents that will support the work with the Form SAB 50-04.

The Board will approve reasonable and appropriate site development work which meet common engineering practices and industry standards that are consistent with the specific site conditions if the site development costs are consistent with the most current edition of the Saylor Current Construction Costs. The design professional must certify to the district that the site development work does not exceed the minimum requirements to develop the site to meet educational needs and/or standards.

General Site Development provided pursuant to 1859.76(d)(1), service site and off-site development costs shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the master plan site acreage approved by the CDE.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17072.12 and 17072.35, Education Code.

ATTACHMENT B

PROPOSED AMENDMENTS TO THE
SCHOOL FACILITY PROGRAM REGULATIONS
State Allocation Board Meeting, October 25, 2006

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Section 1859.2. Definitions.

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

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“Charter School ~~Facility~~ Facilities Program Rehabilitation” shall mean work that includes, but will not be limited to, structural changes or other types of work on an existing district facility that extends the useful life of or enhances the physical environment of the school, and as provided in Education Code Section 17078.58(a).

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“Urban Area” shall be as a school with a locale code of 11, 12 or 13 as classified by the NCES.

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Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.75, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17073.25, 17074.10, 17074.30, 17074.32, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17280, and 56026, and 101012(a)(8), Education Code; Section 53311, Government Code; and Section 1771.5, Labor Code.

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Section 1859.60. Calculation to Determine Modernization Baseline Eligibility.

The district shall calculate its modernization eligibility for each school site with the completion of the Form SAB 50-03. The eligibility determination may be made by either identifying all classrooms on the site pursuant to (a) or by the identification of all square footage on the site pursuant to (b), as follows:

- (a) Identify all classrooms at the school site that would have been included in the Gross Classroom Inventory pursuant to Section 1859.31 that are:
 - (1) Permanent and at least 25 years old.
 - (2) Portable and at least 20 years old.
 - (3) The remaining classrooms not reported in (1) or (2) above.
- (b) Identify all square footage at the school site that is:
 - (1) Permanent area and at least 25 years old.
 - (2) Portable classroom area and at least 20 years old.
 - (3) The remaining square footage on the site not reported in (1) or (2) above.

The age of the classroom or square footage shall begin 12 months after the plans for the building were approved by the DSA; or in the case of permanent or portable classrooms that were previously modernized with State funds or rehabilitated pursuant to ~~Article 14~~ under the Charter School Facilities Program, the 25/20 year period shall begin on the date of its previous apportionment. For purposes of identifying square footage at a school site, include the total enclosed exterior square footage of the school buildings. For multilevel buildings, include the square footage at each level.

Enrollment at the school shall be the latest CBEDS report for K-6, 7-8 and 9-12 pupils. If the school is closed at the time of application for eligibility determination for modernization, and the district intends to reopen it and use it as a school for at least the next five years, the enrollment may be estimated based on district demographic data. The calculated eligibility determined on the Form SAB 50-03, shall be referred to as the modernization baseline eligibility for the specific school site.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17073.15, 17073.20 and 17074.10, Education Code.

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

For purposes of the Small High School Program, the Board shall set aside the funding as follows:

- (a) \$20 million for the new construction of Small High Schools pursuant to Education Code Section 17072.10(c).
- (b) \$5 million in modernization funding to assist with the Reconfiguration of large high schools pursuant to Education Code Section 17074.32.

Pursuant to Education Code Section 101012(a)(5), the Board may provide up to \$200 million for the purposes set forth in Education Code Sections 17072.10(c) and 17074.32.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.10, 17074.32, and 101012(a)(5) Education Code.

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Section 1859.160. General.

A Charter School seeking a Preliminary Charter School Apportionment pursuant to the provisions of Education Code Sections 17078.50 ~~2~~ through 17078.66 for new construction or rehabilitation shall complete and file a Form SAB 50-09. In addition the charter school must provide all required documents necessary for a financial soundness determination.

Once the Board has approved a Preliminary Charter School Apportionment for a Preliminary Charter School Application submitted pursuant to this Section after July 2, 2003, a Charter School seeking an advance release of funds for site acquisition pursuant to Section 1859.164.2(b), shall be required to submit an additional Form SAB 50-09, to the OPSC, to determine eligible site acquisition costs. A Charter School seeking an advance release of funds for design, engineering, and other pre-construction project costs pursuant to Section 1859.164.2(a), shall not be required to submit an additional Preliminary Charter School Application.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52 and 17078.53, Education Code.

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Section 1859.163.1. Preliminary Charter School New Construction Apportionment Determination.

The Preliminary Charter School New Construction Apportionment shall be separated into two categories, items that may be identified as construction costs versus site acquisition costs.

