

INITIAL STATEMENT OF REASONS

Section 1859.2. Definitions.

Specific Purpose of the Regulation

To make amendments to existing definitions and forms.

Need for the Regulation

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. It was necessary to amend several definitions by replacing the word “kindergarten” with “Transitional Kindergarten” and to correct the revision dates of six forms in order to align with what the proposed regulations are accomplishing. Throughout the regulations, “Transitional Kindergarten” is replacing “kindergarten” to recognize the new grade category throughout the School Facility Program unless the regulation is specific to “kindergarten” only.

Section 1859.33. Classroom Identification and Determination of Existing School Building Capacity.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section for purposes of consistency, as well as replace “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

Section 1859.35. Calculation of Existing School Building Capacity.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section for purposes of consistency, as well as replace “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

Section 1859.42. Projecting Non-Special Day Class Enrollment.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section for purposes of consistency, as well as in a few instances, add the term “Transitional Kindergarten and” in front of the word “kindergarten” where the methodology requires the calculation for both Transitional Kindergarten and kindergarten enrollments. It was also necessary to replace “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK enrollment should be included.

Section 1859.42.1. Supplements to the Fifth-Year Projection of Non-Special Day Class Enrollment.

Specific Purpose of the Regulation

To provide specificity to school districts when reporting TK enrollment in New Construction enrollment projections.

Need for the Regulation

It was necessary to add subsection (b) to specify how the new linear calculation would work for reporting TK enrollment in New Construction enrollment projections. It is difficult to predict TK enrollment year-over-year because TK participation varies across school districts. Fluctuating TK enrollment could have a huge impact on projected Kindergarten enrollment; however, providing TK as a separate and distinct grade category that has an independent five-year enrollment projection will not affect the K-12 five-year enrollment projection model. There are non-substantive changes that replace the word “kindergarten” with “Transitional Kindergarten,” renumber subsections due to new subsection (b), and capitalization of defined words and terms throughout this section to align with what the proposed regulations are accomplishing and make clear that TK enrollment should be included.

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

Section 1859.60. Calculation to Determine Modernization Baseline Eligibility.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK enrollment should be included.

Section 1859.61. Adjustments to the Modernization Baseline Eligibility.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

Section 1859.73.2. New Construction Additional Grant for Replaced Facilities.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

Section 1859.77.2. Use of New Construction Grant Funds for Projects Accepted by the DSA on or before January 22, 2003.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing the word “Kindergarten” with “Transitional Kindergarten” to align with what the proposed regulations are accomplishing.

Section 1859.77.3. Use of New Construction Grant Funds for Projects Accepted by the DSA after January 22, 2003.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing the word “Kindergarten” with “Transitional Kindergarten” to align with what the proposed regulations are accomplishing.

Section 1859.78.7.1. Modernization Additional Grant for 75 Years or Older Buildings.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms, such as Modernization, as well as replacing the “K” with “TK” to align with what the proposed regulations are accomplishing.

Section 1859.81. Financial Hardship.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

Section 1859.82.1. Facility Hardship Program.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

Section 1859.82.2. Seismic Mitigation Program.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

Section 1859.124.1. Square Footage Facility Chart.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing.

Section 1859.163.5. Preliminary Charter School Rehabilitation Apportionment Determination.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing.

Section 1859.164. Application Funding Criteria.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing.

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

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

Section 1859.182. Determining Overcrowding Relief Pupil Eligibility.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

Section 1859.183. Funding.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this section, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

OPSC performed a search on whether the proposed regulatory amendments were consistent and compatible with existing State laws and regulations and did not identify any inconsistent or incompatible existing State laws or regulations. The proposed regulatory amendments are consistent with and align provisions of statute that implement TK enrollment in New Construction enrollment projections. Proceeding with the implementation of the proposed regulations will provide a positive impact on the state’s economy, as well as the creation of an unknown number of jobs in the school construction industry. Once school districts request the release of state funds, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. School districts will have a period of time in which they can elect to report TK enrollment using either the current or the proposed version of the Form SAB 50-01, followed by the requirement for school districts to begin reporting TK enrollment separately on the Form SAB 50-01 beginning November 1, 2026. This allows school districts to base their eligibility on anticipated changes to the projection methodology without impacting applications already submitted or in the process of being submitted. The proposed regulations maintain equity, consistency, and the integrity of the SFP.

