

August 22, 2025

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO
AMEND VARIOUS REGULATION SECTIONS, ALONG WITH
AN ASSOCIATED FORM; ADOPT THE GRANT AGREEMENT
[PROPOSITION 2] MASTER TEMPLATES, TITLE 2,
CALIFORNIA CODE OF REGULATIONS, RELATING TO THE
LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

PROPOSED AMENDMENTS TO THE FOLLOWING REGULATION SECTIONS:

- 1859.2, 1859.51, 1859.60, 1859.61, 1859.78.8, 1859.79.2, AND 1859.81

PROPOSED AMENDMENTS TO THE FOLLOWING FORM:

- Form SAB 50-03, *Eligibility Determination*, (Rev. ~~42/40~~ 03/25), which is incorporated by reference and referenced in Regulation Section 1859.2

PROPOSED ADOPTION OF THE FOLLOWING FORM:

- *Grant Agreement [Proposition 2]*, (New 03/25), which is incorporated by reference and referenced in Regulation Section 1859.2

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

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Sections 17070.35, 17075.15, 17078.64, 17078.72 and 17592.73 of the Education Code. The proposal interprets and make specific reference Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17052, 17070.15, 17070.51, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.75, 17071.76, 17072.10, 17072.12, 17072.15, 17072.18, 17072.20, 17072.33, 17073.15, 17073.20, 17073.25, 17074.10, 17074.25, 17074.30, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17078.72, 17078.72(k), 17079, 17079.10, 17079.20,

17079.30, 17280, 42268, 42270, 56026, 100420(c) and 101012(a)(8), Education Code; Section 53311, Government Code; and Sections 1771.3 in effect on January 1, 2012 through June 19, 2024 and 1771.5, Labor Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (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 March 26, 2025, the SAB adopted proposed regulatory amendments, on an emergency basis, that align with provisions of Assembly Bill (AB) 247 (Muratsuchi, Chapter 81, Statutes of 2024) and include the following topics:

- 1) the maximum level of total bonding capacity a school district could have to be automatically eligible for financial hardship assistance increases from \$5 million to \$15 million (Education Code Section 17075.15). In addition to this criterion, the longstanding policy of using bridge financing to allow for interfund borrowing as a tool for school districts to use to continue with their projects while waiting for financial hardship funding has been put in regulation. This mechanism provides school districts the authorization to use temporary funding, ensuring that projects can proceed without delay caused by delays in receiving SFP funding while waiting for a statewide general obligation bond sale or other source available to the program. Although this mechanism is not in Proposition 2, it is an important piece of the financial hardship funding to help school districts progress their projects while waiting for financial hardship funding.
- 2) the timeframe for requiring an update to small school districts' new construction enrollment projections is extended from three years to five years starting from the date the school district's eligibility is approved by the SAB (Education Code Section 17071.75).
- 3) specific assistance to school districts that have a school facility located on a military installation that is a recipient of a federal grant on the site for facilities modernization that requires a local matching share. It is stipulated that for these schools the school districts are eligible for an apportionment for the modernization of a permanent or portable building that is at least ten years old or is at least ten years old after the date of the previous modernization apportionment from state funds under this chapter (Education Code Section 17073.15).
- 4) incorporation by reference of a second *Grant Agreement [Proposition 2]* (New 03/25) used specifically for those applications received by OPSC on or after October 31, 2024 and that have received SFP grant funding. The *Grant Agreement [Proposition 2]* is not in Proposition 2; however, there are new eligible project expenditures in Proposition 2 that have been made part of the Grant Agreement.

OPSC submitted the emergency regulations to the Office of Administrative Law (OAL) and the OAL approved the emergency regulations and filed them with the Secretary of State with an effective date of June 20, 2025. Attached to this Notice is the specific regulatory language of the proposed regulatory action. The proposed regulations can also be reviewed on OPSC's website at: [Laws, Regulations for School Construction Projects](#). Copies of the proposed regulations,

along with the associated form and Grant Agreement [Proposition 2] master templates will be mailed to any person requesting this information by using OPSC's contact information set forth below in this Notice. The proposed regulation amends the SFP Regulations under the California Code of Regulations, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.5, Regulations relating to the Leroy F. Greene School Facilities Act of 1998.

Bond Funds Impacted

- Kindergarten Through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety Bond Act of 2024 (Proposition 2)

Background and Problem Being Resolved

At its meeting on December 3, 2024, the SAB adopted recommendations implementing provisions of Proposition 2, which are contained in AB 247. In part, Proposition 2 provides \$8.5 billion in proceeds from the sale of bonds for the construction and modernization of Transitional Kindergarten (TK) through Grade 12 school facilities. Proposition 2 specifies that the \$8.5 billion will be allocated to the SFP 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 **and** up to \$115 million shall be available to address the remediation of lead in water.
- Charter School Facilities Program = \$600 million, and
- Career Technical Education Facilities Program = \$600 million.

