

May 14, 2021

TO: ALL SCHOOL DISTRICTS, COUNTY SUPERINTENDENTS OF SCHOOLS, AND OTHER INTERESTED PARTIES

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTIONS 1860 THROUGH 1860.21, ALONG WITH THE GRANT AGREEMENT, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO THE FULL-DAY KINDERGARTEN FACILITIES GRANT PROGRAM

PROPOSED AMENDMENTS TO THE FOLLOWING REGULATION SECTIONS:

- 1860.2, 1860.3, 1860.4, 1860.5, 1860.6, 1860.15, 1860.16, AND 1860.20

PROPOSED AMENDMENTS TO THE FOLLOWING FORM:

- *Grant Agreement*, (Rev. 10/20), which is incorporated by reference and referenced in Regulation Section 1860.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections, as well as the grant agreement, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Sections 17280, 17375, 17375(a), 17375(b), 17375(b)(2), 17375(c), 17375(g), 17375(h) of the Education Code; 16304 and 16304.1 of the Government Code. The proposals interpret and make specific reference Sections 17075.10, 17075.15, 17280, 17375, 17375(a), 17375(b), 17375(b)(2), 17375(b)(2)(A), 17375(b)(2)(B), 17375(c), 17375(g), 17375(h), 41024, and 42238.01(a) of the Education Code; 1771.3 and 1771,.5, Labor Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

At its meeting on October 28, 2020, the SAB adopted proposed regulatory amendments, as well as amendments to the grant agreement templates, on an emergency basis. The emergency regulations were approved by the Office of Administrative Law, filed with the Secretary of State and became effective January 19, 2021.

The Full-Day Kindergarten Facilities Grant Program (FDKFGP) was created through Assembly Bill 1808, Chapter 32, Statutes of 2018, the Education Finance: Education Omnibus Trailer Bill. On July 1, 2019, the Governor signed Senate Bill (SB) 75, Chapter 51, Statutes of 2019, the Education Finance: Education Omnibus Trailer Bill. This bill appropriated an additional \$300 million from the General Fund for the 2019/2020 fiscal year to the SAB to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing full-day kindergarten facilities. In addition, the statute limited a portion of the program's funding to school districts that would use the funding to convert part-day kindergarten facilities to full-day kindergarten facilities. Since that time, however, SB 98, Chapter 24, Statutes of 2020 [the Education Finance: Education Omnibus Trailer Bill], was signed into law by the Governor on June 29, 2020 and clarified that future funding rounds and future funding for the FDKFGP would be contingent upon appropriation by the Legislature. This begins with and impacts the 2019/2020 fiscal year, as the \$300 million previously appropriated was rescinded.

Funds Impacted

- General Fund appropriation in the amount of \$300 million for the 2019/2020 fiscal year was rescinded; thus, the Program is contingent upon appropriations by the Legislature.

Attached to this Notice is the specific regulatory language of the proposed regulations. The Grant Agreement templates will not be included because the document is very large. The proposed regulations and the Grant Agreement will be accessible and can be viewed 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>, scroll down to "Full-Day Kindergarten Facilities Grant Program, FDK Pending Regulatory Changes." Copies of the proposed regulations and the Grant Agreement templates will be mailed to any person requesting this information by using OPSC's contact information set forth below in this Notice. The proposed regulations implement the FDKFGP Regulations under the California Code of Regulations, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.8, Regulations relating to the Full-Day Kindergarten Facilities Grant Program.

Background and Problem Being Resolved

As mentioned above, SB 75, Chapter 51, Statutes of 2019, the Education Finance: Education Omnibus Trailer Bill, was signed by the Governor on July 1, 2019. This bill appropriated to the SAB an additional \$300 million from the General Fund for the 2019/2020 fiscal year to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing full-day kindergarten facilities.

The statute limited a portion of the program's funding to school districts that will use the funding to convert part-day kindergarten facilities to full-day kindergarten facilities. In addition, the statute changed the local matching share for these conversion projects from 50 percent for new construction projects and 40 percent for retrofit projects to 25 percent for both types of project scopes. For those school districts that would not be converting, the local matching share would remain at 50 percent and 40 percent, respectively.

