

INITIAL STATEMENT OF REASONS

Section 1860.2. Definitions

Specific Purpose of the Regulation

To make changes to three definitions that are essential to these Subgroup 5.8 Regulations.

Need for the Regulation

It was necessary to revise the *Grant Agreement* templates in order to clarify the deadline for when a school district submits an *Expenditure Report* (Form SAB 70-03) and to correct regulatory references throughout the document so that it aligns with statute. It was also necessary to add the word “shall” and delete the word “may” in both definitions for “New Construction” and “Retrofit” so that they both align with statute.

Section 1860.3. General.

To delete the \$300 million appropriation reflected in subsection (b) and to add a provision from Senate Bill (SB) 98, Chapter 24, Statutes of 2020, Education Finance: Education Omnibus Trailer Bill.

Need for the Regulation

Subsection (b): It was necessary to delete the reference of the \$300 million and to clarify that funding would be contingent upon appropriations by the Legislature for the Full-Day Kindergarten Facilities Grant Program (FDKFGP). This is in alignment with statute.

Section 1860.4. Funding Guidelines.

Specific Purpose of the Regulation

To delete language in subsection (b) that refers to funding for the 2019/20 fiscal year.

Need for the Regulation

Subsection (b): It was necessary to delete existing language since the funding (\$300 million) was rescinded by statute and is no longer applicable. It was also necessary to renumber one of the subsections based on the deletion.

Section 1860.5. Program Eligibility Criteria.

Specific Purpose of the Regulation

To delete existing language in subsections (a) and (b) relating to the 2018/2019, 2019/2020, 2020/2021 and 2021/2022 fiscal years.

Need for the Regulation

Subsections (a) and (b): It was necessary to delete existing language for the 2018/2019 fiscal year because that fiscal year has already passed; the funding for the 2019/2020, 2020/2021 and 2021/2022 fiscal years have been rescinded and future funding is contingent upon appropriations by the Legislature.

Section 1860.6. Application Submittals.

Specific Purpose of the Regulation

To delete existing language relating to the dates of the third, fourth and fifth funding rounds and to provide instruction to school districts regarding participation in the FDKFGP.

Need for the Regulation

Subsections (c), (d) and (e): It was necessary to delete the existing language related to the dates of the third, fourth and fifth funding rounds because the FDKFGP funding is contingent upon appropriations by the Legislature. In addition to subsection (c), it was necessary to add new language to instruct school districts of what form needs to be file 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 State Allocation Board. It was also necessary to make the last sentence subsection (d) as it is affiliated with application submittals.

Section 1860.15. Application Funding Criteria.

Specific Purpose of the Regulation

To add a statutory reference to the “Reference” citation for this regulation section.

Need for the Regulation

It was necessary to add a statutory reference to the “Reference” citation for this section. This is in alignment with statute.

Section 1860.16. Fund Release Process.

Specific Purpose of the Regulation

To clarify the timeline of when a fund release is to be submitted.

Need for the Regulation

Subsections (e) and (f): It was necessary to add the words “the first” in order to clarify the timeline for the fund release and the deadline to submit required fund release documents beginning at the time of the first Apportionment.

Section 1860.20. Program Accountability Expenditure Audit.

Specific Purpose of the Regulation

To add the word “an” for proper grammar.

Need for the Regulation

It was necessary to add the word “an” for proper grammar and is considered a minor non-substantive change.

FULL-DAY KINDERGARTEN FACILITIES GRANT PROGRAM FORM

Grant Agreement, (Rev. 10/20).

Specific Purpose of the Form

To clarify when a school district submits an *Expenditure Report* (Form SAB 70-03) and to correct regulatory references.

Need for the Form

The *Grant Agreement* ensures compliance with Education Code Section 17375(e) and 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 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 the FDKFGP.

It was necessary to 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.

Anticipated Benefits and Economic Impact 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.

Additionally, with the FDKFGP providing funding for 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.

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.

Technical Documents Relied Upon

OPSC Stakeholder Meeting/Item, dated October 7, 2020, entitled "Full-Day Kindergarten Facilities Grant Program."

The State Allocation Board's Action item, dated October 28, 2020, entitled "Proposed Amendments to the Full-Day Kindergarten Facilities Grant 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 provision of law. OPSC held a stakeholder meeting to discuss and receive input from stakeholders regarding program modifications made to the FDKFGP based on the provisions contained in SB 98, Chapter 24, Statutes of 2020 [the Education Finance: Education Omnibus Trailer Bill]. Other than the one stakeholder meeting, no other alternatives were considered. In addition, statute required the implementation of this program through regulations. If there were no SAB-approved regulations, then the SAB would be in violation of the statute.

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 regulation, nor will they be disadvantaged by the regulations. 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.

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 school districts to incur additional costs in order to comply with the proposed regulations. In fact, funding and the 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.

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

Because the State Allocation Board's Full-Day Kindergarten Facilities Grant Program Form, specifically the Grant Agreement templates, is a cumbersome document, it would be unduly expensive and otherwise impractical to publish the Grant Agreement templates in the California Code of Regulations. Therefore, it is not necessary to publish the Grant Agreement templates in the California Code of Regulations.

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

The State Allocation Board's Full-Day Kindergarten Facilities Grant Program Form, specifically the Grant Agreement templates, is made available upon request and through our website and continues to be made available upon request and through our website.

ECONOMIC IMPACT ASSESSMENT OF REGULATIONS

“Proposed Amendments to the Full-Day Kindergarten Facilities Grant Program”

Proposed State Allocation Board Regulations

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.

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.

Description of Regulations to Implement Law

The proposed regulations, including the Grant Agreement templates, are summarized 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.

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.

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.

Impact to California Businesses and Jobs

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 to 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.