

INITIAL STATEMENT OF REASONS

Section 1859.2. Definitions.

Specific Purpose of the Regulation

To amend defined terms and to revise forms used exclusively for these School Facility Program (SFP) Regulations.

Need for the Regulation

It was necessary to align the defined term of “Rehabilitation Cost” with the proper subsection for purposes of user readability. It was also necessary to delineate the defined term “Seismic Rehabilitation Grant” by Approved Applications received by the Office of Public School Construction (OPSC) on or before October 30, 2024 and those Approved Applications received by OPSC on or after October 31, 2024. The dates set forth specific program authority for projects as of January 1, 2024 and specific program authority for projects received on or after October 31, 2024. The two forms (Forms SAB 50-04 and SAB 58-01) are amended to incorporate the corresponding changes relating to the regulatory amendments, which does change their revision dates; Rev. 12/26 for the Form SAB 50-04 and Rev. 10/25 for the Form SAB 58-01, respectively.

Section 1859.61. Adjustments to the Modernization Baseline Eligibility.

Specific Purpose of the Regulation

To set forth the conditions adjusting a school district’s baseline eligibility for modernization.

Need for the Regulation

It was necessary to adjust the modernization baseline eligibility or remove buildings from the classroom inventory so they can no longer accumulate modernization eligibility as they are being replaced or permanently removed from K-12 classroom use as a result of a funded Facility Hardship Program (FHP) or Seismic Mitigation Program (SMP) project. It was also necessary to clarify the conditions for adjusting modernization eligibility for sites where school buildings and/or classrooms have received funding for replacement, have been demolished, or have been permanently removed from classroom use. For projects that receive funding to replace an eligible school building, the modernization eligibility is reset to account for the new school building. This is based on the apportionment date that corresponds to the Form SAB 50-04.

This section allows for the removal of buildings from classroom inventory in cases where a building has an eligible health and safety threat, but the school district does not have the current enrollment to justify the replacement of all classroom capacity. The removal of the classrooms from the inventory ensures that excess areas that are now prohibited from K-12 classroom use do not continue to generate modernization eligibility on the site. School districts are required to submit a school board resolution acknowledging the removal of school buildings from classroom use when the qualifying buildings remain on the site; a school board resolution is not required when qualifying buildings have been demolished.

With the addition of new language in subsection (m), the little paragraph at the end of this section is no longer applicable. There are minor edits throughout this section capitalizing defined words or terms and are considered non-substantive changes.

Section 1859.82. Facility Hardship Program and Seismic Mitigation Program.

Specific Purpose of the Regulation

To set forth specific program authority for Approved Applications received by OPSC on or before October 30, 2024 and for Approved Applications received by OPSC on and after October 31, 2024.

Need for the Regulation

It was necessary to delineate the specific program authority for Approved Applications based on the “on and before October 30, 2024” and the “on and after October 31, 2024” dates under this Section to ensure the appropriate program authority is applied to projects when calculating the state share of these types of projects. There are minor edits in this Section that are considered non-substantive in nature.

Section 1859.82.1. Facility Hardship Program.

Specific Purpose of the Regulation

To make amendments for purposes of clarifying, standardizing, and improving user readability for FHP projects.

Need for the Regulation

Introductory paragraph: It was necessary to use the term “grade category” for FHP projects when determining the number of classrooms needed to house enrollment at a school site. OPSC assesses this need based on grade category, which is consistent with how School Facility Program (SFP) grants are assigned. It was also necessary to use the term “Facility Type” as the different types of facilities established in this Section with corresponding square footages for elementary, middle, and high schools.

2nd paragraph: It was necessary to clarify the meaning of “related required components” as these components may be eligible for FHP funding. The FHP is intended to cover costs for extraordinary circumstances pursuant to Education Code Section 17075.10. Under the FHP, the mitigation of asbestos is allowed when lab results demonstrate that it is currently friable. It was necessary to add clarifying language that limits funding to situations that arise when asbestos becomes friable only through extraordinary circumstances and excluding those outside of routine repair, maintenance, or modernization work. It was also necessary to include other governmental agencies in providing approval in addition to the Division of the State Architect’s (DSA) approval as these entities may require work to be completed as part of a qualifying FHP project. There are minor edits that are considered non-substantive in nature.