- (a) The Preliminary Charter School New Construction Apportionment for construction costs shall be equal to the sum of (1) through (9) below:
 - (1) The amounts shown below for each pupil, based on the project capacity, included in a Preliminary Charter School Application:
 - (A) \$5,227 for each elementary school pupil.
 - (B) \$5,534 for each middle school pupil.
 - (C) \$7,226 for each high school pupil.
 - (D) \$16,653 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
 - (E) \$11,137 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
 - (2) An amount equal to 12 percent of the amount determined in (1) for multilevel construction, if requested by the Charter School.
 - (3) An amount for site development cost determined, at the option of the Charter School, by one of the following:
 - (A) One-half of the Site Development Cost for the specific site as authorized by Section 1859.76.
 - (B) One-half of the Site Development Cost as authorized by Section 1859.76 using historical information in the Charter School General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the Charter School General Location.
 - (C) \$70,000 multiplied by the proposed acres requested on the Form SAB 50-09.
 - (4) General Site Development costs within school property lines for an addition to an existing school site project wherein additional acreage is acquired or a new school project, determined as follows:
 - (A) \$9,600 per proposed acre requested on the Form SAB 50-09. This sum may be increased pursuant to the provisions in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.

- (B) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(1) multiplied by two. For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the Charter School on the Form SAB 50-09.
- (C) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(2) and (5) multiplied by two.
- (5) If the Preliminary Application request is for a small project that will house no more than 200 pupils, an amount pursuant to the following:
- (A) If the project will house less than 101 pupils, the district is eligible for an amount equal to 12 percent of the funding provided by (a)(1).
- (B) If the project will house between 101 and 200 pupils, the district is eligible for an amount equal to four percent of the funding provided by (a)(1).
- (6) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (1) and ~~(4)~~ (5), plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent when the following criteria are met:
- (A) The Charter School has requested an increase for multilevel construction pursuant to (2) above.
- (B) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size.
- (C) The value of the property as determined in Section 1859.163.2(a) is at least \$750,000 per Useable Acre. This criterion does not apply to an application for an addition to an existing school site.
- (7) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (1), (2), (3)(C), ~~(4)~~, ~~and (5)~~ and (6) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
- (8) For all Preliminary Apportionments received after February 23, 2005, an amount equal to the sum of the amounts determined in (1) through (6) multiplied by a factor determined as follows:
- (A) Divide the January Class B Construction Cost Index in effect at the time of the Preliminary Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Apportionment. Round to four decimal places.
- (B) Subtract 1 from the quotient in (A). Round to two decimal places.
- (9) ~~A~~ Fifty percent of the amount to initiate and enforce a LCP as prescribed in Section 1859.71.4, if required by the Labor Code.
- (10) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to the items in (1) through ~~(8)~~ (9) above.
- (b) The Preliminary Charter School Apportionment for site acquisition costs shall be:
- (1) Equal to one-half of the site acquisition value determined in Section 1859.163.2(a) and (c).
- (2) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to (1) above.
- (c) The total amount calculated in (a) above will be added to any amount calculated in (b) above, which will provide the Preliminary Charter School Apportionment amount.

The amounts shown in (a)(1) shall be adjusted annually in the manner prescribed in Section 1859.71.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52 and 17078.58, Education Code.

Section 1859.163.2. Preliminary Charter School Apportionment Site Acquisition Value.

If the Preliminary Charter School Application includes a request for site acquisition funding, the preliminary value of the proposed site shall be the sum of the following:

- (a) The value of the property determined by one of the following:
- (1) By an appraisal or a preliminary appraisal of the property made no more than six months prior to the date the Preliminary Charter School Application was submitted to the OPSC, using the guidelines outlined in Section 1859.74.1. The preliminary appraisal may be made without access to the property.
- (2) The Median Cost of an acre of land in the Charter School General Location using historical information in the Charter School General Location multiplied by the number of proposed Useable Acres requested on Form SAB 50-09. Historical information that may be considered to determine land cost shall include prior real-estate sales consummated and documented by the

county recorder or pending real-estate sales documented by a title insurance company's escrow instructions. For purposes of historical information include all real-estate sales consummated and documented by the county recorder for a minimum of six months and a maximum of up to two years prior to the date the Preliminary Charter School Application was submitted to the OPSC.

- (b) An amount for the estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA as determined by one of the following:
 - (1) 15 percent of the value determined in (a).
 - (2) The sum of the following:
 - (A) The approved relocation expenses for the specific site to be acquired that conform to Title 25, California Code of Regulations, Section 6000, et. seq.
 - (B) The DTSC cost for review, approval, and oversight of the POESA and the PEA for the specific site to be acquired.
 - (3) The estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA using historical information in the Charter School General Location. Historical information that may be considered to determine these estimated costs may include prior real-estate acquisitions of the district or other districts in the Charter School General Location.
- (c) Four percent of the amount determined in (a), but not less than \$50,000. This amount shall provide an allowance of any appraisal, escrow, survey, site testing, CDE review/approvals and preparation of the POESA and the PEA.
- (d) For allowable costs of hazardous material/waste removal and remediation costs, up to one-half times the value of the property determined in either (a)(1) or (a)(2) above.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52, Education Code.

