

May 21, 2026

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

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED EMERGENCY REGULATORY ACTION

In accordance with Assembly Bill (AB) 1302, Chapter 713, Statutes of 2006, enclosed are proposed emergency regulations adopted by the State Allocation Board (SAB) at its meeting on January 28, 2026. The proposed regulations, including five associated forms, and the Finding of Emergency are attached to this Notice. These documents can also be accessed on the Office of Public School Construction's (OPSC) website at: [Laws, Regulations for School Construction Projects](#).

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.

Between February 2025 and January 2026, OPSC held six stakeholder meetings to inform the development of proposed regulations implementing Article 11.5, Assistance to Small School Districts, Education Code Sections 17078.35 through 17078.38. OPSC refers to this provision as the Small School District Program (SSDP). At its meeting on February 25, 2026, the SAB adopted proposed regulatory amendments, on an emergency basis, that implement this provision of Proposition 2. This provision allows the SAB to provide a preliminary application process, Preliminary Apportionment, separate design and site acquisition grants, project assistance grants, and project and construction management grants to small school districts that meet eligibility requirements that have an enrollment of 2,500 or fewer pupils. Preliminary applications submitted to the SAB must meet all applicable eligibility requirements for New Construction or Modernization. The bond authority for the total estimated state costs, including financial hardship funding, of a project will be reserved at the time of Preliminary Apportionment, and then the grants will be amended to reflect the actual scope of work in the approved plan set when the full funding conversion application is processed for a Final Apportionment. If requested and determined to be eligible, the SAB will provide a Project and Construction Management Grant that is equal to five percent of the state share of the Preliminary Apportionment. Education Code Section 17078.37 stipulates that the preliminary applications will be processed in a manner identical to that of the Critically Overcrowded Schools program, which is a prior SAB-administered program (Education Code Section 17078.25) under the SFP.

At its January 22, 2025 meeting, the SAB approved the full "up to" bond authority set asides in Proposition 2 for the SSDP as follows:

- New Construction = \$3.3 billion, of which up to ten percent (**\$330 million**) shall be available to small school districts.
- Modernization = \$4.0 billion, of which up to ten percent (**\$400 million**) shall be available to small school districts.

Before submitting the emergency regulations to the Office of Administrative Law (OAL), OPSC conducted extensive stakeholder meetings to seek feedback and create the new program. Additionally, following the SAB's initial approval of the regulations, OPSC identified the need to clarify eligible and ineligible uses of the Project and Construction Management Grant in the Grant Agreement [Proposition 2] as it relates to the development of the required Master Plan (school districts and county offices of education are required to submit a Master Plan as a condition of participating in the SFP, pursuant to Education Code Section 17070.54). Changes in the Grant Agreement [Proposition 2] were made for Common Eligible Project Expenditures and Common Ineligible Project Expenditures to align with what had been discussed at stakeholder meetings and for transparency purposes. The SAB adopted these changes at its April 29, 2026 meeting.

Background and Problem Being Resolved

The problem being resolved by the proposed regulations is specificity, consistency, and accountability mechanisms to implement the SSDP into the SFP. The proposed regulations implement Education Code Sections 17078.35 through 17078.38, which defines words and terms specific to the SSDP, and sets forth the authority for the SAB to provide 1) preliminary applications; 2) Preliminary Apportionments; 3) apportionment of design grants, project assistance grants, and Project and Construction Management Grants to qualifying financial hardship applicants as part of the Preliminary Apportionment; 4) substantial progress requirements on apportionments for design and site grants that mirror existing substantial progress regulations in the SFP; and 5) requirements for a Final Apportionment for the project in the manner substantially identical to the requirements for the Critically Overcrowded Schools program, which is a prior SAB-administered program (Education Code Section 17078.25). The accountability mechanisms also include fund release requirements, the Grant Agreement [Proposition 2], and other reporting requirements to facilitate compliance with statutory provisions under the SFP.