3rd paragraph: It was necessary to delete language as it is no longer applicable. In addition, there are minor edits that are considered non-substantive in nature.

Subsection 1859.82.1(a): It was necessary to make minor edits for consistency purposes. These edits are considered non-substantive in nature.

Subsection 1859.82.1(b)(1)(A) and (B): It was necessary to describe the required documentation for Approved Applications for replacement funding received on or after October 31, 2024, or for Approved Applications received on or before October 30, 2024, respectively, for school buildings that were lost or damaged and are unable to be repaired as a result of a natural disaster that the State Allocation Board (SAB) determined to meet the requirements of Education Code Section 17075.20, or due to circumstances that are not the result of a natural disaster determined by the SAB to meet the requirements of Education Code Section 17075.20. This ensures the proper use of State funding based on specific program criteria.

Subsection 1859.82.1(b)(1)(D): It was necessary to set forth the requirement that if a school district requests additional grants for site development costs for an FHP replacement project, the district must submit a detailed cost estimate for the eligible site development work along with any additional supporting justification for the requested costs as part of a complete application. This provides the substantiation of the costs and ensures a prudent use of state funds.

Subsection 1859.82.1(b)(2)(A): The industry specialist's report is a foundation document for every FHP project as it documents the health and safety threat that determines project eligibility and establishes the scope of work that is eligible for funding through the program. It was necessary to describe the industry specialist as it relates to the role it has in these regulations. The industry specialist is a term that is familiar with the school district community. Industry specialist reports have long been recognized as the leading authority when it comes to validating that a health and safety issue exists on a school site. The report must be prepared by a specialist in the subject matter causing the health and safety issue.

Subsection 1859.82.1(b)(2)(C)5.: It was necessary to include other governmental agencies in providing approval in addition to the DSA's approval as these entities may require work to be completed as part of a qualifying FHP project. The FHP requires that funding be provided for the minimum work necessary to mitigate the identified health and safety threat.

Subsection 1859.82.1(b)(2)(E): It was necessary for a school district to submit a gross inventory of all school buildings located on the project site, such as a site diagram or floor plan to be considered a complete Approved Application. This will help to provide a visual aid of the project in relation to the entire site, help to avoid delays and enable an expeditious processing of the FHP replacement project.

Subsection 1859.82.1(b)(2)(F)5.: It was necessary to specifically list the standard documents required for an SFP funding application to clearly indicate all documents required as part of a complete FHP replacement application submission. This includes the requirement that if a school district requests additional grants for site development costs for an FHP replacement project, the district must submit a detailed cost estimate for the eligible site development work along with any additional supporting justification for the requested costs as part of a complete application. This provides the substantiation of the costs and ensures a prudent use of state funds.

Subsection 1859.82.1(b)(4)(B): Once it is determined that an application is eligible to receive replacement funding, it was necessary to provide the specific calculation mechanisms used to determine the appropriate funding amounts given the type of replacement application. For FHP replacement projects in which at least some but not all School Buildings on the site are to be replaced, the project is considered a facility replacement project and the eligible project will be funded through an eligible square footage grant. The square footage provided is determined by CBEDS enrollment and the minimum essential facility area necessary per pupil for a given type of space. The square footage chart provides additional categories for which the minimum essential area for the facilities has been provided. The eligible supplemental grants for this type of project are listed to provide clarity to school districts when applying for supplemental grants.

Subsection 1859.82.1(b)(4)(C): For FHP projects in which the replacement of a portable building requires replacement, there is a square footage replacement grant. It was necessary to provide a funding mechanism specifically designed for portable type construction and, thus allow for the ability to address health and safety projects that occur in portable facilities. This subsection also specifies the eligible supplemental grants for portable replacement type projects.

Subsection 1859.82.1(c): It was necessary to identify how funding would be provided for rehabilitation applications involving the replacement of components or unenclosed roofed structures, such as lunch shelters, shade structures, and covered walkways. It is important to maintain the intent of the FHP to fund only the minimum work necessary or required and that the addition of systems or features not in the existing structure are not allowed under the FHP.

Subsections 1859.82.1(c)(3)(A), (B), (C), and (D)3: It was necessary to set forth the required documents for Approved Applications for rehabilitation funding received on or after October 31, 2024, or for Approved Applications received on or before October 30, 2024, for school buildings or components that were damaged as a result of a natural disaster that the SAB determined meet the requirements of Education Code Section 17075.20. The documents are specifically listed to ensure school districts are aware of what constitutes a complete rehabilitation application and the criteria that these documents must satisfy in order to provide the necessary information for the application to be processed. The documents include an industry specialist's report, governmental concurrence, and the cost estimate (Form SAB 58-01).