SB 98, Chapter 24, Statutes of 2020, the Education Finance: Education Omnibus Trailer Bill, was signed by the Governor on June 29, 2020. This bill rescinded the \$300 million in additional program funding previously appropriated by SB 75 for the 2019/2020 fiscal year. The amended statute retains the previous changes to the Program such as the local matching share for school

districts that are converting from a part-day program to a full-day program and allows school districts to retain project savings.

As a reminder, the projects must provide classrooms to house existing kindergarten students and not add capacity to bring new students to the school site. This Program remains a self-certification program.

The OPSC, on behalf of the SAB, conducted a stakeholder meeting to discuss the proposed regulatory amendments that implement the statutory changes to the FDKFGP. There were no public comments received during or submitted after the stakeholder meeting.

OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, determined that SB 98, Chapter 24, Statutes of 2020, the Education Finance: Education Omnibus Trailer Bill, was created to clarify and make modifications to the existing FDKFGP. There are no other programs or regulations in existence that address the lack of kindergarten facilities or the conversion of part-day kindergarten facilities to full-day kindergarten facilities. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments and the Grant Agreement templates will enhance applicants' awareness when partnering with the State while defining the responsibilities of funding applicant projects. This will ensure program oversight and expenditure accountability.

Anticipated Benefits of the Proposed Regulations

There are indirect benefits associated with these proposed regulatory amendments. The regulatory amendments provide clarity that funds and application filing rounds are not currently available for this Program; however, should funding be made available the regulatory amendments will allow the Program to be administered.

However, if future funding is made available by the Legislature, there would be benefits such as promoting fairness to all school districts, especially those school districts that may not otherwise qualify for State funding under the School Facility Program; and the promotion of social equity by providing one-time General Fund funding to those school districts that wish to convert part-day kindergarten facilities to full-day kindergarten facilities, and for those school districts lacking the facilities to provide full-day kindergarten instruction to construct new school facilities or retrofit existing school facilities in an effort to provide kindergarten facilities. Additionally, there would be benefits to health, safety, and welfare of California residents (school children and school faculty) because kindergarten facilities would be built stronger and safer. School districts utilize construction and trades employees to work on school construction projects and although the proposed regulations would not directly impact worker's safety, existing law provides for the availability of a skilled labor force. Further, public health and safety would be 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. Lastly, the State would benefit because kindergarten facilities would be constructed thereby increasing the State's inventory of school facilities.

The proposed regulations are therefore determined to be consistent and compatible with existing State laws and regulations. As stated above, OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that SB 98, Chapter

24, Statutes of 2020, the Education Finance: Education Omnibus Trailer Bill, was created to clarify and make modifications to the existing FDKFGP. There are no other programs or regulations in existence that address the lack of kindergarten facilities or the conversion of part-day kindergarten facilities to full-day kindergarten facilities. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments and the Grant Agreement templates, will enhance applicants' awareness when partnering with the State while defining the responsibilities of funding applicant projects. This will ensure program oversight and expenditure accountability.

Because the proposed regulations provide clarity that funds and application filing rounds are not currently available for this Program, the proposed regulations will not have an impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities. In addition, the proposed regulations will not 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.

Summary of the Proposed Regulatory Amendments

A summary of the proposed regulatory amendments, including the Grant Agreement templates, are as follows:

Existing Regulation Section 1860.2 represents a set of defined words and terms used exclusively for these regulations. These definitions provide clarity to OPSC and school districts on program concepts and requirements. The proposed regulatory amendments add the word "shall" and delete the word "may" in both definitions for "New Construction" and "Retrofit". This change aligns the definitions with statute.

Existing Regulation Section 1860.3 sets forth general requirements that all school districts seeking program funding must meet. This regulation also specifies that school districts may only apply for program funding for a project that entered into a construction contract on or after the program start date of June 27, 2018. The proposed regulatory amendments delete the reference to the \$300 million provided in the 2019/2020 budget and reflect that future funding for the FDKFGP would be contingent upon appropriation by the Legislature.

