

## **INITIAL STATEMENT OF REASONS**

### **Section 1859.2. Definitions.**

#### **Specific Purpose of the Regulation**

To change the revision dates to two forms based on conforming regulatory amendments.

#### **Need for the Regulation**

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. It was necessary to correct the revision dates of the Forms SAB 50-04 and SAB 50-09 as both forms have been amended that incorporate Proposition 2 provisions relating to the Energy Efficiency and Career Technical Education (CTE) supplemental grants (Education Code Sections 17077.35 and 17078.74, respectively).

### **Section 1859.71.3. New Construction Additional Grant for Energy Efficiency.**

#### **Specific Purpose of the Regulation**

To incorporate and align provisions related to the Energy Efficiency supplemental grant.

#### **Need for the Regulation**

It was necessary to differentiate between Approved Applications received on or before October 31, 2024, as New Construction and Modernization applications shall be processed and apportioned under the School Facility Program as it read on January 1, 2024, pursuant to Education Code Section 17070.87 versus Approved Applications received on or after October 31, 2024 as New Construction and Modernization applications could request the new Energy Efficiency supplemental grant under Proposition 2. It was necessary to provide the option for school districts to either continue with their Approved Application already received and accept a full and final apportionment or withdraw its application and resubmit the approved application to be eligible for this new supplemental grant. The Energy Efficiency supplemental grant uses the new points-based scoring system with new eligibility criteria. The new system determines the percentage of supplemental grant funding allowed based on the Energy Code compliance approach and points achieved using the newly developed scoring system based on the Collaborative for High Performance Schools (CA-CHPS) created by the Division of the State Architect (DSA) and CA-CHPS for the Office of Public School Construction (OPSC). Because the review of a project will be completed through two different compliance approaches, the points scoring rubric is separated by the type of compliance method. In addition, it was necessary to make minor edits that are considered non-substantive changes.

### **Section 1859.77.1. New Construction District Matching Share Requirement.**

#### **Specific Purpose of the Regulation**

To correct an outdated Education Code section and to make non-substantive changes.

## **Need for the Regulation**

Third paragraph, second line: It was necessary to correct the Education Code Section in order to align with previous statutory changes. It was also necessary to make minor edits that are considered non-substantive changes to maintain consistency in these School Facility Program (SFP) regulations.

### **Section 1859.78.5. Modernization Additional Grant for Energy Efficiency.**

#### **Specific Purpose of the Regulation**

To incorporate and align provisions related to the Energy Efficiency supplemental grant.

#### **Need for the Regulation**

It was necessary to differentiate between Approved Applications received on or before October 31, 2024, as New Construction and Modernization applications shall be processed and apportioned under the School Facility Program as it read on January 1, 2024, pursuant to Education Code Section 17070.87 versus Approved Applications received on or after October 31, 2024 as New Construction and Modernization applications could request the new Energy Efficiency supplemental grant under Proposition 2. It was necessary to provide the option for school districts to either continue with their Approved Application already received and accept a full and final apportionment or withdraw its application and resubmit the approved application to be eligible for this new supplemental grant. The Energy Efficiency supplemental grant uses the new points-based scoring system with new eligibility criteria. The new system determines the percentage of supplemental grant funding allowed based on the Energy Code compliance approach and points achieved using the newly developed scoring system based on the Collaborative for High Performance Schools (CA-CHPS) created by the Division of the State Architect (DSA) and CA-CHPS for OPSC. Because the review of a project will be completed through two different compliance approaches, the points scoring rubric is separated by the type of compliance method. In addition, it was necessary to make minor edits that are considered non-substantive changes.

### **Section 1859.78.10. Modernization Additional Grant for Career Technical Education Components.**

#### **Specific Purpose of the Regulation**

To set forth the qualifying criteria for the Career Technical Education supplemental grant.