OPSC, on behalf of the SAB, will notify school districts and other interested parties of its intent to submit the proposed regulatory amendments to the OAL in May, pursuant to Government Code Section 11346.1(a)(2). The proposed regulations will be attached, including three associated forms and the Grant Agreement [Proposition 2]. The documents may also be viewed on OPSC's website at: [Laws, Regulations for School Construction Projects](#), then scroll down to "SFP," Pending Regulatory Changes under February 25, 2026 Emergency Regulations (Small School District Program), and click on the AB 1302 Notice, Finding of Emergency, the proposed regulation text, the three associated forms (SAB 50-04, SAB 50-05, and the SAB 50-12), and the Grant Agreement [Proposition 2].

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 define additional terms and expand existing definitions that align with Education Code Sections 17078.35 through 17078.38.

In addition, there are three associated forms; two are being revised and one is being introduced to align with the requirements of the SSDP.

Existing Regulation Section 1859.18.1 establishes the required time frames by which school districts submit a complete master plan and applies to applications submitted to OPSC on and after October 31, 2024. The proposed amendments include the time frames by which small school districts must submit a local governing board resolution or a complete master plan in order to comply with Education Code Section 17070.54.

Existing Regulation Section 1859.51 outlines the criteria for adjusting a school district's new construction baseline eligibility. The proposed language of "a complete and valid" pertains to the submittal of information to OPSC. There are minor edits that are considered non-substantive changes but intended to clarify that the Form SAB 50-01 submitted must contain all required information to be able to process the form. Incomplete, blank, or form with false or inaccurate information is not acceptable.

Existing Regulation Section 1859.74.1 establishes the criteria for site appraisals that a school district must meet before an application for the funding of site acquisition costs can be approved. The proposed amendments include certification information on the Form SAB 50-12 in order for small school districts to request site acquisition funding authorized by Section 1859.74, and there are minor edits that are considered non-substantive changes.

Existing Regulation Section 1859.90.2 authorizes the SAB to establish 30-calendar day application filing periods for school districts and charter schools to apply for apportionments of available State school bond funds. Projects under the Charter School Facilities Program may apply for advance release of design funds from a Preliminary Charter School Apportionment. School districts and Charter Schools wishing to participate must provide a written statement signed by the authorized district representative within the 30-calendar day filing period that contains specific information and acknowledge that certain documents must be submitted to OPSC. The proposed amendments add 1) a reference to "Preliminary Small School District Program Apportionment" in the introductory paragraph to delineate what type of Apportionments are included in the priority funding process for funding distribution; 2) a reference to "approved advance release of design, project assistance, the Project and Construction Management Grant, and/or any site acquisition funds from a Preliminary Small School District Program Apportionment" is added in subsection (a) for purposes of provided a priority funding request to be considered for an apportionment; 3) new subsection (c) is added to describe the requirements for participation in the priority funding process for school districts to request an apportionment or approved advance release of funds resulting from a Preliminary Small School District Program Apportionment; 4) the proposed language of "a complete and valid" pertains to the submittal of information to OPSC; and 5) minor edits that are considered non-substantive changes, including the renumbering of subsections due to new subsection (c) being added to this section.

Existing Regulation Section 1859.90.3 applies to new construction, modernization, facility hardship and rehabilitation pursuant to Section 1859.82.1. This Section provides for the rescission of an Apportionment and/or unfunded approval for SFP projects on the Unfunded List (Lack of AB 55 Loans) that twice choose not to participate in or not request State apportionments through the Priority Funding process. The proposed amendments specify that the advance release of design, project assistance, the Project and Construction Management Grant, and any site acquisition funds from a Preliminary Small School District Apportionment are

excluded from occurrences related to non-participation in the priority funding process. There is a minor edit that is considered a non-substantive change.

Existing Regulation Section 1859.106 requires that expenditures for SFP program projects be made in accordance with certain Education Code sections and that an adjustment be made in the SFP grant for specific factors, including, but not limited to the difference in the value of the site, relocation costs, Department of Toxic Substances Control fees, and hazardous waste/materials removal costs that were used to determine the New Construction Adjusted Grant and the actual amount paid by the school district or insurance proceeds collected by a school district for displaced facilities, to name a few. This section allows for the adjustment in the SFP grant for insurance proceeds or other government disaster assistance collected by the school district for any project that received funding for interim housing assistance following a natural disaster or other assistance following a natural disaster. The proposed amendment adds new subsection (f) as another adjustment in the SFP grant if a school district requests and receives the Project and Construction Management Grant but does not obtain project and/or construction management services pursuant to Education Code Section 17078.35, and does not expend funds on these services, the grant will be reduced for the Project and Construction Management Grant for the state's share and the associated local matching share.