Subsections 1859.82.1(d)(1)(B) and (d)(1)(C): It was necessary to specify the applicable Approved Applications received dates to correspond with the funding offsets of a school district's FHP grant in order to avoid overfunding a project that has already been mitigated through other means. Offsets are applied in cases where the school district has capacity to house their displaced pupils, where funds are received through an insurance claim, or if funds are received by the disposition or sale of affected property. The offset is proportionate to the matching share the school district is eligible to receive (50 percent for replacement projects).

Subsections 1859.82.1(d)(2)(A) and (d)(2)(B): It was necessary to specify the applicable Approved Applications received dates to correspond with the funding offsets of a school district's FHP grant in order to avoid overfunding a project that has already been mitigated through other means. Offsets are applied in cases where the school district has capacity to house their displaced pupils, where funds are received through an

insurance claim, or if funds are received by the disposition or sale of affected property. The offset is proportionate to the matching share the school district is eligible to receive (60 percent for rehabilitation projects).

Subsection 1859.82.1(f): It was necessary to inform school districts in cases where FHP projects may qualify for a separate site apportionment for environmental hardship. School districts are eligible for this separate site apportionment whether or not they qualify for Financial Hardship assistance. This advance apportionment will assist school districts in acquiring and preparing the site before proceeding to the construction phase of the full project. Thus, this subsection provides a mechanism for preliminary funding to be made available for FHP projects.

There are changes made throughout this regulation section that are considered non-substantive in nature.

Section 1859.82.2. Seismic Mitigation Program.

Specific Purpose of the Regulation

To make amendments for purposes of clarifying, standardizing, and improving user readability for SMP projects.

Need for the Regulation

1st Introductory paragraph: It was necessary to use the term “grade category” for SMP projects when determining the number of classrooms needed to house enrollment at a school site. OPSC assesses this need based on grade category, which is consistent with how SFP grants are assigned. It was also necessary to use the term “Facility Type” as the different types of facilities are established in this Section with corresponding square footages for elementary, middle, and high schools.

3rd Introductory paragraph: It was necessary to set forth the Approved Applications received date of on or after October 31, 2024, for school districts when they request funding for SMP projects. The funding ratio is differentiated between replacement projects which are funded on a 50 percent state share basis (like new construction projects), and rehabilitation projects which are funded on a 60 percent state share basis (like modernization projects).

Subsection 1859.82.2(a)(2): It was necessary to expand the criteria used to establish that a project qualifies as a SMP project. It provides clarity for applicants to determine if a given project may qualify for this program.

Subsection 1859.82.2(b)(1)(E): This subsection addresses projects where the School Buildings are lost, destroyed, or unable to be repaired. It was necessary to inform school districts that when requesting additional funding for site development work, a detailed cost estimate would be needed to justify the costs and it must be submitted with the Approved Application. This will avoid delays in processing the Approved Application.

Subsection 1859.82.2(b)(2)(G): It was necessary for a school district to submit a gross inventory of all school buildings located on the project site, such as a site diagram or floor plan to be considered a complete Approved Application. This will help to provide a

visual aid of the project in relation to the entire site, help to avoid delays and enable an expeditious processing of the SMP replacement project.

Subsection 1859.82.2(b)(2)(H)5: It was necessary to inform school districts that when requesting additional funding for site development work, a detailed cost estimate would be needed to justify the costs and it must be submitted with the Approved Application. This will avoid delays in processing the Approved Application.

Subsection (b)(4)(B): It was necessary to clarify how the total eligible replacement square footage is determined for qualifying school buildings and/or classrooms. Once it is determined that an application is eligible to receive replacement funding, it was necessary to provide the specific calculation mechanisms used to determine the appropriate funding amounts given the type of replacement application. For SMP replacement projects in which at least some but not all School Buildings on the site are to be replaced, the eligible project will be funded through an eligible square footage grant. The square footage provided is determined by CBEDS enrollment and the minimum essential facility area necessary per pupil for a given type of space. The square footage chart provides additional categories for which the minimum essential area for the facilities has been provided. The eligible supplemental grants for this type of project are listed to provide clarity to school districts when applying for supplemental grants.

