

April 6, 2020

TO: ALL SCHOOL DISTRICTS AND OTHER INTERESTED PARTIES

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED EMERGENCY REGULATORY ACTION

In accordance with Assembly Bill 1302, Chapter 713, Statutes of 2006, enclosed is a proposed emergency regulation adopted by the State Allocation Board (SAB) at its emergency meeting on March 25, 2020. The proposed emergency regulation and Finding of Emergency are attached to this Notice and can be accessed on the Office of Public School Construction's (OPSC) website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations#@ViewBag.JumpTo>.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

On March 4, 2020, the Governor of the State of California issued Executive Order N-25-20, which proclaims a State of Emergency exists in California as a result of the threat of the Novel Coronavirus 2019 (COVID-19). The threat of COVID-19 has led to many changes in California, including the closure of all schools, and a statewide shelter-in-place order.

The primary stakeholders and participants in programs operated by the SAB are school districts. All schools in the state are currently closed, and it is expected that this may last several more months, until the end of the current school year. As a result of this unprecedented situation, school districts throughout the state are quickly working to implement online learning programs for students, establish methods to safely provide nutrition services to students, and transition their own staff to telework arrangements.

The SAB administers multiple programs related to school facilities. The two primary programs include the School Facility Program and the Full-Day Kindergarten Facilities Grant Program. Per statute, the SAB sets the rules and processes for its programs through the adoption of regulations. The regulations contain provisions that require school districts to take specified actions by certain deadlines, or funding could be at risk.

The SAB and OPSC are concerned that with so many competing priorities, not all school districts will be in a position to meet currently established deadlines. The extent to which school districts will be able to continue with school construction funding requirements at the current point in time is currently unknown. Administrative deadlines set by OPSC can easily be extended. However, without the adoption of this proposed emergency regulation, school districts may be financially harmed by deadlines previously adopted in regulation by the SAB. Further, the harm will be disproportionate, as not all school districts have the same ability to address the demands of responding to the changes required due to the threat of COVID-19 as well as to any SAB deadlines. This regulation will allow the Executive Officer to temporarily extend, for an appropriate period of time as determined by the Executive Officer, any deadline set forth by the SAB or OPSC. Upon exercising this authority, to maintain transparency, the Executive Officer

will notify the SAB of actions taken. OPSC will also post the actions to the relevant section of the OPSC website.

As noted in the introductory paragraph above, the Finding of Emergency and the proposed regulation are attached to this Notice. You may review the documents on OPSC's website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations#@ViewBag.JumpTo>. Copies of the proposed regulation and Finding of Emergency will be mailed to any person requesting this information by using the OPSC contact information set forth below. The proposed regulation implements the Emergency Powers of the Executive Officer during the COVID-19 State of Emergency (Executive Officer of the SAB and OPSC), which is a new regulation section under Article 2, Section 1580, of Subgroup 2, of Group 1, of Subchapter 4, of Chapter 3, of Division 2, of Title 2, of the California Code of Regulations.

OPSC, on behalf of the SAB, intends to submit the proposed regulation to the Office of Administrative Law (OAL) in early April 2020. The following is an overview of the proposed regulation.

Summary of the Proposed Regulation

A summary of the proposed regulation is as follows:

Proposed adoption of Regulation Section 1580 grants the Executive Officer of the SAB and OPSC the ability to extend, for an appropriate period of time to be determined by the Executive Officer, any deadline set forth in regulations adopted by the SAB or in other rules and procedures set by the SAB and/or OPSC. The Executive Officer shall notify the SAB upon exercising the powers authorized by the regulation. The proposed regulation further specifies that a deadline extension shall not alter approved project funding amounts, and the regulation shall not use the regulation solely to alter prospective grant amounts. The regulation is valid only during the time period of the State of Emergency, and is automatically repealed 180 days from its adoption, subject to subsequent action by the SAB.

SUBMISSION OF COMMENTS

Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the OAL, the adopting agency provide a Notice of the Proposed Emergency Action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed regulations to the OAL, the OAL shall allow interested persons five calendar days to submit comments on the proposed regulation as set forth in Government Code Section 11349.6.

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OAL within five days after the SAB submits the regulations to the OAL for review.

Please reference submitted comments as regarding "Emergency Powers of the Executive Officer During the COVID-19 State of Emergency," addressed to:

Reference Attorney

Mailing Address: Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

E-mail Address: staff@oal.ca.gov

Fax No.: (916) 323-6826

For the status of the SAB submittal to the OAL for review, and the end of the five-day written submittal period, please consult the website of 1) the OAL at www.oal.ca.gov under the heading "Emergency Regulations," and 2) OPSC at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations#@ViewBag.JumpTo>, then click on the following documents under the heading entitled "Executive Officer's Emergency Powers:"

- AB 1302 Five-Day Notice
- Finding of Emergency
- Proposed Regulation Text

Pursuant to Title I, Section 55, please send a copy of written comments regarding the proposed regulatory action, as well as requests for a copy of the proposed regulatory action, and questions concerning the substance of the proposed regulatory action, addressed to:

Lisa Jones, Regulations Coordinator

Mailing Address: Office of Public School Construction
707 3rd Street, 6th Floor
West Sacramento, CA 95605

E-mail Address: lisa.jones@dgs.ca.gov

Fax No.: (916) 375-6721

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Emergency Regulatory Action may be directed to Ms. Lisa Jones at (916) 376-1753. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Chief of Administrative Services, at (916) 376-1646.