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Section 1859.163.5 Preliminary Charter School Rehabilitation Apportionment Determination.

The Preliminary Charter School Rehabilitation Apportionment will be determined based on the eligible square footage included in the project. For purposes of the Preliminary Charter School Rehabilitation Apportionment, eligible square footage is defined as the total enclosed exterior square footage of the school buildings. For multilevel buildings, include the square footage at each level.

The amount of funding for each Preliminary Charter School Rehabilitation Apportionment will be equal to the sum of the amounts determined in (a) through (g) below:

- (a) The lesser of the amount determined in (1) or (2) below:
 - (1) The dollar value calculated using a per square foot amount and the total eligible square footage for the site as follows:
 - (A) Determine the total square footage for each classroom included in the project (limited by the Charter School's projected enrollment).
 - (B) Determine the total square footage for any multi-purpose room included in the project.
 - (C) Determine the total square footage for any gymnasium included in the project.
 - (D) Determine the total square footage for any library included in the project.
 - (E) Determine the total square footage for any administration building included in the project.
 - (F) Add the total square footage in (A) through (E) above to obtain the total square footage for the project.
 - (G) From the total determined in (F), determine the total square footage for toilet facilities and the total square footage for other facilities. Multiply the toilet facilities square footage by \$173.30 and the other facilities square footage by \$96.30. The sum of these figures is the square footage dollar value for the project.
 - (2) The dollar value calculated using the new construction grant amount and the project capacity based on the State loading standards as follows:
 - (A) Determine the proposed grade level usage of each classroom in the project (limited by the Charter School's projected enrollment).
 - (B) Multiply the number of classrooms at the K-6 grade level by 25, the number of classrooms at the 7-12 grade level by 27, the number of non-severe classrooms by 13, and the number of severe classrooms by 9.
 - (C) Multiply the number of pupils calculated pursuant to (B) by the appropriate dollar value determined in Section 1859.163.1(a)(1).

- (b) If the Preliminary Application request is for a small project that will house no more than 200 pupils, an amount pursuant to the following:
- (1) If the project will house less than 101 pupils, the district is eligible for an amount equal to 12 percent of the funding provided by (a).
 - (2) If the project will house between 101 and 200 pupils, the district is eligible for an amount equal to four percent of the funding provided by (a).
- (c) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (a) and (b), plus for a project with a site that is 60 percent or less of the CDE recommended site size plus 0.333 percent for each percentage decrease in the CDE recommended site size below 60 percent.
- (d) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (a), (b), ~~and (c)~~, and (e) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
- (e) \$60,000 for each new two-stop elevator required to be included in the project by the DSA, and \$10,800 for each additional stop.
- (f) For all Preliminary Apportionments received after February 23, 2005, an amount equal to the sum of the amounts determined in (a) through ~~(d)~~ (e) multiplied by a factor determined as follows:
- (1) Divide the January Class B Construction Cost Index in effect at the time of the Preliminary Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Apportionment. Round to four decimal places.
 - (2) Subtract 1 from the quotient in (1). Round to two decimal places.
- (g) An amount to initiate and enforce a LCP as prescribed in Section 1859.71.4, if required by the Labor Code.
- (h) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to the items in (a) through (g) above.

The amounts determined in (a) and (e) shall be adjusted annually in the manner prescribed in Section 1859.71.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52, 17078.54 and 17078.58, Education Code.

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

Funds Apportioned under the Charter School Facilities Program for Rehabilitation projects are to be used for work consistent with the definition of Charter School Facility Facilities Program Rehabilitation. If the rehabilitation project includes reconfiguration of an existing building and the project decreases the district's capacity at the site or displaces a minimum essential facility, the original capacity and minimum essential facility will still be considered to be in existence. Furthermore, State funding may not be used to replace the capacity or the original minimum essential facility in the future.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52, 17078.54 and 17078.58, Education Code.

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Section 1859.167. Final Charter School Apportionment.