Subsection 1859.82.2(c)(2): It was necessary to include when a project may qualify for rehabilitation if the project involves an unenclosed roofed structure/space or structural outcroppings to buildings (such as covered walkways and lunch shelters). These do not contain full wall systems. In these cases, neither the per-pupil grant nor square footage replacement grant provides an appropriate mechanism for funding and the projects of this type do not result in the replacement of the School Building. Thus, it is necessary to specifically include these types of projects under the funding of rehabilitation projects.

Subsection 1859.82(c)(3)(A): SMP projects requesting rehabilitation funding require a similar set of application documents for replacement applications. It was necessary to specifically list the documents required for a complete rehabilitation application and the criteria that these documents must satisfy in order to provide the necessary information for the application to be processed. These documents include an industry specialist's report, geotechnical report if required, governmental concurrence, and cost estimate (Form SAB 58-01). If the project involves an unenclosed roofed structure, the industry specialist's report must support the continued use of the roofed structure or the minimum work necessary to replace it with a like-kind structure.

Subsection 1859.82.2(c)(3)(D)5: It was necessary to allow flexibility for funding the additional costs for replacement of what was existing but may include required safety upgrades for unenclosed roofed structure(s), including lunch shelters and covered walkways.

Subsection 1859.82.2(c)(4)(A): It was necessary to indicate that Approved Applications for SMP rehabilitation funding received on or before October 30, 2024 will be funded on a 50 percent state and local basis. The amount provided is based on the eligible costs as verified by OPSC on the submitted cost estimate Form SAB 58-01.

Subsection 1859.82.2(c)(4)(B): It was necessary to capture Approved Applications for SMP rehabilitation funding received on or after October 31, 2024 to fund these

applications on a 60 percent state and 40 percent local basis. The amount provided is based on the eligible costs as verified by OPSC on the submitted cost estimate Form SAB 58-01.

Subsection 1859.82.2(c)(4)(D)3: It was necessary to delete this supplemental grant as it is duplicative. The costs required by the DSA are already eligible to be included in the cost estimate Form SAB 58-01.

Subsection 1859.82.2(d)(1)(B): It was necessary to specify changes for Approved Applications received on or before October 30, 2024 for SMP replacement projects that funding would be reduced by 50 percent of any insurance proceeds. For Approved Applications received on or after October 31, 2024, the funding would be reduced by 50 percent of any insurance proceeds or a commensurate amount adjusted for the school district's matching share.

Subsection 1859.82.2(d)(1)(C): It was necessary to specify changes for Approved Applications received on or before October 30, 2024 for SMP replacement projects that funding would be reduced by 50 percent of the net proceeds from the disposition of property and/or facilities in the project. For Approved Applications received on or after October 31, 2024 funding would be reduced by 50 percent of the net proceeds from the disposition of property and/or facilities or by a commensurate amount adjusted for the school district's matching share.

Subsections 1859.82.2(d)(2)(A) and 1859.82.2(d)(2)(B): It was necessary to specify changes for Approved Applications received on or before October 30, 2024 for SMP rehabilitation projects that funding would be reduced by 50 percent of any insurance proceeds. For Approved Applications received on or after October 31, 2024, the funding would be reduced by 60 percent of any insurance proceeds or a commensurate amount adjusted for the school district's matching share.

Subsections 1859.82.2(d)(2)(C) and 1859.82.2(d)(2)(D): It was necessary to specify changes for Approved Applications received on or before October 30, 2024 for SMP rehabilitation projects that funding would be reduced by 50 percent of the net proceeds from the disposition of displaced facilities in the project. For Approved Applications received on or after October 31, 2024, funding would be reduced by 60 percent of the net proceeds from the disposition of displaced facilities in the project or by a commensurate amount adjusted for the school district's matching share.

Subsection 1859.82.2(f): It was necessary to inform school districts in cases where SMP projects may qualify for a separate site apportionment for environmental hardship. School districts are eligible for this separate site apportionment whether or not they qualify for Financial Hardship assistance. This advance apportionment will assist school districts in acquiring and preparing the site before proceeding to the construction phase of the full project. Thus, this subsection provides a mechanism for preliminary funding to be made available for SMP projects.