#### **Need for the Regulation**

It was necessary to introduce that this Modernization supplemental grant could only be requested on Approved Applications received by the OPSC on or after October 31, 2024 as the grant is a provision of Proposition 2. It was necessary to make known to school districts requesting this supplemental grant for the costs associated with the enhancement of CTE components for existing middle and high schools that specific criteria had to be met. The criteria is in alignment with Education Code Section 17078.74. In addition, it was also necessary to inform applicants that if they received funding for any CTE components previously funded through the Career Technical Education Facilities Program they would not be eligible to receive this supplemental grant. This prevents duplicate funding of CTE components in projects and ensures the integrity of the bond funds.

**Section 1859.79. Modernization District Matching Share Requirement.**

**Specific Purpose of the Regulation**

To correct an Education Code section and to make non-substantive changes.

**Need for the Regulation**

Last paragraph, second line: It was necessary to correct the Education Code Section in order to align with previous statutory changes. It was also necessary to make minor edits that are considered non-substantive changes to maintain consistency in these SFP regulations.

**Section 1859.83. Excessive Cost Hardship Grant.**

**Specific Purpose of the Regulation**

To set forth additional supplemental funding to projects for excessive cost hardship due to geographic location and to make non-substantive changes.

**Need for the Regulation**

It was necessary to allow the inclusion of funding from the CTE supplemental grant to be part of the calculation to determine the Excessive Cost due to Geographic Location. The newly added supplemental grants are the 75 Years or Older Building (Section 1859.78.7.1), Minimum Essential Facilities (Section 1859.78.9.1), and Transitional Kindergarten (Section 1859.78.9.2) which were approved by the SAB at its June 25, 2025 meeting. However, the statutory authority for Excessive Cost Hardship Grants lapsed and on June 27, 2025, the authority was restored by newly added Education Code Section 17075.11, which applied retroactively to applications submitted on or after October 31, 2024. Funds provided by the Energy Efficiency supplemental grant are already included in the determination formula. In addition, it was necessary to make minor edits that are considered non-substantive changes.

**Section 1859.163.1. Preliminary Charter School New Construction Apportionment Determination.**

**Specific Purpose of the Regulation**

To set forth the Energy Efficiency supplemental grant for the Charter School Facilities Program (CSFP) and to correct subsection renumbering.

**Need for the Regulation**

Subsection (a)(1)(8): It was necessary to add this subsection to include the Energy Efficiency supplemental grant in the determination of the Preliminary Charter School Apportionment for New Construction. This means that this supplemental grant will be included as part of the entire reservation of funds for the project.

Subsection (a)(9): It was necessary to correct an error so that the inflator factor is applied to any amount provided for the geographic location of a proposed project receiving a Preliminary Charter School Apportionment.

Subsection (g): Although school districts can apply under the CSFP, it was necessary to strike through "school districts" and replace it with "applicant" since in this subsection the word "applicant" has been repeated several times. This maintains consistency.

There are renumbering changes throughout this section due to the addition of subsection (a)(1)(8).

**Section 1859.163.5. Preliminary Charter School Rehabilitation Apportionment Determination.**

**Specific Purpose of the Regulation**

To set forth supplemental grants for the reservation of funds for CSFP projects and to make non-substantive changes.

**Need for the Regulation**

Subsection (a)(6): It was necessary to add this subsection to allow applicants to request and reserve this funding for accessibility and fire code requirements at the time the Preliminary Charter School Apportionment for Rehabilitation is converted to a Final Charter School Apportionment.

Subsections (a)(7) and (a)(8): It was necessary to add these new subsections to this section so applicants can request and reserve these supplemental grants as part of the determination of a Preliminary Charter School Apportionment for Rehabilitation.

There are renumbering changes throughout this section due to the addition of the above-noted subsections. These are considered non-substantive changes.

**Section 1859.164.2. Preliminary Charter School Apportionment Fund Release.**

**Specific Purpose of the Regulation**

To make corresponding renumbering changes.

**Need for the Regulation**

It was necessary to make renumbering changes by aligning the renumbering of subsections with those in Regulation Sections 1859.163.1 and 1859.163.5 above. These are considered non-substantive changes.

**Section 1859.167.1. Final Charter School Apportionment Determination for Charter School Facilities Program Rehabilitation.**

**Specific Purpose of the Regulation**

To set forth the funding that may be requested for a Final Charter School Apportionment for a CSFP Rehabilitation project.

