

**NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS OF THE
DIVISION OF THE STATE ARCHITECT (DSA-SS)
REGARDING THE 2022 CALIFORNIA PLUMBING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5
(DSA-SS 05/22)**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Division of the State Architect (DSA-AC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 5. The DSA-SS and DSA-SS is proposing building standards related to the 2022 California Plumbing Code.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from 21 April 2023 until midnight on 5 June 2023.

Comments may be submitted to CBSC via:

[e-Comment form](https://dgs.ca.gov/BSC/e-comments): dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than 5 June 2023:

California Building Standards Commission
Attention: Public Comments
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Note: Only comments received in an accessible format will be viewable via CBSC's website. Use the e-Comment form to ensure accessibility.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide written and oral comments regarding the proposed action on building standards at a public meeting to be conducted by CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, the Building Standards Commission (BSC) may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which BSC adopts, amends, or repeals the regulation(s). BSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18928.

DSA-SS is proposing this regulatory action under the authority granted Education Code Sections 17310 and 81142.

For DSA-SS the purpose of these building standards is to implement, interpret, or make specific the provisions of Education Code Sections 17280 through 17317, and 81130 through 81147 and 81052.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Sections 17310 and 81142 of the Education Code authorize the State Architect to establish building standards for the design, construction and inspection of building systems for public elementary and secondary schools and community colleges.

Sections 17280 through 17317, Sections 81130 through 81147 and Section 81052 of the Education Code authorizes the Division of the State Architect to oversee the design and construction of all public K-12 schools and Community Colleges respectively.

Summary of Existing Regulations

Part 3, California Electrical Code, which prescribe the design and construction requirements for electrical systems of public elementary and secondary schools, and community colleges.

Part 4, California Mechanical Code, which prescribe the design and construction requirements for mechanical systems of public elementary and secondary schools and community colleges.

Part 5, California Plumbing Code, which prescribe the design and construction requirements for plumbing systems of public elementary and secondary schools, and community colleges.

Part 6, the California Energy Code, which contains minimum energy efficiency standards for the non-residential buildings in California promulgated by the California Energy Commission (CEC).

Part 11, the California Green Building Standards Code (CALGreen), which contains mandatory and voluntary green building standards for residential and non-residential facilities and mandatory measures for public schools and community colleges.

Other relevant CCR titles:

Title 17 includes regulations for air quality promulgated by the California Air Resources Board.

Summary of Effect

The proposed action will amend the current 2022 edition of the CPC which is based on the most recent edition of the 2021 UPC. These amendments are applicable to elementary and secondary public schools and community colleges and will do the following:

- Add and amend definitions in Chapter 2 of the CPC.
- Add an exception to the Separate Facilities requirements in CPC Chapter 4, allowing the design of all-gender multi-user restrooms in state buildings, state colleges, and universities as an alternative.
- Amend to add an enumerated section and renumber the following section to preserve sequencing.
- Once filed with Secretary of State, make the proposed amendments be codified and published as supplements by January 1, 2024, and become effective July 1, 2024.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations related to the proposed action by DSA.

Policy Statement Overview

The broad objectives of this proposal are to add an exception to the CPC Separate Facilities requirement, allowing for the design of all-gender multi-user restrooms in public elementary and secondary schools and community colleges. The proposal also contains updated definitions, renumbered code section references. Providing the proposed exception will allow public schools and community colleges to provide restrooms designed to be more inclusive of all genders. The benefit will be regulations which are more equitable across all genders, including the prevention of discrimination and the promotion of fairness and social equity. Additionally, the benefits of improving clarity and consistency in the CPC include the protection of public health and safety, worker safety, and the environment.

Evaluation of Consistency

DSA has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).

There are no other matters prescribed by statute applicable to DSA, or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).

DSA has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. This proposal does not impose new mandates that would require state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **YES – See Economic and Fiscal Impact Statement (STD. 399) form and Attachment 1 – Cost Analysis**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No cost or savings**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No cost or savings**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO cost or savings**
- E. Cost or savings in federal funding to the state: **No cost or savings**

Estimate: **See Economic and Fiscal Impact Statement (STD. 399) form and Attachment 1**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

DSA has made an initial determination that these amendments will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. These amendments apply to elementary and secondary public schools and community colleges.

Declaration of Evidence

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relied upon to support its initial determination of no effect.

BSC affirms, and DSA concurs, that this rulemaking action complies with relevant sections of California Building Standards Law and the Administrative Procedure Act, as well as public participation required by the California Administrative Code (Part 1 of Title 24). DSA has determined that this regulatory action would not result in a significant adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states. In addition to code changes that ensure clarity and consistency with existing statutes and regulations, Item 2 of this proposal contains an exception to the CPC Separate Facilities

requirements that allows the option of designing newly constructed restrooms for use by all genders in state buildings, state colleges, and universities. Because this is an alternative and not a mandatory requirement in the CPC, DSA anticipates no significant economic impact to business and has vetted the proposal during the precycle phase of the 2022 Intervening Code Cycle.

In early 2022 BSC was contacted by members of the Government Operations Agency's California Leads as an Employer LGBTQIA+ Subcommittee (including representatives from the California Department of Social Services, Department of Corrections and Rehabilitation, Department of Aging, and the Public Employees Retirement Board) with a request to consider proposing an all-gender restroom exception in the 2022 CPC. In April 2022 representatives from BSC and DSA participated in the American Institute of Architects Central Valley's "We All Gotta Go – A Restroom for All" webinar, learning valuable information in the process. In May of 2022 DSA presented to schools stakeholders during the "Safe Schools Bathrooms Ad Hoc Committee" meeting hosted by CDE. During this meeting DSA received input from a broad range of participants. Throughout 2022 BSC and DSA have closely monitored IAPMO's development of an all-gender multi-user exception in the 2024 UPC, which is expected to be published in Spring 2023. In July of 2022 BSC and DSA hosted a virtual All-Gender Plumbing Code precycle workshop attended by over 150 affected stakeholders and subject matter experts, considering different strategies, and receiving valuable feedback both during the meeting and afterwards via a precycle request for comments in September 2022.