Existing Regulation Section 1859.107 provides for the withdrawal and re-submittal of applications in order to benefit from changes in the law or regulations. The proposed amendments add a new paragraph at the end of the section that delineates the process by which OPSC will use to address circumstances in which a school district submits to OPSC more than one application for the same scope of work under one or more SAB-administered programs. This is necessary to prevent duplicate funding for the same type of work and to ensure funding is not provided under more than one SAB-administered program as this would be considered a gift of public funds. There are minor edits that are considered non-substantive changes.

Proposed adoption of Regulation Section 1859.156 introduces the *Application For Small School District Program Preliminary Apportionment* (New 02/26) [Form SAB 50-12], which is incorporated by reference, and which school districts wishing to participate in the SSDP must submit to OPSC. The applications will be processed in order of receipt of a complete and valid Form SAB 50-12. This section also sets forth the separate requirements for New Construction and Modernization eligibility: New Construction eligibility establishments and adjustments must be submitted with the Form SAB 50-12 using the current enrollment year; Modernization eligibility must be established prior to or concurrent with the submittal of the Form SAB 50-12. The Form SAB 50-12 must be submitted prior to the date of occupancy for any classroom in the project as specified in Regulation Section 1859.70(a). The Form SAB 50-12 submitted must contain all required information to be able to process the form. Incomplete, blank, or form with false or inaccurate information is not acceptable.

Proposed adoption of Regulation Section 1859.157 sets forth the dates by which applications will be submitted to OPSC; November 2, 2026 for Modernization applications and January 15, 2027 for New Construction applications. This section specifies that complete and valid applications will be processed and funded in date order received and, in the event that there are more applications submitted on the same date then can be funded with available SSDP authority, a lottery system will be used to select the project(s) to be funded. Further, this section also stipulates that once the SSDP set asides are exhausted, OPSC (on behalf of the SAB) will stop accepting the Form SAB 50-12 and return any Form SAB 50-12 submittals that were not approved due to insufficient funds for the SSDP. The Form SAB 50-12 submitted must contain

all required information to be able to process the form. Incomplete, blank, or form with false or inaccurate information is not acceptable.

Proposed adoption of Regulation Section 1859.157.1 sets forth the calculation for the Preliminary Apportionment for New Construction by delineating the additional grants that will be provided in addition to methodologies for determining site acquisition and site development value calculations at the time of the preliminary apportionment. This is in alignment with the Critically Overcrowded Schools regulatory framework (Education Code Section 17078.25). This section also sets forth the calculation for the inflator factor and specifies the Project and Construction Management Grant will be made after the inflator factor has been calculated for the Preliminary Apportionment.

Proposed adoption of Regulation Section 1859.157.2 sets forth the calculation for the Preliminary Apportionment for Modernization by delineating the additional grants that will be provided at the time of the Preliminary Apportionment. This section also sets forth the calculation for the inflator factor and specifies the Project and Construction Management Grant will be made after the inflator factor has been calculated for the Preliminary Apportionment.

Proposed adoption of Regulation Section 1859.157.3 sets forth the criteria for an applicant to receive an advance release of funds at the time of a Preliminary Apportionment and the amount of advance funds that may be released. Subsections (a) and (b) specify that applicants eligible for financial hardship assistance can receive an advance release of funds for design and/or site acquisition at the time of a Preliminary Apportionment. Subsection (c) provides that any applicant can receive an advance release of funds for environmental hardship site acquisition at the time of a Preliminary Apportionment. This section also specifies that applicants who are not eligible for financial hardship assistance nor for an advance release of funds for environmental hardship site acquisition at the time of a Preliminary Apportionment are not eligible to receive funds until the Preliminary Apportionment has converted to a Final SSDP Apportionment and the school district submits the Form SAB 50-05 and the Grant Agreement [Proposition 2] for fund release. The Form SAB 50-05 submitted must contain all required information to be able to process the form. Incomplete, blank, or form with false or inaccurate information is not acceptable.