Throughout this Section, there is renumbering of subsections due to new subsections being added, and other minor edits that are considered non-substantive changes in nature.

Section 1859.82.3. Facility Hardship Program and Seismic Mitigation Program Conceptual Approvals.

Specific Purpose of the Regulation

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes throughout this Section in order to maintain consistency throughout the FHP and SMP regulations.

SCHOOL FACILITY PROGRAM FORMS

Application for Funding, Form SAB 50-04 (Rev. ~~02/26~~ 12/26).

Specific Purpose of the Form

To make corresponding amendments that align with the proposed regulations.

Need for the Form

Page 2, under “Specific Instructions,” #2a. Type of Project: It was necessary to correct the reference for the Facility Hardship Program (FHP) and the Seismic Mitigation Program (SMP).

Page 7, #1, last check box: It was necessary to reflect “60 percent” to clarify that FHP rehabilitation costs can only be entered at 60 percent and to make a conforming change for the SMP rehabilitation costs.

Page 7, #1, under “Separate Apportionment,” 4th, 5th, 6th and 7th check boxes: It was necessary to add these four options for Site Only and Site Only (District-owned) for the FHP and SMP to facilitate the processing of these types of funding requests.

Page 8, #5.j.: It was necessary to include this additional grant as FHP and SMP projects are already eligible for the grant. This amendment updates the Form for school districts to request this additional grant. This corresponds to the proposed amendment on page 4, under “Specific Instructions,” left column, #5j.

Facility Hardship Cost Estimate, Form SAB 58-01 (New ~~05/20~~ Rev. 10/25).

Specific Purpose of the Form

To update the Form in order to more closely align with the Sierra West Publishing's construction cost publications.

Need for the Form

It was necessary to revise this Form for FHP and SMP rehabilitation and/or replacement projects in order to provide a consistent structure aligned with Sierra West Publishing's construction cost publications. This means this Form aligns with the order of the

categories for the General Requirements Section as published in the Sierra West Publication, "Current Construction Remodeling Costs." Additionally, the changes on this Form were reviewed with Sierra West to ensure accuracy.

Under Part I – Line Item Request, #9, "OPSC Review Comments": It was necessary to add this one column to the Form so OPSC can explain why a value was disallowed or allowed at a value different than requested.

Part I #10, "Title 24 Maximum Requirement": It was necessary to add this line to save school districts time, make application processing more efficient, and ensure that funding is provided to cover the maximum accessibility work that would be required for the project. Where a school district qualifies for funding as a rehabilitation project, but intends to do replacement work, OPSC does not require approved construction plans to support the cost estimate used to provide funding for the project. In lieu of requesting individual line items for Access Compliance, a school district may request a 20 percent allowance to cover the costs of the maximum Access Compliance work required by the DSA. The 20 percent allowance is only used for applications using conceptual or schematic drawings, which is part of the cost benefit analysis to determine if the project will receive rehabilitation or replacement funding.

Part I, #11, "Subtotals": It was necessary to add this line for the sum of the amounts entered in column 6 "School District's Request" can be entered by the school district. It was also necessary for sum of the amounts entered in column 7 "OPSC Verified Allowance" can be entered by OPSC.

Under Part II – Contractor Burden: It was necessary to rename the former "General Requirements" to "Contractor Burden." When meeting with Sierra West representatives and school districts, OPSC received feedback that the term "Contractor Burden" would be a more accurate description. The change in terminology is to clarify that these are hard construction costs related to the items the contractor is required to provide for a successful project completion. The Sierra West publication allows contractor burden for the following items General Conditions; Overhead, Profit, and Bond; Escalation; and Contingencies.

Under Part III – Design Allowances and Fees, #17 "Project Inspection Allowance": It was necessary to revise the name of this allowance from "DSA Inspection Fee" to "Project Inspection Allowance." This is to clarify that the allowance provided is for the services of a DSA-certified inspector for the duration of the project, not a fee paid to DSA. The allowance provided continues to be 1.00 percent, based on the Construction Subtotal, and is only allowed if the project requires DSA approval.

Part III, #20 "Design Specialist Cost Allowance": It was necessary to change the name of this allowance to include "Specialist." This provides clarity as to what the allowance provides; the costs of the services of a licensed design specialist to provide professional services in the design development and construction phases of a project. This allowance does not cover all costs related to the design phase of a construction project. The allowance continues to be based on a sliding scale which was used in the old State School Building Lease-Purchase Program of 1976. In 2020, the sliding scale was approved as part of the initial creation of this Form SAB 58-01.