Existing Regulation Section 1860.4 provides general funding guidelines for the program that apply to all school districts that participate in the program. This Section clarifies that any funds returned prior to June 30, 2021 will be returned to the program account, while funds returned after June 30, 2021 will be returned to the General Fund. The proposed regulatory amendments delete language that refers to funding for the 2019/2020 fiscal year since that funding has been rescinded by statute and is no longer applicable. There is a renumbering of one of the subsections based on the deletion.

Existing Regulation Section 1860.5 sets forth several criteria that all school districts must meet in order to apply for program funding. School districts are required to provide a school board resolution providing approval to provide full-day kindergarten instruction at the project school site at completion of the project, pursuant to Education Code Section 8973. Additionally, school districts are required to prove that they currently lack full-day kindergarten facilities. This Section also requires school districts to provide a description of the proposed project that contains certain criteria. The proposed regulatory amendments in subsections (a) and (b) delete

language that refers to the 2018/2019, 2019/2020, 2020/2021 and 2021/2022 fiscal years. The 2018/2019 fiscal year has passed; the funding for the 2019/2020, 2020/2021 and 2021/2022 fiscal years has been rescinded and future funding is contingent upon a future appropriation by the Legislature.

Existing Regulation Section 1860.6 sets forth the application submittal process, which established five 30-calendar day funding rounds for school districts to request apportionments of available program funds. The proposed regulatory amendments delete language related to the dates for the third, fourth and fifth funding rounds in subsections (c), (d) and (e). In subsection (c), new language is added to instruct school districts of what form needs to be filed in order to participate in the FDKFGP once funding has been appropriated by the Legislature and filing rounds have been established and announced by the SAB.

Existing Regulation Section 1860.15 specifies the funding priority based on a school district's preference points. Education Code Section 17375(b)(2) states that priority for FDKFGP grants will be given to school districts that qualify for financial hardship and/or that have a high population of pupils who are eligible for Free and Reduced Price School Meals (FRPM). This Section creates a system of preference points in order to determine project funding order. A maximum of 80 preference points may be earned in each funding round for each school district. A school district's preference points will be calculated into two categories. Based on a sliding scale currently used in the SFP for the Charter School Facilities Program, a sliding scale was created to determine the percentage of students a school district has eligible for FRPM. Points begin at four points for 60-65 percent of students eligible for FRMP, while 40 points will be earned if 100 percent of students within the school district qualify for FRPM. If a school district has been qualified for financial hardship by OPSC and is unable to contribute a portion or all of its matching share, the school district earns 40 points. Once OPSC has determined school districts' approved applications, school districts will be placed in a preference order based on the preference points earned. School districts will be ordered from highest to lowest points (80 points to zero points). If sufficient funds are available in that funding round, then all approved applications will be funded. If the amount of funding requested is more than the amount allocated for that round, then OPSC will begin with the highest preference point school district and fund their first priority project as stated on the Form SAB 70-01, *Application for Funding*. If two or more school districts have the same amount of preference points, then they will be placed into a lottery to determine who will be funded first. This Section also adds an additional tiebreaker for school districts with the same total preference points by using a school district's exact Low Income percentage to one decimal place identified on the most recent FRPM data on file. This tiebreaking method should reduce the likelihood of having to do a lottery and to remain in alignment with the statute to prioritize funding to lower-income school districts. However, if there is still a tie then a lottery system will take place. The proposed regulatory amendment adds a statutory reference to the Reference citation for this Section.

Existing Regulation Section 1860.16 specifies the process in which funds will be released to school districts with SAB-approved applications. School districts that have none or only a portion of the supporting documents required for a full fund release, may indicate that they will need an advance for design or site acquisition. This advance of funds will help school districts move forward with their projects. If a school district is doing a new construction project with an advance release of funding, then they will receive 40 percent of the new construction base grant. If a school district is applying for a retrofit project, and they have none or only a portion of appropriate supporting documentation then they may apply for an advance release of funding of 25 percent of the base grant. These percentages are identical to those in the SFP Regulations for standard new construction and modernization projects. When a school district is requesting

two percent for other site costs for site acquisition assistance, a grant agreement must be executed and received by OPSC. For funds other than two percent site other to be released for either site acquisition, design or site other, a grant agreement must be executed and received by OPSC.