While BSC received, and forwarded to DSA, support letters from various public and private entities, stakeholders also expressed concern with mandating all newly constructed public restrooms be designed to serve all genders. It is important to note that this proposal does not mandate that all new public restrooms be designed and constructed to serve all genders. Rather, it is an alternative that provides elementary and secondary schools and community colleges with the option to do so should they choose. DSA and BSC have revised their co-adopted proposals, which "early adopt" the all-gender provisions that will likely be published in the 2024 UPC and further amending them based on stakeholder input.

DSA's and BSC's co-adopted all-gender multi-user restroom proposal is based on similar provisions being developed by IAPMO for inclusion in the 2024 UPC (see [2024 UPC Report on Comments Items 93 and 94, as published in August 2022](#)). Additionally, [SB 1194 \(Chapter 839, Statutes of 2022\)](#) authorizes city and county building departments to require that public restrooms constructed within its jurisdiction be designed to serve all genders instead of complying with the plumbing standards set forth in the California Building Standards Code. This authority sunsets on the date that standards addressing all gender multiuser facilities take effect in Title 24.

Editorial amendments within this proposal (e.g., revised definition, and revised code section references) have been coordinated with HCD, DSA, HCAI, and DWR with no intended change in regulatory effect and no anticipated economic impact on businesses.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

No report is required for these proposed amendments to the CPC.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

While not mandatory, if the all-gender multi-user restroom exception is utilized by a public elementary or secondary school or a community college it could result in additional costs to design and construct restrooms that serve all genders.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

DSA has assessed whether and to what extent this proposal will affect the following:

- A. The creation or elimination of jobs within the State of California.**
DSA's all-gender multi-user restroom exception—if utilized by the regulated community—could create more jobs in the design and construction of restrooms in public schools and community colleges.
- B. The creation of new businesses or the elimination of existing businesses within the State of California.**
DSA's all-gender multi-user restroom exception—if utilized by the regulated community—could create new business for architects and contractors that design and construct restrooms in public schools and community colleges.
- C. The expansion of businesses currently doing business within the State of California.**
DSA's all-gender multi-user restroom exception—if utilized by the regulated community—could expand existing business for architects and contractors that design and construct restrooms in public schools and community colleges.
- D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.**
By providing the proposed exceptions it will allow the regulated community the ability to accept or require restrooms in public schools and community colleges to be designed to be more inclusive of all genders. The benefit will be regulations which are more equitable across all genders.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

DSA has determined there would be no cost to comply with these proposed building standards with respect to housing at a place of public education costs. DSA does not have

authority to impose building standards or regulations applicable to housing under Housing and Community Development authority.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

On July 19, 2022, BSC and DSA considered various alternatives for an all-gender multi-user restroom exception during its All-Gender Plumbing Code Workshop, including the following:

1. Wait to adopt the all-gender provisions in the 2024 UPC during the 2024 Triennial Code Adoption Cycle
2. Early adopt IAPMO's 2024 UPC All-Gender proposal during the 2022 Intervening Code Adoption Cycle
3. Amend Chapter 29 of the 2022 California Building Code (Part 2 of Title 24) during the 2022 Intervening Code Cycle (not currently adopted by California)
4. Copy elements of International Building Code Section 2902 into the CPC during the 2022 Intervening Code Cycle (not currently adopted by California)
5. Add a pointer to SB 1194 (Chapter 839, Statutes of 2022)

Based on feedback received during the workshop it was determined that early adopting and further amending IAPMO's 2024 UPC All-Gender proposal (Option #2 above) was the most appropriate and least burdensome path forward as California already adopts the UPC pursuant to State Housing Law and Building Standards Law (see Health and Safety Code Sections 17922, 18916, 18928, and 18928.1). However, waiting to adopt the 2024 UPC (Option #1) was ruled out because those standards would not become effective until January 1, 2026, and stakeholders indicated that the exception for all-gender restrooms is needed much sooner. Alternatives to consider language in Chapter 29 of the CBC/IBC (Options 3 and 4) were rejected because California historically has not adopted this chapter and doing so would have required plumbing standards in multiple Parts of Title 24 which would likely create confusion for the code user. Adding a pointer to recently enacted SB 1194 was ruled out because while it provides the exception to design all-gender restrooms to city and county building departments, it does not address the occupancies under DSA's authority (public schools and community colleges). BSC has received, and forwarded to DSA, multiple comments in support of early adopting and further amending IAPMO's 2024 UPC All-Gender proposal, including from the City of Santa Monica, the City of Foster City, the University of California, the Los Angeles Department of Water and Power and the California State Pipe Trades Council.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the [commission website](https://dgs.ca.gov/BSC): dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the [commission website](https://dgs.ca.gov/BSC): dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

BSC shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law. The statement shall note that providing the accessible description of proposed changes may require extending the period of public comment for the proposed action.

BSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Irina Brauzman, Associate Architect
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive or technical aspects of the proposed changes to the building standards should be addressed to:

Primary Contact:

Eric Driever, Principal Architect
Division of the State Architect
Headquarters, Codes and Policies
(916) 443-9829
eric.driever@dgs.ca.gov

Back up Contact:

Michelle Golden, Senior Architect
Division of the State Architect
(858) 674-5453
michelle.golden@dgs.ca.gov