**Need for the Regulation**

Introductory paragraph: It was necessary to allow applicants to request supplemental grants that include energy efficient and CTE components for a Final Charter School Apportionment. It was also necessary to clarify that the CSFP Rehabilitation Grant will be used in lieu of the Modernization Grant to calculate the funding provided by the Modernization Additional Grant for Energy Efficiency (Section 1859.78.5) and the Modernization Additional Grant for CTE Components (Section 1859.78.10), and that funding will be 60 percent of the OPSC-approved

costs for the CTE scope of work in an Approved Application for a CSFP Rehabilitation project. In addition, there are minor edits that are considered non-substantive changes.

**Section 1859.168. Preliminary Charter School Apportionment Matching Share Requirement.**

**Specific Purpose of the Regulation**

To correct a citation.

**Need for the Regulation**

It was necessary to strike through “Section 1859.77.1 and” because the matching share requirement for Preliminary Charter School Apportionments remains a 50 percent local matching share that may be paid through lease payments in lieu of the matching share. This is consistent with statutory requirements.

OPSC performed a search on whether the proposed regulatory amendments were consistent and compatible with existing State laws and regulations and did not identify any inconsistent or incompatible existing State laws or regulations. The proposed regulatory amendments are consistent with and implement provisions of statutory changes enacted with the passage of Proposition 2. Proceeding with the implementation of the proposed regulations will provide a positive impact on the state’s economy, as well as the creation of an unknown number of jobs in the school construction industry. Once school districts request the release of state funds, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. School districts, county offices of education and applications for charter schools will also have the ability to take advantage of the new Proposition 2 provisions. The proposed regulations will maintain equity, consistency, and the integrity of the SFP.

**SCHOOL FACILITY PROGRAM FORMS**

**Application For Funding, Form SAB 50-04 (Rev. 12/2501/26).**

**Specific Purpose of the Form**

To incorporate provisions of Proposition 2 for New Construction and Modernization projects.

**Need for the Form**

It was necessary to update this Form with Proposition 2 provisions that are related to Energy Efficiency and CTE supplemental grants (Education Code Sections 17077.35 and 17078.74, respectively). Additionally, since the Office of Administrative Law (OAL) approval of these emergency regulations [OAL File #2026-0205-02E], an intervening regulatory action was approved by OAL [OAL File #2026-0424-01E] which changes the revision date of this Form 01/26; this Form includes the approved language from the above-noted OAL file number.

**Application for Charter School Preliminary Apportionment, Form SAB 50-09 (Rev. 12/2501/26).**

**Specific Purpose of the Form**

To incorporate provisions of Proposition 2 and make non-substantive changes throughout this Form.

**Need for the Regulation**

It was necessary to update this Form with Proposition 2 provisions that are related to Energy Efficiency and CTE supplemental grants (Education Code Sections 17077.35 and 17078.74, respectively). Additionally, since the OAL approval of these emergency regulations [OAL File #2026-0205-02E], an intervening regulatory action was approved by OAL [OAL File #2026-0424-01E] which changes the revision date of this Form to 01/26; this Form includes the approved language from the above-noted OAL file number.

**Anticipated Benefits and Economic Impact of the Proposed Regulations**

There are benefits associated with the proposed regulations in that they implement the new statutory authority for the SAB so school districts and county offices of education can plan and request the Energy Efficiency and CTE supplemental grants now for their projects. Although charter schools' applications have already been received by OPSC, with an early effective date of the regulations OPSC can include and calculate these two supplemental grants in the preliminary apportionments should the projects qualify for them. This would maintain equity and fairness in the SFP.

The proposed regulations promote transparency because school districts and the school district community have been collaborating on the proposed regulations through a series of stakeholder meetings. The Energy Efficiency supplemental grant existed in the SFP in 2002, but the funds allocated for the grant were exhausted years ago. Proposition 2 amended provisions in Education Code Section 17077.35 to provide an increase of up to five percent of the state share, which covers the increased costs associated with including energy efficiency components in SFP New Construction, Modernization, and CSFP New Construction and Rehabilitation projects. There is no longer a set limit on the total amount of funding available for energy efficiency supplemental grants and the grants will be provided for qualifying applications as long as sufficient SFP New Construction or Modernization and CSFP New Construction or Rehabilitation bond authority is available.