Proposition 2 also makes numerous changes to the SFP as follows:

- Requires the submittal of a five-year school facilities master plan as a condition of participating in the SFP;
- Establishes a points-based methodology for calculating the local contribution a school district is required to make to be eligible to receive state funding;
- Requires school districts participating in the SFP New Construction or Modernization programs after November 5, 2024, to submit an updated report of the school district's existing school building capacity;
- Authorizes additional state funding for the replacement of school buildings that are at least 75 years old;
- Establishes several new supplemental grants (minimum essential facilities, energy efficiency, career technical education, and TK)
- Authorizes the SAB to provide interim housing assistance funding or any other assistance following specified natural disasters;
- Provides specified assistance to school districts with a school facility on a military installation, small school districts, and for the testing and remediation of specified lead levels in water fountains and faucets used for drinking or preparing food on school sites; and
- Increases the maximum level of total bonding capacity allowable for a school district to be automatically eligible for financial hardship assistance.

It was noted at the December 3, 2024 SAB meeting that it would take time for OPSC to process applications received before October 31, 2024, but necessary for OPSC to receive early guidance from the SAB to inform school districts who submitted applications on or after October 31, 2024, or who are currently planning to submit applications for funding. OPSC also determined the need for the SAB to set some program parameters expeditiously so that Facility Hardship Program and Seismic Mitigation Program applications, which address imminent health and safety needs and receive expedited processing and funding under existing SFP regulations, are processed under Proposition 2 quickly and without delay.

The problem being resolved is not necessarily a problem but an opportunity to replenish the SFP with \$8.5 billion in bond authority and to implement Proposition 2 provisions in the SFP. As indicated on page 2, the proposed regulations provide school districts with unique opportunities to qualify for financial hardship at an increased total bonding capacity level; to have new construction eligibility locked in for five years for small school districts; and to allow school districts that have a school facility located on a military installation that is a recipient of a federal grant that requires a local matching share to receive an apportionment for the modernization of a permanent or portable building that is at least ten years old.

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

Anticipated Benefits of the Proposed Regulations

There are benefits associated with the proposed regulations. The SAB has the opportunity to administer the SFP with new Proposition 2 provisions that make program modifications beneficial to school districts, including small school districts and to replenish the SFP with \$8.5 billion in bond authority. The proposed regulations also provide school districts with additional opportunities to qualify for financial hardship at an increased total bonding capacity level; to have new construction eligibility locked in for five years for small school districts; and to allow school districts that have a school facility located on a military installation that is a recipient of a federal grant that requires a local matching share to receive an apportionment for the modernization of a permanent or portable building that is at least ten years old. 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.

Summary of the Proposed Regulations

A summary of the proposed regulations are as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments define an additional specific term essential to these regulations and stipulate the applicable dates when a certain Grant Agreement will be used for projects. Additionally, the Form SAB 50-03 is being amended so the revision date must change.

Existing Regulation 1859.51 outlines the criteria for adjusting a district's new construction baseline eligibility. In subsection (j), small school districts (schools with an enrollment of 2,500 students or fewer) new construction baselines will not be adjusted until three years after the district's eligibility was approved by the SAB. The proposed amendment locks in their baseline eligibility from three years to five years. This is in alignment with Education Code Section 17071.75.

Existing Regulation Section 1859.60 sets forth the criteria for a school district to calculate its modernization baseline eligibility for each school site. The proposed amendments provide 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. Further, these school districts are eligible for a modernization apportionment of a permanent or portable building that is at least ten years old or is at least ten years old after the date of the previous modernization apportionment. This is in alignment with Education Code Section 17073.15.

Existing Regulation Section 1859.61 sets forth specific factors which impact a district's capacity to house pupils and therefore require adjustments to the modernization baseline eligibility. The proposed amendments add a new subsection that pertains to the modernization baseline eligibility for additional facilities located on a military installation. This is in alignment with Education Code Section 17073.15(b). With the addition of the new subsection, there is renumbering of the subsections which is considered a non-substantive change.

Existing Regulation Section 1859.78.8 specifies that an additional apportionment will be provided by Education Code Section 17074.10(a) for facilities previously modernized with State funds. The proposed amendments add two new subsections that specify new eligibility criteria for permanent and portable school facilities that are located on a military installation. This is in alignment with Education Code Section 17073.15.

Existing Regulation Section 1859.79.2 sets forth guidelines for eligible and ineligible expenditures related to the use of modernization grant funds. The proposed amendments clarify that portable classroom facilities funded under Education Code Section 17073.15(b) are also included in the exception of portable classroom facilities eligible for an additional apportionment.