Anticipated Benefits and Economic Impact of the Proposed Regulations

The proposed regulations promote a stricter accountability of State bond funds for health and safety projects, while streamlining processes that increase efficiencies for the FHP and SMP. The proposed regulations also promote the State's general welfare, including protection of public health and safety, by increasing the State's infrastructure investment of school facilities. In addition, there are benefits to health, safety, and welfare of California residents (school children and school faculty) because school facilities will be built stronger and safer. School districts utilize construction and trades employees to work on school construction projects and although the proposed regulations do not directly impact worker's safety, existing law provides for the availability of a skilled labor force. 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.

OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, determined that there are no other regulations addressing K-12 health and safety issues of school facilities and that the SFP is the primary funding program at the State level. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations and provide greater transparency to school districts. Proceeding with the implementation of the proposed regulations, along with the two associated forms, maintains a specific and consistent process for school districts to request state funding for critical needs of health and safety projects. Additionally, the proposed regulations maintain equity, consistency, the integrity of the SFP funding process, and ensures a prudent use of bond funds.

The proposed regulatory amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of these proposed regulations will have a positive impact on public health and safety at public K-12 schools by providing school districts with the opportunity to continue to submit applications in order to address health and safety issues. These proposed regulatory amendments result in a positive impact to the State's economy and have the potential of creating an unknown number of jobs.

Technical Documents Relied Upon

- OPSC Stakeholder Meeting Agenda Items, dated June 4, 2024, and March 20, 2025, entitled "Proposed Amendments to the Facility Hardship and Seismic Mitigation Program Regulations" and "Proposed Regulatory Amendments for Hardship Applications," respectively.
- The State Allocation Board's Action item, dated October 22, 2025, entitled "Proposed Regulatory Amendments for the School Facility Program."

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

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulations or would be as effective and less burdensome to affected private persons than the proposed regulations or would be more cost-effective to affected private persons and equally effective in implementing the

statutory policy or other provision of law. OPSC held two stakeholder meetings to discuss and receive input from stakeholders regarding program modifications to the FHP and the SMP. No other alternatives were considered. The SAB/OPSC addressed clarity issues and expanded flexibility in program options, thereby aligning the regulations with statutory provisions of Proposition 2 and improving user readability of the regulations governing the two programs.

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

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

Finding of Significant Adverse Economic Impact on Businesses

The SAB has determined that the adoption of the proposed regulations will not have a negative economic impact on businesses/small businesses because they are not required to directly comply with or enforce the regulation, nor will they be disadvantaged by the regulations. In fact, the demand on the manufacturing and construction-related industries could potentially stimulate the creation of businesses/small businesses in these areas. This is because the SFP consists of the New Construction and Modernization Programs, which are the primary programs of the SFP, in addition to the FHP and the SMP, for which health and safety applications are processed continually (on a monthly basis) or as soon as OPSC receives these types of applications.

Impact on Local Agencies or School Districts

The SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require school districts or county offices of education 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

At its October 22, 2025 meeting, the SAB adopted proposed amendments to both the Facility Hardship Program (FHP) and Seismic Mitigation Program (SMP) regulations. The successful passage of Proposition 2 made numerous statutory changes to the School Facility Program (SFP), specifically to applications received on or after October 31, 2024. Proposition 2 repealed then added back an amended version of the Education Code relating to Hardship Applications, by amending the statutory basis for the existing FHP and the SMP. The proposed regulatory amendments provide further clarification and standardization of language for both programs and align the regulations with the statutory provisions of Proposition 2, all of which improve user readability of the regulations governing the two programs. In addition, the proposed regulatory amendments may limit funding opportunities by providing stricter accountability for State bond funds.

Bond Funds Impacted

- Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998 (Proposition 1A)
- Kindergarten-University Public Education Facilities Bond Act of 2002 (Proposition 47)
- Kindergarten-University Public Education Facilities Bond Act of 2004 (Proposition 55)
- Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D)
- Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51)
- 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

OPSC held two stakeholder meetings regarding the proposed regulations; one in June 2024 and one in March 2025. The June 2024 stakeholder meeting addressed amendments to regulation sections that included clarification, standardization, and improved user readability governing both the FHP and SMP. The Form SAB 58-01 was amended to align with calculations for contractor burden (currently labeled soft costs), with the applicable Sierra West publishing guide and industry standards. The March 2025 stakeholder meeting addressed changes based on Proposition 2 for FHP and SMP applications received on or after October 31, 2024, and the addition of Education Code Sections 17070.59 and 17075.10. The proposed regulations are a result of that collaboration with stakeholders and other interested parties.