- (a) With the exception of Charter School Preliminary Apportionments provided by the Board on February 23, 2005, the amount of the Final Charter School Apportionment will be based on the provisions of any amended or new regulations that are effective at the time the Form SAB 50-04, for the Final Charter School Apportionment is submitted and accepted for processing by the OPSC. Prior to the Board providing a Final Charter School Apportionment, the Charter School will need to have a current Financial Soundness certification from the Authority. The Board shall convert the amounts determined below from the Preliminary Charter School Apportionment to the Final Charter School Apportionment:
- (1) If the Final Charter School Apportionment request is equal to or less than the Preliminary Charter School Apportionment, the Final Charter School Apportionment shall be funded entirely. The difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment shall be transferred to the Unrestricted Charter School Fund in the appropriate Charter School Facility Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.
 - (2) If the Final Charter School Apportionment request is greater than the Preliminary Charter School Apportionment, the Board shall convert the Preliminary Charter School Apportionment to a Final Charter School Apportionment by either of the following:

- (A) If the balance in the Unrestricted Charter School Fund in the appropriate Charter School Facility Account is greater than the difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment, fund the Final Charter School Apportionment entirely. The Final Charter School Apportionment shall become the full and final apportionment for the project.
- (B) If the balance in the Unrestricted Charter School Fund in the appropriate Charter School Facility Account is less than the difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment, fund the Final Charter School Apportionment using any remaining balance in the Unrestricted Charter School Fund in the appropriate Charter School Facility Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.
- (b) For Preliminary Charter School Apportionments provided by the Board on February 23, 2005:
- (1) the Final Charter School Apportionment will be subject to the provisions of any amended or new regulations that are effective at the time the Form SAB 50-04 is submitted and accepted for processing by the OPSC for the Final Charter School Apportionment; and,
 - (2) the per-pupil grant amounts shall not exceed the amount allotted in ~~1859.163.1(a)(1)~~ at the time of the preliminary apportionment; and,
 - (3) if the Preliminary Charter School Apportionment was based on the Charter School being eligible for the additional grant in Section 1859.163.1(a)(~~5~~) (6) and at the time the Final Charter School Apportionment is provided the Charter School does not meet the requirements to receive that adjustment pursuant to Section 1859.83(d), the Charter School construction cost funding cap will be re-established based on the non-urban project amount, ~~pursuant to Section 1859.163.1(a)~~; and,
 - (4) the Final Charter School Apportionment shall not contain additional grants beyond that which the Charter School may have requested at the time of the Preliminary Charter School Application; and,
 - (5) prior to the Board providing a Final Charter School Apportionment the Charter School will need to have a current Financial Soundness certification from the Authority; and,
 - (6) The amount of the Final Charter School Apportionment shall not exceed the Preliminary Charter School Apportionment ~~determined in Section 1859.163.1~~, and the Board shall convert the amounts determined below from the Preliminary Charter School Apportionment to the Final Charter School Apportionment:
- (A) If the portion of the Preliminary Charter School Apportionment calculated ~~pursuant to Section 1859.163.1(a)~~ for construction costs is greater than the Final Charter School Apportionment request for the items identified as construction costs then the difference shall be transferred to the Unrestricted Charter School Fund in the appropriate Charter School Facility Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.
- (B) If the portion of the Preliminary Charter School Apportionment calculated pursuant to Section 1859.163.1(b) is greater than the Final Charter School Apportionment request for the site acquisition cost items then the difference shall be transferred to the Unrestricted Charter School Fund within the appropriate Charter School Facility Account. If the project is eligible for an additional grant for relocation expenses, DTSC fees, or hazardous waste removal pursuant to Sections 1859.74 or 1859.74.2, the Preliminary Charter School Apportionment may be increased accordingly using the funding set aside in Section 1859.163.3. The Final Charter School Apportionment shall become the full and final apportionment for the project.
- (C) If the portion of the Preliminary Charter School Apportionment calculated ~~pursuant to Section 1859.163.1(a)~~ for construction costs is less than the Final Charter School Apportionment request for the items identified as construction costs, the amount of funding provided at the Preliminary Charter School Apportionment shall become the full and final apportionment for the project.
- (D) If the portion of the Preliminary Charter School Apportionment calculated pursuant to Section 1859.163.1(b) is less than the Final Charter School Apportionment request for the site acquisition cost items, the amount of funding provided at the Preliminary Charter School Apportionment shall become the full and final apportionment for the project. If the project is eligible for an additional grant for relocation expenses, DTSC fees, or hazardous waste removal pursuant to Sections 1859.74 or 1859.74.2, the Preliminary Charter School Apportionment may be increased accordingly using the funding set aside in Section 1859.163.3.
- (E) The Board may approve any funds deposited into the Unrestricted Charter School Fund in the appropriate Charter School Facility Account pursuant to (b)(6)(A) or (B) shall be first used to fund remaining site acquisition costs on the Unfunded List pursuant to Section 1859.163.3. If no projects remain on the Unfunded List the Board shall use any funds for other Charter School facility projects.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52 and 17078.56, Education Code.

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