The new CTE Supplemental Grant provides up to five percent of the state share of the Modernization base grant for qualifying Modernization projects or up to five percent of the state share of the CSFP Rehabilitation base grant for qualifying CSFP Rehabilitation projects that include CTE components at middle and high schools that meet specific criteria. The CTE supplemental grants are available for eligible Modernization and CSFP Rehabilitation projects.

In addition, the proposed regulations will not negatively impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California. Additionally, the proposed regulations expand the SFP while maintaining program integrity and equity amongst school district projects.

The proposed regulations are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulations maintains the integrity of the SFP funding process, as well as equity amongst school district projects.

### **Technical Documents Relied Upon**

- The SAB's Action Item, dated December 3, 2025, REPORT OF THE EXECUTIVE OFFICER, entitled "Proposed Emergency Regulatory Amendments for the School Facility Program."

### **Alternatives to the Proposed Regulatory Action that would be as Effective and Less Burdensome to Private Persons**

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulations or would be as effective and less burdensome to affected private persons than the proposed regulations or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. The alternative to these proposed regulatory amendments would be the SAB take no action, thereby violating the provisions contained in AB 247 (Muratsuchi, Chapter 81, Statutes of 2024). The SAB is charged with ensuring that the provisions of Proposition 2 are implemented in the SFP in a timely manner.

### **Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Economic Impact on Small Business**

The SAB has determined that the proposed regulations will not have a negative impact on small businesses.

### **Finding of Significant Adverse Economic Impact on Businesses**

The SAB has determined that the adoption of the proposed regulations will not have a negative economic impact on businesses/small businesses because they are not required to directly comply with or enforce the regulations, nor will they be disadvantaged by the regulations. Proceeding with the implementation of the proposed regulations will not negatively impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California. Further, the proposed regulations maintain equity amongst school districts projects and the integrity of the SFP funding process.

### **Impact on Local Agencies or School Districts**

The SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies, school districts, or charter school to incur additional costs in order to comply with the proposed regulations.

**Office of Administrative Law Regulations, Title 1, Section 20(c)(1)**

Because the State Allocation Board's SFP Forms are cumbersome documents, it would be unduly expensive and otherwise impractical to publish the Forms in the California Code of Regulations. Therefore, it is not necessary to publish the Forms in the California Code of Regulations.

**Office of Administrative Law Regulations, Title 1, Section 20(c)(2)**

The State Allocation Board's SFP Forms are made available upon request and through our website and continue to be made available upon request and through our website.

## **ECONOMIC IMPACT ASSESSMENT OF REGULATIONS**

### *“Proposed Emergency Regulatory Amendments for the School Facility Program”*

#### **Proposed State Allocation Board Regulations**

On November 5, 2024, a majority of California’s voters approved the Kindergarten through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety Bond Act of 2024 (Proposition 2). In addition to providing \$8.5 billion in bond authority for public Transitional Kindergarten through grade 12 school facilities, there are many provisions contained in Proposition 2 that require interpretation and inclusion in the existing School Facility Program (SFP) Regulations. Voter approval of Proposition 2 made provisions of Assembly Bill (AB) 247 (Muratsuchi, Chapter 81, Statutes of 2024) operative. In part, this bill added Education Code Sections 17077.35 and 17078.74 for the energy efficiency and career technical education supplemental grants, respectively.

Between February and July 2025, OPSC held six stakeholder meetings to inform the development of proposed regulations implementing these two provisions of Proposition 2. At its meeting on December 3, 2025, the SAB adopted proposed regulatory amendments, on an emergency basis, that implement additional provisions of AB 247 and Proposition 2. These two provisions are supplemental grants for Energy Efficiency and Career Technical Education (CTE).