Proposed adoption of Regulation Section 1859.157.4 sets forth the parameters and criteria for requesting conversion of a Preliminary Apportionment to a Final SSDP Apportionment. Subsection (a) specifies that the total number of pupil grants requested on the Form SAB 50-04 cannot exceed the number of pupil grants approved on the Preliminary Apportionment. The total number of pupil grants on the Form SAB 50-04 must be for at least 50 percent of the pupil grants approved by the SAB on the Preliminary Apportionment for New Construction funding, or for Modernization funding, the number of pupil grants on the Form SAB 50-04 must be for at least 60 percent of the pupil grants approved by the SAB on the Preliminary Apportionment. Subsection (b) provides that applicants seeking financial hardship assistance while requesting to convert to a final small school district program Apportionment must re-qualify using the Form SAB 50-04 at the time of conversion. Subsection (c) ensures that applicants who received a Preliminary Apportionment can convert to a Final SSDP Apportionment even if the applicant's current enrollment exceeds 2,500 students at the time the applicant submits the Form SAB 50-04. Subsection (d) allows for Modernization supplemental grants funding to be calculated using the enrollment within the Preliminary Apportionment for purposes of the Minimum Essential Facility and Transitional Kindergarten supplemental grants. The Form SAB 50-04 submitted must contain all required information to be able to process the form. Incomplete, blank, or form with false or inaccurate information is not acceptable.

Proposed adoption of Regulation Section 1859.157.5 sets forth the criteria that allows conversion from a Preliminary Apportionment to a Final SSDP Apportionment plus one year. This section also specifies that if the Preliminary Apportionment does not convert within the four or five year time frame, the Preliminary Apportionment will be rescinded without further SAB action and the funds will be returned to the SSDP fund categories (New Construction or Modernization). This section further provides that if a school district received an advance release of funds then: 1) the Preliminary Apportionment will be rescinded without further SAB action and the funds not released to the applicant will be returned to the SSDP fund categories (New Construction or Modernization); 2) New Construction or Modernization eligibility shall be adjusted by the number of pupil grants not used, equal to the number requested on the Form SAB 50-12, less the pupil grants equivalent to the total amount of State funding retained by the applicant; and 3) funds released pursuant to Section 1859.157.3(a) or (b) shall be reduced to costs incurred and closed out pursuant to Section 1859.106, with a corresponding New Construction or Modernization baseline eligibility adjustment for the pupil grants assigned to the preliminary application. The funds shall be returned to the SSDP fund categories (New Construction or Modernization). The Form SAB 50-04 submitted must contain all required information to be able to process the form. Incomplete, blank, or form with false or inaccurate information is not acceptable.

Proposed adoption of Regulation Section 1859.157.6 instructs school districts on the process for requesting a one-year extension to the time limit as specified in Section 1859.157.5, provided the school district has met specific criteria. This section also stipulates that OPSC must receive the one-year extension request from the applicant on or prior to the lapsing deadline.

Proposed adoption of Regulation Section 1859.157.7 specifies how the amount of the final grant is determined and the process for SAB approval of conversions from Preliminary Apportionments to Final SSDP Apportionments. Subsection (a) provides that if the Final SSDP Apportionment is equal to or less than the Preliminary Apportionment, the Final SSDP Apportionment shall be funded in its entirety, with any difference being returned to the SSDP fund category (New Construction or Modernization), noting that the Final SSDP Apportionment is full and final. Subsection (b) provides that if the Final SSDP Apportionment is greater than the Preliminary Apportionment, the SAB shall approve an increase using the remaining balance in the SSDP fund category (New Construction or Modernization), subject to certain criteria such as 1) the remaining balance shall be prioritized in date order that OPSC received a complete and valid Form SAB 50-04; and 2) in the event there are more applications submitted on the same date than can be funded with the remaining balance, a lottery system will be used to determine the funding order. The Form SAB 50-04 submitted must contain all required information to be able to process the form. Incomplete, blank, or form with false or inaccurate information is not acceptable.