OPSC must ensure that specific requirements have been met and those requirements are: the school district has entered into escrow for the site and the escrow must be valid, there has been a final appraisal of the site, the school district has either received contingent or final site approval from CDE, a valid Form SAB 70-02, *Fund Release Authorization*, has been received; for a new construction or retrofit project, all unreleased funds will be released once an executed full grant agreement has been received by OPSC, along with verification of these documents: the school district's applicable matching share has been deposited or expended by the school district for the project, with the exception of financial hardship projects which are exempt from this requirement (requirements for financial hardship may be found in 1860.14); the school district has entered into a binding contract(s) for the completion of the project; the plans and specifications for the project have been approved by DSA. If there has been site acquisition then a final appraisal of the site, the site received written final approval from CDE, and the school district has entered into escrow for the site. Finally, for all remaining funds to be released, all requirements above must be met, as well as a valid Form SAB 70-02, *Fund Release Authorization*, and grant agreement has been received by OPSC.

For school districts that request either a new construction or retrofit grant that did not request an advance release of funding, a valid Form SAB 70-02, *Fund Release Authorization*, must be submitted with all the required approvals within 180 days of apportionment. If a valid Form SAB 70-02, *Fund Release Authorization*, request is not submitted within 180 days, the apportionment will be rescinded. For school districts that receive an advance release of funding for either new construction or retrofit projects, a valid Form SAB 70-02, *Fund Release Authorization*, must be submitted to OPSC with 12 months of apportionment. If a valid Form SAB 70-02, *Fund Release Authorization*, is not received within 12 months, then the apportionment shall be rescinded and returned to the Program for reallocation. Subject to available funds, site acquisition grants shall be adjusted based on actual costs prior to the release of funds. The proposed regulatory amendments add the words "the first" in subsections (e) and (f). This clarifies the timeline for the fund release and the deadline to submit required fund release documents beginning at the time of the first Apportionment.

Existing Regulation Section 1860.20 specifies the audit process and requirements that school districts who receive FDKFGP funding will be subject to, as required in Education Code Section 17375(h). Projects will be subjected to an audit conducted pursuant to Education Code Section 41024 to ensure the expenditures incurred by the school district were made in accordance with Education Code Section 17375. School districts must retain all documents and records referring to the FDKFGP project and should be able to provide them if an auditor requests the documents. If an audit determines that funding was spent on ineligible expenditures, CDE shall ensure that the school district corrects the audit exception by implementing an equal penalty payment of funds. The proposed regulatory amendment adds the word "an" for proper grammar and is considered a minor non-substantive change.

The existing Grant Agreement template (which is incorporated by reference) includes sections relevant to the FDKFGP for new construction and retrofit funding. It is the intent that the grant agreement will be entered into for every future funding application that is processed; therefore, each grant agreement will contain the relevant project information. The grant agreements serve as binding documents and key resources that define the responsibilities of the state and school

districts from the determination of the amount eligible state funding to the reporting of all project funds, including any savings achieved. This will ensure greater transparency and accountability for the program grants being awarded under FDKFGP. The Grant Agreement template also incorporates the submittal of annual expenditure reports 12 months from the date of the full fund release, and the ability for financial hardship districts to retain savings and the retention of savings may be expended on professional development or instructional materials to build capacity for the implementation of a full-day kindergarten program. The proposed regulatory amendments clarify the deadline for a school district to submit an *Expenditure Report* (Form SAB 70-03) within one year from full fund release and corrects regulatory references throughout the document which aligns with statute.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area (construction of and/or retrofit of existing school facilities for the sole purpose of providing kindergarten classrooms), 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 FDKFGP under Education Code Section 17375(g) and Government Code Section 15503.

Statutory Authority and Implementation

Education Code Section 17375(g). The State Allocation Board may adopt regulations to implement this section. Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

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

As mentioned above, SB 75, Chapter 51, Statutes of 2019, the Education Finance: Education Omnibus Trailer Bill, was signed by the Governor on July 1, 2019. This bill appropriated to the SAB an additional \$300 million from the General Fund for the 2019/2020 fiscal year to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing full-day kindergarten facilities.