#### **Background and Problem Being Resolved**

The Energy Efficiency supplemental grant existed in the SFP in 2002, but the funds allocated for the grant were exhausted years ago. Proposition 2 amended provisions in Education Code Section 17077.35 to provide an increase of up to five percent of the state share, which covers the increased costs associated with including energy efficiency components in SFP New Construction, Modernization, and Charter School Facilities Program (CSFP) New Construction and Rehabilitation projects. There is no longer a set limit on the total amount of funding available for energy efficiency supplemental grants and the grants will be provided for qualifying applications as long as sufficient SFP New Construction or Modernization and CSFP New Construction or Rehabilitation bond authority is available.

The new CTE Supplemental Grant provides up to five percent of the state share of the Modernization base grant for qualifying Modernization projects or up to five percent of the state share of the CSFP Rehabilitation base grant for qualifying CSFP Rehabilitation projects that include CTE components at middle and high schools that meet specific criteria. The CTE supplemental grants are available for eligible Modernization and CSFP Rehabilitation projects and are separate from the Career Technical Education Facilities Program, which is its own program and has its own Proposition 2 funding (\$600 million in bond authority) under the SFP.

On July 3, 2025, OPSC opened a new CSFP filing round, pursuant to Regulation Section 1859.161, using the \$600 million authorized by the passage of Proposition 2. The filing round closed on October 30, 2025 in which OPSC received 116 applications from 91 charter schools requesting \$2.78 billion in state funding. This amount is well over the \$600 million authorized in Proposition 2. The applications submitted for the CSFP could be eligible for these two supplemental grants once the grants are approved and in effect.

The problem being resolved is implementing the new statutory authority for the SAB early on so school districts and county offices of education can plan and request the Energy Efficiency and CTE supplemental grants now for their projects. Although charter schools’ applications have

already been received by OPSC, with an early effective date of the regulations OPSC can include and calculate these two supplemental grants in the preliminary apportionments should the projects qualify for them. This would maintain equity and fairness in the SFP.

OPSC performed a search on whether the proposed regulatory amendments were consistent and compatible with existing State laws and regulations and did not identify any inconsistent or incompatible existing State laws or regulations. The proposed regulatory amendments are consistent with and implement provisions of statutory changes enacted with the passage of Proposition 2. Proceeding with the implementation of the proposed regulations will provide a positive impact on the state's economy, as well as the creation of an unknown number of jobs in the school construction industry. Once school districts request the release of state funds, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. School districts, county offices of education and applications for charter schools will also have the ability to take advantage of the new Proposition 2 provisions. The proposed regulations will maintain equity, consistency, and the integrity of the SFP.

### **Description of Regulations to Implement Law**

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the SFP. The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

Between February and July 2025, OPSC held six stakeholder meetings to inform the development of proposed regulations implementing these two provisions of Proposition 2. At its meeting on December 3, 2025, the SAB adopted proposed regulatory amendments, on an emergency basis, that implement additional provisions of AB 247 and Proposition 2. These two provisions are supplemental grants for Energy Efficiency and CTE.

### **Anticipated Benefits of the Proposed Regulations**

There are benefits associated with the proposed regulations in that they implement the new statutory authority for the SAB so school districts and county offices of education can plan and request the Energy Efficiency and CTE supplemental grants now for their projects. Although charter schools' applications have already been received by OPSC, with an early effective date of the regulations OPSC can include and calculate these two supplemental grants in the preliminary apportionments should the projects qualify for them. This would maintain equity and fairness in the SFP.

Additionally, the proposed regulations may have a positive impact on the state's economy, as well as the creation of an unknown number of jobs in the school construction industry, by facilitating funding for school construction. Once school districts request the release of state funds, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries.

### **Summary of the Proposed Regulations**

A summary of the proposed regulations is as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments revise the Forms SAB 50-04 and SAB 50-09 that align with the Energy Efficiency and CTE supplemental grants in Education Code Section 17077.35 and 17078.74, respectively.