SCHOOL FACILITY PROGRAM FORMS

Enrollment Certification/Projection, Form SAB 50-01 (Rev. 05/0902/26).

Specific Purpose of the Form

To set forth specific instructions to school districts for purposes of reporting TK enrollment in New Construction enrollment projections. The revision date for this Form changes from “05/09” to “02/26.”

Need for the Form

It was necessary to expand the instructions to include Part A1 for TK Pupil Data whether it is by Enrollment/Residency, TK Enrollment Data or TK Residency Data for High School Attendance Area School Districts. Part A1 also aligns with page 4 of the Form where it is a separate row for TK enrollment. There are non-substantive changes that capitalize defined words and terms throughout this form, as well as adding “K-12” to distinguish between “TK” and “K-12” enrollments to align with what the proposed regulations are accomplishing.

Existing School Building Capacity, Form SAB 50-02 (Rev. 12/1002/26).

Specific Purpose of the Form

To make non-substantive changes. The revision date for this Form changes from “12/10” to “02/26.”

Need for the Form

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this Form, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

Eligibility Determination, Form SAB 50-03 (Rev. 03/2502/26).

Specific Purpose of the Form

To make non-substantive changes. The revision date for this Form changes from “03/25” to “02/26.”

Need for the Form

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this Form, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity and TK enrollment should be included.

Application For Funding, Form SAB 50-04 (Rev. 12/2502/26).

Specific Purpose of the Form

To make non-substantive changes. The revision date for this Form changes from “12/25” to “02/26.”

Need for the Form

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this Form, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing.

Application for Preliminary Charter School Apportionment, Form SAB 50-09 (Rev. 12/2502/26).

Specific Purpose of the Form

To make non-substantive changes. The revision date for this Form changes from “12/25” to “02/26.”

Need for the Form

It was necessary to make non-substantive changes that capitalize defined words and terms throughout this Form, as well as replacing “K” with “TK” to align with what the proposed regulations are accomplishing.

Application for Natural Disaster Assistance, Form SAB 195 (Rev. 01/26 02/26).

Specific Purpose of the Form

To make non-substantive changes. The revision date for this Form changes from “New 08/25” to “Rev. 02/26.”

Need for the Regulation

It was necessary to make non-substantive changes that capitalize defined words and terms, as well as replacing “K” to “TK” to align with what the proposed regulations are accomplishing and make clear that TK classrooms should be counted as classroom capacity.

Anticipated Benefits and Economic Impact of the Proposed Regulations

There are benefits associated with the proposed regulations. TK enrollment will be more accurately reported on the Form SAB 50-01 so that school districts have the necessary eligibility to construct classrooms needed to house all TK-12 students within their school districts. Implementing a phase-in approach provides flexibility for school districts to report TK enrollment in current New Construction enrollment projections as its own grade category. In addition, there is a positive impact on the state’s economy, as well as the creation of an unknown number of jobs in the school construction industry. Once school districts request the release of state funds,

manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries.

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

Technical Documents Relied Upon

- The SAB's Action item, dated February 25, 2026, REPORT OF THE EXECUTIVE OFFICER, entitled "Proposed Regulatory Amendments for the School Facility Program," which includes the stakeholder meeting agenda items.

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

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulations or would be as effective and less burdensome to affected private persons than the proposed regulations or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. The alternative to these proposed regulatory amendments would be the SAB take no action and continue to have school districts report TK enrollment combined with kindergarten enrollment. This could result in school districts not having the necessary eligibility to construct classrooms needed to house all TK-12 students within their school districts.

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

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

Finding of Significant Adverse Economic Impact on Businesses

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

Impact on Local Agencies or School Districts

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

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

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

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

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

ECONOMIC IMPACT ASSESSMENT OF REGULATIONS
“Proposed Regulatory Amendments for the School Facility Program”

Proposed State Allocation Board Regulations

OPSC held three stakeholder meetings in the development of these proposed regulations. At its meeting on February 25, 2026, the SAB adopted proposed regulatory amendments that implement the methodology for reporting Transitional Kindergarten (TK) enrollment as its own grade category in current New Construction enrollment projections. TK enrollment is reported as its own grade level to the California Department of Education which will allow OPSC to validate it as applications for New Construction funding are processed from the new SFP bond authority available through Proposition 2. The proposed regulations represent a reasonable approach for projecting a school district’s future need for classrooms when TK and Kindergarten enrollment are recognized as separate and distinct grade categories.