The statute limited a portion of the program's funding to school districts that will use the funding to convert part-day kindergarten facilities to full-day kindergarten facilities. In addition, the statute changed the local matching share for these conversion projects from 50 percent for new construction projects and 40 percent for retrofit projects to 25 percent for both types of project scopes. For those school districts that would not be converting, the local matching share would remain at 50 percent and 40 percent, respectively.

SB 98, Chapter 24, Statutes of 2020, the Education Finance: Education Omnibus Trailer Bill, was signed by the Governor on June 29, 2020. This bill rescinded the \$300 million in additional program funding previously appropriated by SB 75 for the 2019/2020 fiscal year. The amended statute retains the previous changes to the Program such as the local matching share for school districts that are converting from a part-day program to a full-day program and allows school districts to retain project savings.

OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, determined that SB 98, Chapter 24, Statutes of 2020, the Education Finance: Education Omnibus Trailer Bill, was created to clarify and make modifications to the existing FDKFGP. There are no other programs or regulations in existence that address the lack of kindergarten facilities or the conversion of part-day kindergarten facilities to full-day kindergarten facilities. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments and the Grant Agreement templates will enhance applicants' awareness when partnering with the State while defining the responsibilities of funding applicant projects. This will ensure program oversight and expenditure accountability.

Form Incorporated by Reference

- *Grant Agreement*, (Rev. 10/20), referenced in Regulation Section 1860.2 and is incorporated by reference.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulation, along with the Grant Agreement templates, does 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 or school districts to incur additional costs in order to comply with the proposed regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulations create no costs to any local agency or school district requiring reimbursement pursuant to Section 17500 et seq., or beyond those required by law, except for the required district contribution toward each project as stipulated in statute. However, funding and application filing rounds are not currently available for the FDKFGP.
- There will be no costs or savings in federal funding to the State.
- The proposed regulations create no costs or savings to any State agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact to Businesses and Jobs in California

The proposed regulations provide clarity that funds and application filing rounds are not currently available for this Program, and that the Program is contingent upon future appropriations by the Legislature. Therefore, the proposed regulations will not have an impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities. In addition, the proposed regulations will not 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.

However, if future funding is made available by the Legislature, the FDKFGP does provide for the construction of new facilities and/or the retrofit of existing facilities for kindergarten classrooms only. There would be a positive impact on the State's economy. Various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities would be positively impacted, along with the creation of an unknown number of jobs. In addition, there could be a positive impact to the creation of jobs, the creation of new businesses, and the expansion of businesses in California.

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

- There are indirect benefits associated with these proposed regulatory amendments. The regulatory amendments provide clarity that funds and application filing rounds are not currently available for this Program; however, should funding be made available the regulatory amendments will allow the Program to be administered.
- If funding is made available by the Legislature, there would be benefits to health, safety, and welfare of California residents (school children and school faculty) because kindergarten facilities would be built stronger and safer. There would be continued benefits to the health and welfare of California residents and worker safety. School districts utilize construction and trades employees to work on school construction projects and although the proposed regulations would not directly impact worker's safety, existing law provides for the availability of a skilled labor force. Further, public health and safety would be 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.

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulations will not have a negative impact on small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. The proposed regulations provide clarity that funds and application filing rounds are not currently available for the FDKFGP.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

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 OPSC no later than June 28, 2021. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, email or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator

Mailing Address: Office of Public School Construction
707 Third 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 Regulatory Action may be directed to 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.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulations should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received they will be added to the rulemaking file. The file is available for public inspection at OPSC during normal working hours. Items 1 through 3 are also available on OPSC's Internet Web site at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>, scroll down to "Full-Day Kindergarten Facilities Grant Program, FDK Pending Regulatory Changes" and click on one of the linked documents, such as the 45-day Public Notice, the Initial Statement of Reasons and/or the proposed regulatory text.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The proposed regulations provide clarity that funds and filing rounds are not currently available for the FDKFGP. Further, the Program is contingent upon appropriations by the Legislature There are no other programs or regulations in existence that address the lack of kindergarten facilities or the conversion of part-day kindergarten facilities to full-day kindergarten facilities.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the website listed above.