Existing Regulation Section 1859.71.3 provides supplemental new construction funding to school districts that include energy efficient components in their SFP new construction projects. The proposed amendments differentiate between approved applications received by OPSC on or before October 30, 2024 and approved applications received by OPSC on or after October 31, 2024. For those approved applications received on or before October 30, 2024, school districts have the option to continue with their approved application already received and accept a full and final apportionment or withdraw its application and resubmit the approved application to be eligible for the new supplemental grant. For those approved applications received on or after October 31, 2024, school districts, county offices of education, and charter schools can apply for the energy efficiency supplemental grant using the new points-based scoring system with new eligibility criteria. The new system determines the percentage of supplemental grant funding allowed based on the Energy Code compliance approach and points achieved using the newly developed scoring system based on California Collaborative for High Performance Schools (CA-CHPS) created by the DSA and CA-CHPS for OPSC. There are two different compliance approaches and the points scoring rubric is separated by the type of compliance method. There is a non-substantive change in subsection (d)(2), last line, that changes “OPCS” to “OPSC.”

Existing Regulation Section 1859.77.1 sets forth a school district’s matching share requirement for new construction grants. This section differentiates a school district’s matching share requirement based on two dates: applications received before October 31, 2024 and applications received on or after October 31, 2024. Applications received before October 31, 2024 require set matching share contributions for both state and local; applications received after October 31, 2024 will require a matching share contribution based on the methodology and calculation in Regulation Section 1859.70.5 and will be known as the Local Funding Adjustment Grant. The proposed amendments correct the Education Code section for this supplemental grant and an edit that is considered a non-substantive change.

Existing Regulation Section 1859.78.5 provides supplemental modernization funding to school districts that include energy efficient components in their SFP modernization projects. The proposed amendments differentiate between approved applications received by OPSC on or before October 30, 2024 and approved applications received by OPSC on or after October 31, 2024. For those approved applications received on or before October 30, 2024, school districts have the option to continue with the approved application already received and accept a full and final apportionment or withdraw its application and resubmit the approved application to be eligible for the new supplemental grant. For those approved applications received on or after October 31, 2024, school districts, county offices of education, and charter schools can apply for the energy efficiency supplemental grant using the new points-based scoring system with new eligibility criteria. The new system determines the percentage of supplemental grant funding allowed based on the Energy Code compliance approach and points achieved using the newly developed scoring system based on California Collaborative for High Performance Schools (CA-CHPS) created by the DSA and CA-CHPS for OPSC. There are two different compliance approaches and the points scoring rubric is separated by the type of compliance method.

Adoption of Regulation Section 1859.78.10 sets forth qualifying criteria for approved applications received by OPSC on or after October 31, 2024, to request the CTE supplemental

grant for the costs associated with enhancements of CTE components in existing middle and high schools. The criteria includes, but is not limited to, 1) at least one CTE component conforms to Education Code Section 17078.74(c); 2) the applicant certifies that CTE costs exceed available modernization funding and are necessary to maintain industry standards; and 3) the applicant is a local educational agency operating a comprehensive high school, has an active career technical advisory committee, and received a minimum plan score of 105 points from the California Department of Education on or after July 3, 2024. In addition, the CTE supplemental grant shall be the lesser of a five percent increase to the Modernization Grant or the costs for the CTE component of the qualifying modernization project. Equipment costs are eligible only if the equipment has an average useful life expectancy of at least 10 years.

Existing Regulation Section 1859.79 sets forth a district's modernization matching share contribution for approved applications received on or before April 29, 2002 (20 percent district share/80 percent state share) and for approved applications received after April 29, 2002 and on or before October 30, 2024 (40 percent district share/60 percent state share). The section also stipulates that for approved applications received on or after October 31, 2024, a district's modernization matching share contribution will be determined based on Education Code Sections 17070.59 and 17074.16 and adjusted for the Local Funding Adjustment Grant using the methodology and calculation in Regulation Section 1859.70.5. The proposed amendments correct the Education Code section for the energy efficiency supplemental grant and there are several minor edits that are considered non-substantive changes.