Background and Problem Being Resolved

The Kindergarten Readiness Act of 2010 was established by Senate Bill (SB) 1381, Chapter 705, Statutes of 2010 (Simitian). The statute shifted the birthday requirements for kindergarten and first grade admission and introduced TK. TK was established as the first year of a two-year kindergarten program with a modified curriculum design to be age and developmentally appropriate and designed to prepare children for kindergarten. The requirement to provide TK was phased in from the 2022-2023 school year to the 2025-2026 school year. It is still difficult to predict TK enrollment year-over-year because TK participation varies across school districts and enrollment is not mandatory. Fluctuating TK enrollment could have a huge impact on projected Kindergarten enrollment; however, the proposed regulations provide TK as a new grade category that has an independent five-year enrollment projection that will not affect the current K-12 five-year enrollment projection model.

The problem being resolved is implementing the approach for school districts to report TK enrollment in current New Construction enrollment projections as its own grade category. The way the current Form SAB 50-01 projects kindergarten enrollment is by using a linear weighted average and it is calculated independently from grades 1-12. Adding a separate row to Part A of the Form SAB 50-01 for TK enrollment and using an isolated linear weighted average calculation, the current projections for grades K-12 will not be affected. The new methodology would be phased in for 1) Approved Applications for New Construction that are currently on OPSC’s Workload List and submittals received until the date the proposed regulations become effective, school districts would use the methodology on the current Form SAB 50-01; 2) Approved Applications received on or after the effective date of the regulations through October 31, 2026, school districts would have the option to use the methodology on the current Form SAB 50-01 or the new methodology; and 3) submittals received on or after November 1, 2026, school districts would be required to use the new methodology on the revised Form SAB 50-01. The phase in approach allows school districts to plan their submittals based on current projections but also account for timing of the approval of the regulations by the Office of Administrative Law. The use of November 1, 2026 is intentional as it aligns with the current regulations where the enrollment years reported are determined whether the submittal is made before or on and after November 1 of each year.

OPSC performed a search on whether the proposed regulatory amendments were consistent and compatible with existing State laws and regulations and did not identify any inconsistent or incompatible existing State laws or regulations. The proposed regulatory amendments are

consistent with and align provisions of statute that implement TK enrollment, and are consistent with New Construction enrollment projections. Proceeding with the implementation of the proposed regulations will provide a positive impact on the state's economy, as well as the creation of an unknown number of jobs in the school construction industry. Once school districts request the release of state funds, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. School districts will have a period of time in which they can elect to report TK enrollment using either the current or the proposed version of the Form SAB 50-01, followed by the requirement for school districts to begin reporting TK enrollment separately on the Form SAB 50-01 beginning on November 1, 2026. This allows school districts to base their eligibility on anticipated changes to the projection methodology without impacting applications already submitted or in the process of being submitted. The proposed regulations maintain equity, consistency, and the integrity of the SFP.

Description of Regulations to Implement Law

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

At its meeting on February 25, 2026, the SAB adopted proposed regulatory amendments that implement the methodology for reporting Transitional Kindergarten (TK) enrollment as its own grade category in current New Construction enrollment projections. TK enrollment is reported as its own grade level to the California Department of Education which will allow OPSC to validate it as applications for New Construction funding are processed from the new SFP bond authority available through Proposition 2. The proposed regulations represent a reasonable approach for projecting a school district's future need for classrooms when TK and Kindergarten enrollment are recognized as separate and distinct grade categories.

Anticipated Benefits of the Proposed Regulations

The benefit associated with the proposed regulations is intended to more accurately project TK enrollment on the Form SAB 50-01 so that school districts have the necessary eligibility to construct classrooms needed to house all anticipated TK-12 students within their school districts. Another benefit is implementing a phase in approach, as indicated above, for requiring school districts to report TK enrollment in current New Construction enrollment projections as its own grade category.

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

Summary of the Proposed Regulations

A summary of the proposed regulations is as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments: 1) update the revision dates of six associated forms; 2) in four definitions, the word “Kindergarten” is struck out and replaced with the term “Transitional Kindergarten;” and 3) in the definition for “Existing School Site,” the “K” in K-12 is struck out and “TK” has been added so it reads TK-12.