Existing Regulation Section 1859.81 sets forth specific criteria for school districts and county offices of education to qualify for financial hardship status. The proposed amendments increase the maximum level of total bonding capacity that a school district can have and still be automatically eligible for financial hardship assistance from \$5 million to \$15 million. This is in alignment with Education Code Section 17075.15. In addition to this proposed amendment, new subsection (i) is being added to formalize the longstanding policy/practice of allowing school districts to utilize bridge financing. This policy has been 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. Lastly, there are non-substantive changes throughout this Section that capitalizes the “F” and “H” in the term Financial Hardship as it is a defined term.

Existing Form SAB 50-03, *Eligibility Determination*, (Rev. ~~42/40~~ 03/25), is used by school districts to calculate their eligibility for new construction and modernization funding under the SFP. The proposed amendments incorporate provisions of Proposition 2 related to eligibility determination for school facilities located on military installations that are a recipient of a federal grant for facilities modernization that requires a local matching share. This is in alignment with the proposed amendments to the regulation sections noted above. There are two proposed amendments not related to Proposition 2 and that is the data and year on pages 2 and 3 of the form. The enrollment year information will help streamline the verification process and allow for a more concise verification of the California Basic Enrollment Data System (CBEDS) enrollment being utilized on each Form SAB 50-03 as it is processed by OPSC.

As discussed earlier, the proposed *Grant Agreement [Proposition 2]* (New 03/25) master templates are used for projects submitted to OPSC on or after October 31, 2024 and incorporate some of the new provisions of Proposition 2. The Grant Agreement [Proposition 2] is 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.

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

At the December 3, 2024 SAB meeting, it was noted that it would take time for OPSC to process applications received before October 31, 2024, but necessary for OPSC to receive early guidance from the SAB to inform school districts who submitted applications on or after October 31, 2024, or who are currently planning to submit applications for funding. OPSC also determined the need for the SAB to set some program parameters expeditiously so that Facility Hardship Program and Seismic Mitigation Program applications, which address imminent health

and safety needs and receive expedited processing and funding under existing SFP regulations, are processed under Proposition 2 quickly and without delay.

The SFP is replenished with \$8.5 billion in bond authority and Proposition 2 provisions are/will be implemented in the SFP. The proposed regulations provide school districts with unique opportunities to qualify for financial hardship at an increased total bonding capacity level; to have new construction eligibility locked in for five years for small school districts; and to allow school districts that have a school located on a military installation that is a recipient of a federal grant that requires a local matching share to receive an apportionment for the modernization of a permanent or portable building that is at least ten years old.

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.

Documents Incorporated by Reference

- *Form SAB 50-03*, (Rev. ~~42/40~~ 03/25), referenced in Regulation Section 1859.2 and is incorporated by reference.
- *Grant Agreement [Proposition 2]*, (New 03/25), referenced in Regulation Section 1859.2 and is incorporated by reference.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of 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 or school districts to incur additional costs in order to comply with the proposed regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

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

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

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact to Businesses and Jobs in California

The proposed regulations promote transparency because school districts and the school district community have been collaborating on the proposed regulations through a series of stakeholder meetings. The SAB has the opportunity to administer the SFP with new Proposition 2 provisions that make program modifications beneficial to school districts, including small school districts and replenishes the SFP with \$8.5 billion in bond authority. The proposed regulations also provide school districts with additional opportunities to qualify for financial hardship at an increased total bonding capacity level; to have new construction eligibility locked in for five years for small school districts; and to allow school districts that have a school facility located on a military installation that is a recipient of a federal grant that requires a local matching share to receive an apportionment for the modernization of a permanent or portable building that is at least ten years old. 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 aligning with the statute, as well as maintain 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. The SAB has the opportunity to administer the SFP with new Proposition 2 provisions that make program modifications beneficial to school districts, including small school districts and replenishes the SFP with \$8.5 billion in bond authority.
- 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 regulatory amendments.

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

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulations will not have a negative impact on small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. The proposed regulations only apply to school districts and local education agencies for purposes of funding school facility projects. Manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. This may include new [small] businesses, or the expansion of [small] businesses,

which has a positive impact on the state's economy and may also create an unknown number of jobs.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

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 OPSC no later than October 6, 2025 end of day. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

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

Lisa Jones, Regulations Coordinator

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

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

Fax No.: (916) 375-6721

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to 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.

ADOPTION OF REGULATIONS

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

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

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

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

RULEMAKING FILE

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

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

As data and other factual information, studies, reports or written comments are received they will be added to the rulemaking file. The file is available for public inspection at OPSC during normal working hours. Items 1 through 3 are also available on OPSC's Internet Web site at: [Laws, Regulations for School Construction Projects](#) then scroll down to School Facility Program, Pending Regulatory Changes, and click on the links entitled 45-day Public Notice, Initial Statement of Reasons and Proposed Regulation Text.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The alternative to these proposed regulations would be the SAB take no action and be in violation of the statute (AB 247). The SAB is charged with ensuring that the provisions of Proposition 2 are implemented timely in the SFP.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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