Existing Regulation Section 1859.83 provides additional school project funding (Excessive Cost Hardship Grants) for which school districts may apply as a result of unusual circumstances that create excessive project costs. The proposed amendments allow for the inclusion of funding provided by the CTE supplemental grant to be used in the calculations to determine Excessive Cost due to Geographic Location. Funding provided by the energy efficiency supplemental grant is already included in the determination formula. There are other supplemental grants added to this section that include funding, such as the 75 Years or Older Building, Minimum Essential Facilities, and the Transitional Kindergarten supplemental grants. Further, there was a statutory authority lapse for Excessive Cost Hardship grants; however, the authority was restored with the addition of Education Code Section 17075.11, which applies retroactively to applications submitted on or after October 31, 2024. There are minor edits that are considered non-substantive changes.

Existing Regulation Section 1859.163.1 establishes construction cost funding caps for Preliminary Charter School Apportionment determinations, based upon grade level(s) of the project and urban or non-urban location. The apportionment for charter school construction costs shall be the lesser of the funding cap amount or the total of specific cost components related to the size, scope, grade levels and location of the project. The proposed amendments add subsection (8) to allow applicants to reserve funding for the energy efficiency supplemental grant as part of the Preliminary Charter School Apportionment for New Construction. In addition, amendments are made to subsections (a), (a)(9), and (a)(10) to indicate the calculation for determining the Preliminary Charter School Apportionment, the inflator factor, and the matching share through the form of lease payments include the energy efficiency reservation. Subsection (a)(8) has a minor edit that reflects the word "Section" in front of 1859.163.1(a)(1). This is considered a non-substantive change.

Existing Regulation Section 1859.163.5 provides the calculation that determines a Preliminary Charter School Rehabilitation Apportionment based on the eligible square footage included in the project and additional supplemental grants. This section also 1) clarifies the calculation of supplemental grants, and the requirements and calculations for initiating and enforcing a Labor

Compliance Program as well as for prevailing wage monitoring and enforcement; and 2) aligns CSFP rehabilitation supplemental grants with Education Code requirements, specifically Section 17078.54(d). The proposed amendments add: 1) subsections (a)(7) and (a)(8) to allow applicants to request and reserve funding for energy efficiency and CTE components as part of a Preliminary Charter School Apportionment for Rehabilitation; and 2) subsection (a)(6) to allow applicants to request and reserve funding for accessibility and fire code requirements as part of a Preliminary Charter School Apportionment for Rehabilitation upon conversion from a Preliminary Charter School Apportionment to a Final Charter School Apportionment. In addition, subsections (a)(9) and (a)(10) are renumbered because of the newly added subsections identified in this section above, and there are a few minor edits that are considered non-substantive in nature.

Existing Regulation Section 1859.164.2 sets forth criteria for the release of funds to charter school entities from preliminary charter school apportionments. “Advance” releases of funds are authorized for specified design costs and site acquisition costs. Qualified charter schools must maintain financial soundness and fund releases must occur within specified time limits. The proposed amendments make minor changes by aligning the renumbering of subsections with those in Regulation Sections 1859.163.1 and 1859.163.5.

Existing Regulation Section 1859.167.1 specifies that the amount of the Final Charter School Apportionment may not be increased for site acquisition costs exceeding those calculated under Section 1859.163.1(b), nor increased for useable acres for the project in excess of the previously approved recommended site size by the California Department of Education. The proposed amendments: 1) allow applicants to request funding for energy efficiency and CTE components for a Final Charter School Apportionment for a CSFP Rehabilitation project; and 2) provide clarification that the CSFP Rehabilitation Grant will be used in place of the Modernization Grant to calculate the funding provided by Sections 1859.78.5 and 1859.78.10, and that funding provided by Section 1859.78.10(b)(2) will be 50 percent of the OPSC-approved costs for the CTE scope of work, inclusive of equipment, included in an Approved Application for a CSFP Rehabilitation project.

Existing Regulation Section 1859.168 specifies that the Preliminary Charter School Apportionment, once it is converted to a Final Charter School Apportionment, is subject to the district matching share requirement and that the matching share requirement may be met through lease payments. The proposed amendment deletes the words “Section 1859.77.1 and” because the matching share requirement for Preliminary Charter School Apportionments remains a 50 percent local matching share that may be paid through lease payments in lieu of the matching share.