Existing Regulation Section 1859.33 delineates the types of classrooms that must be identified in a school district’s gross classroom inventory. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District and Classroom throughout this section, as well as adds “TK” in lieu of “K” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.35 sets forth the methodology by which a school district’s existing school building capacity is calculated. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District, Classroom, Portable Classrooms throughout this section, as well as adds “TK” in lieu of “K” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.42 sets forth the methodology school districts use to calculate their enrollment projections, including augmenting their enrollment projections by utilizing dwelling units in approved and valid subdivision maps. This section also provides for the fifth-year and tenth year enrollment projection criteria. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District and the words “Transitional Kindergarten and” where the methodology requires the calculation for both Transitional Kindergarten and kindergarten enrollments. In subsection (a)(1) the term “Transitional Kindergarten” is added and the word “kindergarten” is struck out to align with Regulation Section 1859.42.1(b) below, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.42.1 sets forth permissible supplements to the fifth-year projection of pupil enrollment for Non-Special Day Class pupils and not for HSAA and Super HSAA enrollment projections based on residency. This section provides factors which can augment the enrollment projection include pupils that will reside in dwelling units in an approved and valid subdivision map; children born that will attend kindergarten in the fifth calendar year following birth; and modified weighting of enrollment projections that best represents the enrollment trends of the district, based upon submittal of 18 consecutive years of enrollment used to calculate three sets of ten historical enrollment projections. The proposed amendments add new subsection (b) to provide specificity to school districts on what enrollment and/or birth rate data to provide and how the new linear calculation works for reporting TK enrollment in New Construction enrollment projections. There are other non-substantive changes that renumber subsections due to new subsection (b) and capitalize defined words and terms, such as School District and adds the term Transitional Kindergarten throughout this section to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation 1859.51 outlines the criteria for adjusting a district’s new construction baseline eligibility. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District, Modernization, New Construction Grant and Classroom throughout this section, as well as adds “TK” in lieu of “K” to align with what the

proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.60 sets forth the criteria for a school district to calculate its modernization baseline eligibility for each school site. This section also includes specific assistance to school districts that have a school facility located on a military installation that is the recipient of a federal grant that requires a local matching share. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District, Modernization, New Construction Grant and Classroom throughout this section, as well as adds “TK” in lieu of “K” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.61 sets forth specific factors which impact a school district’s capacity to house pupils and therefore require adjustments to the modernization baseline eligibility. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District, Modernization and Classroom throughout this section, as well as adds “TK” in lieu of “K” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.73.2 provides additional new construction funding to school districts that demolish one-story school buildings for replacement with multilevel buildings in order to increase pupil capacity. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District, Classroom, Modernization, Application, Square Footage, and District Representative throughout this section, as well as adds “TK” in lieu of “K” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.77.2 allows a school district to receive new construction grants that exceed the capacity of a project and to use grant eligibility determined at a grade level other than the proposed project. It also allows school districts to request to use a reasonable number of grants to construct needed facilities, some of which by their nature do not house students (i.e., gymnasiums, libraries, multi-purpose rooms). The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District, Classroom, New Construction Grants, New Construction Eligibility, and Application throughout this section, as well as replaces the word “Kindergarten” with “Transitional Kindergarten” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.77.3 allows a school district to receive new construction grants that exceed the capacity of a project and to use grant eligibility determined at a grade level other than the proposed project, and ensures that proposed use of grants requests have been discussed at districts’ governing boards regularly scheduled public meetings so the public is aware of the projects and can see how the funds will be spent prior to filing the application. Additionally, districts must self-certify to the SAB that the approvable housing plan includes specific criteria. This ensures the school district adequately houses pupils where grants intended to build classrooms are redirected for other purposes. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District, Classroom, New Construction Grant, Square Footage, New Construction Eligibility, and Application throughout this section, as well as replaces the word “Kindergarten” with “Transitional Kindergarten” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.78.7.1 provides a modernization supplemental grant for projects with a scope of work that includes the demolition and replacement of buildings at least 75 years of age or older. This section sets forth the eligibility criteria and grant calculations for this supplemental grant. The grant amount is aligned with the new construction per pupil grant amount and will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the SAB each January. Recipients of this grant will receive an alternate per-pupil grant amount than provided under the current modernization program and must replace the building that generated the eligibility for this grant. The regulation also requires the replacement of portable buildings with permanent buildings. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as Modernization, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.81 sets forth specific criteria for school districts and county offices of education to qualify for financial hardship status. This section specifies the maximum level of total bonding capacity that a school district can have and still be automatically eligible for financial hardship assistance as \$5 million or \$15 million, depending on the date the application was received. In addition, subsection (i) outlines the requirements for school districts to utilize bridge financing. These are used as a tool for interfund borrowing for school districts to continue with their projects while waiting for the receipt of financial hardship project funding. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District, Modernization, Classroom, New Construction, Modernization Adjusted Grant, Application, and New Construction Eligibility throughout this section, as well as replaces “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.82.1 informs school districts what a “School Building” means for purposes of the Facility Hardship Program. Other criteria include, but are not limited to, general factors generating program eligibility as well as placing new limits to program eligibility such as disallowing projects solely to replace components that have reached the end of their useful life, for performance of routine maintenance or repair; issues resulting from the deferment of routine maintenance or repair, lack of current code compliance, or the addition of components that were not previously existing; code compliance costs triggered by eligible facility hardship projects may be included as part of the qualified application; time limit on timeframe for application submission for completed projects; and specifies the application documents required to submit a complete Facility Hardship application for the replacement of School Buildings, for School Buildings that are lost, destroyed, or unable to be repaired, and for School Buildings where the estimated cost to rehabilitate exceeds 50 percent of the cost to replace the building. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District, Application, Classroom, Modernization, and Square Footage throughout this section, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.82.2 informs school districts what a “School Building” means for purposes of the Seismic Mitigation Program (SMP). Other criteria include, but is not limited to, general factors generating program eligibility including limits to program eligibility; specifies the criteria a project must meet in order to qualify as an SMP project; specifies the application documents required to submit a complete SMP application for the replacement of School Buildings; specifies the documents required to submit an SMP application for the replacement of School Buildings that have been lost, destroyed, or unable to be repaired, and describes a