Proposed adoption of Regulation Section 1859.157.8 allows applicants to request a release of the remaining funds after conversion of the Preliminary Apportionment to a Final SSDP Apportionment pursuant to Sections 1859.90 (Fund Release process) or 1859.90.2 (Priority Funding process).

Proposed adoption of Regulation Section 1859.158 sets forth the substantial progress and expenditure reporting timelines for small school districts receiving funds through the SSDP. Subsection (a) through subsection (d)(2) are in alignment with the existing program reporting requirements in SFP Regulation Section 1859.104.

Existing Form SAB 50-04, *Application for Funding*, (Rev. ~~01/26~~ 02/26), (incorporated by reference) is submitted by school districts to apply for State funding for new construction and modernization projects. The proposed amendments provide specific instruction to applicants in determining the calculation for additional funding for the Minimum Essential Facilities and Transitional Kindergarten modernization supplemental grants. When converting Preliminary Apportionments to a Final SSDP Apportionment, the qualifying enrollment that was used to determine the Preliminary Apportionment shall be used in the calculation for these two modernization supplemental grants. This aligns with proposed Regulation Section 1859.157.4(d)(1) and (d)(2).

Existing Form SAB 50-05, *Fund Release Authorization*, (Rev. ~~08/25~~ 02/26), (incorporated by reference), is used by school districts and Charter Schools to request the release of State funds that have been apportioned by the SAB, upon the school district's and Charter School's certification of compliance with specific legal and SFP requirements. The proposed amendments add a new Part III recognizing the SSDP Preliminary Apportionment and instructing applicants how to request the release of funds for a design and/or separate site apportionment. Because of the new Part III, there are renumbering edits throughout the form and the addition of the word "School" in front of the word "District." These edits are considered non-substantive changes.

Proposed adoption of Form SAB 50-12, *Application for Small School District Program Preliminary Apportionment*, (New 02/26), (incorporated by reference), is used by small school districts to request funding for Preliminary Apportionments for either New Construction or Modernization of school facilities. The type of grants that can be reserved at the Preliminary Apportionment stage are pupil grants; 50 years or older pupil grants; 75 years or older facilities replacement funding; all New Construction and Modernization funding supplemental grants; the Project and Construction Management Grant; and excessive cost hardship grants. Most of this form mirrors the existing Form SAB 50-04, both in the form itself, instructions and certifications.

Existing *Grant Agreement [Proposition 2]*, (~~New 03/25~~ Rev. 04/26), (incorporated by reference), templates are used for projects submitted to OPSC on or after October 31, 2024 and incorporate the new provisions of Proposition 2. They are entered into for every future funding application that is processed; therefore, each Grant Agreement will contain the relevant program's sections. The Grant Agreements were developed to address the Office of Statewide Audits and Evaluation's audit findings by improving program oversight and expenditure accountability. 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 of eligible state funding to the reporting of all project funds, including any savings achieved. This ensures transparency and accountability for the program grants being awarded under the SFP. The proposed amendments align with the proposed regulations for the SSDP and include the clarifying language components relating to Common Eligible Project Expenditures and Common Ineligible Project Expenditures adopted by the SAB at its April 29, 2026 meeting.

SUBMISSION OF COMMENTS

Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the OAL, the adopting agency provide a Notice of the Proposed Emergency Action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed regulation to the OAL, the OAL shall

allow interested persons five calendar days to submit comments on the proposed regulation as set forth in Government Code Section 11349.6.

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

Please reference submitted comments as regarding “Proposed Emergency Regulatory Amendments for the School Facility Program,” addressed to:

Reference Attorney

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

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

Fax No.: (916) 323-6826

For the status of the SAB submittal to the OAL for review, and the end of the five-day written submittal period, please consult the website of 1) the OAL at www.oal.ca.gov under the heading “Emergency Regulations,” and 2) OPSC at: [Laws, Regulations for School Construction Projects](#), then scroll down to School Facility Program “Pending Regulatory Changes; February 25, 2026 Emergency Regulations: (Small School District Program).”

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

Lisa Jones, Regulations Coordinator

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

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

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Emergency Regulatory Action may be directed to Ms. Lisa Jones at (279) 946-8459. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Deputy Executive Officer, at (279) 946-8463.