Existing Form SAB 50-04, *Application For Funding*, (Rev. ~~12/25~~ 01/26), (incorporated by reference) is submitted by school districts to apply for State funding for new construction and modernization projects. The proposed amendments incorporate the provisions of Proposition 2 outlined in this Finding of Emergency, such as the supplemental grants for energy efficiency and CTE for new construction and modernization projects. Since the revision date of 12/25, this form includes approved language from an intervening regulatory action approved by the Office of Administrative Law (OAL) [OAL File #2026-0424-01E] which changes the revision date to 01/26.

Existing Form SAB 50-09, *Application for Charter School Preliminary Apportionment*, (Rev. ~~12/25~~ 01/26), (incorporated by reference) is the form for charter school entities to apply for preliminary apportionments for qualifying projects. The proposed amendments incorporate and align with the proposed amendments that are reflected in the regulatory text. Since the revision

date of 12/25, this form includes approved language from an intervening regulatory action approved by the OAL [OAL File #2026-0424-01E] which changes the revision date of 01/26.

Statutory Authority and Implementation

Education Code Section 17070.35. (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

Determination of Inconsistency or Incompatibility with Existing State Regulations

On July 3, 2025, OPSC opened a new CSFP filing round, pursuant to Regulation Section 1859.161, using the \$600 million authorized by the passage of Proposition 2. The filing round closed on October 30, 2025 in which OPSC received 116 applications from 91 charter schools requesting \$2.78 billion in state funding. This amount is well over the \$600 million authorized in Proposition 2. The applications submitted for the CSFP could be eligible for these two supplemental grants once the grants are approved and in effect.

Implementing the new statutory authority for the SAB early on provides school districts and county offices of education time to plan and request the Energy Efficiency and CTE supplemental grants now for their projects. Although charter schools' applications have already been received by OPSC, with an early effective date of the regulations OPSC can include and calculate these two supplemental grants in the preliminary apportionments should the projects qualify for them. This would maintain equity and fairness in the SFP.

After conducting a review, the SAB has concluded that these are the only regulations on this subject, and therefore, the proposed regulations are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulations are within the SAB's authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503.

**Impact to California Businesses and Jobs**

The proposed regulations promote transparency because school districts and the school district community have been collaborating on the proposed regulations through a series of stakeholder meetings. The Energy Efficiency supplemental grant existed in the SFP in 2002, but the funds allocated for the grant were exhausted years ago. Proposition 2 amended provisions in Education Code Section 17077.35 to provide an increase of up to five percent of the state share, which covers the increased costs associated with including energy efficiency components in SFP New Construction, Modernization, and Charter School Facilities Program (CSFP) New Construction and Rehabilitation projects. There is no longer a set limit on the total amount of funding available for energy efficiency supplemental grants and the grants will be

provided for qualifying applications as long as sufficient SFP New Construction or Modernization and CSFP New Construction or Rehabilitation bond authority is available.

The new CTE Supplemental Grant provides up to five percent of the state share of the Modernization base grant for qualifying Modernization projects or up to five percent of the state share of the CSFP Rehabilitation base grant for qualifying CSFP Rehabilitation projects that include CTE components at middle and high schools that meet specific criteria. The CTE supplemental grants are available for eligible Modernization and CSFP Rehabilitation projects.

In addition, the proposed regulations will not negatively impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California. Additionally, the proposed regulations expand the SFP while maintaining program integrity and equity amongst school district projects.

#### *Benefits to Public Health and Welfare, Worker's Safety, and the State's Environment*

- The proposed regulations promote transparency because school districts and the school district community have been collaborating on the proposed regulations through a series of stakeholder meetings.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts, charter schools, and local educational agencies utilize construction and trades employees to work on school construction projects and although this proposed regulation does not directly impact worker's safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site.
- There is no impact to the State's environment from the proposed regulations.

The SAB finds the proposed regulations fully consistent with the stated purposes and benefits.