licensed design professional for clarity purposes; and specifies the documents required to submit an SMP application for the replacement of School Buildings with interior square footage to be mitigated. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District, Application, and Classroom throughout this section, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.124.1 delineates the maximum square footage and type of facility in the chart for purposes of constructing a Type I or Type II Joint-Use project. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as Square Footage and New Construction throughout this section, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.163.5 provides the calculation that determines a Preliminary Charter School Rehabilitation Apportionment based on the eligible square footage included in the project and additional supplemental grants. This section clarifies the calculation of supplemental grants, and the requirements and calculations for initiating and enforcing a Labor Compliance Program as well as for prevailing wage monitoring and enforcement. This section also aligns CSFP rehabilitation supplemental grants with Education Code requirements, specifically Section 17078.54(d). Further, subsections (a)(7) and (a)(8) allow applicants to request and reserve funding for energy efficiency and career technical education components as part of a Preliminary Charter School Apportionment for Rehabilitation. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as Square Footage, Classroom, and New Construction Grant throughout this section, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.164 sets forth the funding prioritization and processing if the estimated total apportionments for all financially sound Preliminary Charter School Applications exceeds the funds available. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as Application, New Construction Eligibility, and School District, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.167.1 specifies that the amount of the Final Charter School Apportionment may not be increased for site acquisition costs exceeding those calculated under Section 1859.163.1(b), nor increased for useable acres for the project in excess of the previously approved recommended site size by the California Department of Education. This section also allows applicants to request funding for energy efficiency and CTE components for a Final Charter School Apportionment for a CSFP Rehabilitation project. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as Square Footage, Classroom, and New Construction Grant throughout this section, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.182 specifies the calculations to determine the Overcrowding Relief Grant (ORG) pupil eligibility and how the submittal of the Form SAB 50-11 assists in that determination. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as Portable Classrooms and Classrooms throughout this

section, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Regulation Section 1859.183 describes the determination of ORG funding to eligible school districts, and that ORG funds must be used to replace an equivalent number of portable classrooms with permanent classrooms. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as Portable Classrooms, New Construction Eligibility, Permanent Classrooms, and Classroom throughout this section, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Form SAB 50-01, *Enrollment Certification/Projection*, (Rev. ~~05/09~~ 02/26), (incorporated by reference), is submitted by applicant school districts to determine initial eligibility for funding under the SFP. The proposed amendments expand the instructions to include TK Pupil Data whether it is by Enrollment/Residency, TK Enrollment Data or TK Residency Data for High School Attendance Area School Districts. School districts are instructed what to include and what not to include for each section under Part A1 that applies to their circumstance in order to complete the Form. There are non-substantive changes that capitalize defined words and terms, as well as the addition of “K-12” to distinguish between “TK” and “K-12” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Form SAB 50-02, *Existing School Building Capacity*, (Rev. ~~12/10~~ 02/26), (incorporated by reference), is submitted by applicant school districts to determine the total number of pupils that may be housed in the district’s gross classroom inventory. The proposed amendments make non-substantive changes that capitalize defined words and terms, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Form SAB 50-03, *Eligibility Determination*, (Rev. ~~03/25~~ 02/26), (incorporated by reference), is used by school districts to calculate their eligibility for new construction and modernization funding under the SFP. The proposed amendments make non-substantive changes that capitalize defined words and terms, such as School District, Square Footage, Classroom, Modernization, Modernization Apportionment, and Modernization Grants, to name a few, throughout this section, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

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 make non-substantive changes that capitalize defined words and terms, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Existing Form SAB 50-09, *Application for Preliminary Charter School Apportionment*, (Rev. ~~01/26~~ 02/26), (incorporated by reference), is used by school districts or charter school entities to apply for preliminary apportionments for qualifying projects. The proposed amendments make non-substantive changes that capitalize defined words and terms, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing.

Existing Form SAB 195, *Application for Natural Disaster Assistance*, (Rev. ~~04/26~~ 02/26), (incorporated by reference), is required to be submitted by school districts to apply for funding for either interim housing assistance following a natural disaster or other assistance following a natural disaster, pursuant to Education Code Section 17075.20. The proposed amendments make non-substantive changes that capitalize defined words and terms, as well as replaces the “K” with “TK” to align with what the proposed regulations are accomplishing, such as specifying when TK classrooms and/or enrollment should be included.

Statutory Authority and Implementation

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

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

Determination of Inconsistency or Incompatibility with Existing State Regulations

TK was established as the first year of a two-year kindergarten program with a modified curriculum design to be age and developmentally appropriate and designed to prepare children for kindergarten. The TK age expansion was phased in from the 2022-2023 school year to the 2025-2026 school year. It is still difficult to predict TK enrollment year-over-year because TK enrollment is not mandatory. Fluctuating TK enrollment could have a huge impact on projected Kindergarten enrollment; however, the proposed regulations provide TK as a new grade category that has an independent five-year enrollment projection that will not affect the current K-12 five-year enrollment projection model.

There was support to phase in the requirement for school districts to report TK enrollment in current New Construction enrollment projections as its own grade category. The way the current Form SAB 50-01 calculates kindergarten enrollment is by using a linear weighted average and independently from grades 1-12. Adding a separate row to Part A of the Form SAB 50-01 for TK enrollment and using an isolated linear weighted average calculation, the current projections for grades K-12 will not be affected. The new methodology would be phased in for 1) Approved Applications for New Construction that are currently on OPSC’s Workload List and submittals received until the date the proposed regulations become effective, school districts would use the methodology on the current Form SAB 50-01; 2) Approved Applications received on or after the effective date of the regulations through October 31, 2026, school districts would have the option to use the methodology on the current Form SAB 50-01 or the new methodology; and 3) submittals received on or after November 1, 2026, school districts would be required to use the new methodology on the revised Form SAB 50-01.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed regulations are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulations are within the SAB’s

authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503.

Impact to California Businesses and Jobs

The proposed regulations promote transparency because school districts and the school district community have been collaborating on the proposed regulations through a series of stakeholder meetings. TK was established as the first year of a two-year kindergarten program with a modified curriculum design to be age and developmentally appropriate and designed to prepare children for kindergarten. The TK age expansion was phased in from the 2022-2023 school year to the 2025-2026 school year. It is still difficult to predict TK enrollment year-over-year because TK enrollment is not mandatory. Fluctuating TK enrollment could have a huge impact on projected Kindergarten enrollment; however, the proposed regulations provide TK as a new grade category that has an independent five-year enrollment projection that will not affect the current K-12 five-year enrollment projection model.

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

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

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

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