Under the FHP, projects can be repaired or replaced with new classrooms and related facilities and, under the SMP, it is work to address deficiencies in buildings of the Most Vulnerable Category 2 Buildings (which is defined in SFP Regulation Section 1859.2) that may not perform well in the event of an earthquake. Both programs provide funding calculated based on the minimum work necessary to mitigate health and safety issues.

The problem being resolved is clarifying, standardizing, and improving user readability of the FHP and SMP regulations, as well as to align them with statutory changes brought about by the provisions of Proposition 2. To qualify for Hardship funding, a school district must demonstrate 1) that there is a threat to the health and safety of pupils; 2) that health and safety projects include the replacement of the most vulnerable school facilities that are identified as Category 2 buildings by the report completed pursuant to Education Code Section 17317; and 3) that a cost-benefit analysis must be prepared by the school district to determine if the cost to remain in the facility and mitigate the problem is at least 50 percent of the replacement cost (if the cost is at least 50 percent, the school district qualifies for replacement facilities; if the cost is less than 50 percent, the school district qualifies for modernization funding).

Proposition 2 added new Education Code Section 17070.59, which establishes a points-based determination and sliding scale for the required state and local match for SFP projects. Education Code Section 17072.30 was also amended to outline the sliding scale and point allocation as it relates to New Construction projects, including FHP and SMP replacement funding. Further, Education Code Section 17074.16 added similar language for modernization projects, including FHP and SMP rehabilitation funding. When Education Code Section 17075.10 was added back into the Education Code, it reorganized the concepts for the two programs and created a single funding determination that applies to both FHP and SMP projects. Funding will be provided for both FHP and SMP replacement facilities on a 50 percent state and 50 percent local matching share basis as a new construction grant, subject to adjustment by the sliding scale (Education Code Section 17070.59). However, funding for facilities that qualify for either FHP or SMP rehabilitation funding will now be provided on a 60 percent state share and 40 percent local matching share basis as a modernization grant, subject to adjustment by the sliding scale (Education Code Section 17070.59).

OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, determined that there are no other regulations addressing K-12 health and safety issues of school facilities and that the SFP is the primary funding program at the State level. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations and provide greater transparency to school districts. Proceeding with the implementation of the proposed regulations, along with the two associated forms, maintains a specific and consistent process for school districts to request state funding for critical needs of health and safety projects. Additionally, the proposed regulations maintain equity, consistency, the integrity of the SFP funding process, and ensures a prudent use of bond funds.

Description of Regulations to Implement Law

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 regulatory amendments 1) correct Regulation Section 1859.82.1(c)(3)(C) to 1859.82.1(c)(3)(D) to align with rehabilitation costs; 2) expands the definition of “Seismic Rehabilitation Grant” for Approved Applications received by OPSC on or before October 30, 2024, and for Approved Applications received by OPSC on or after October 31, 2024; 3) revises the *Application For Funding*, Form SAB 50-04 (Rev. ~~02/26~~ 12/26), which is incorporated by reference, to align with the proposed regulation changes; and 4) revises the *Facility Hardship Cost*

Estimate, Form SAB 58-01 (Rev. ~~05/20~~ 10/25) which is incorporated by reference, to ensure consistency with the Sierra West Publishing construction cost publications and by providing clear instructions for each item in the Form when calculating funding for projects.

Existing Regulation Section 1859.61 provides adjustment factors that increase or decrease a school district's baseline eligibility for modernization. The proposed regulatory amendments clarify the conditions for adjusting modernization eligibility for sites where school buildings and/or classrooms have received funding for replacement, have been demolished, or have been permanently removed from classroom use. School districts are only required to submit a school board resolution acknowledging the removal of school buildings from classroom use when the qualifying buildings remain on the site; a school board resolution is not required when qualifying buildings have been demolished. Subsection (m) has been restructured and renumbered for improved readability. There are minor edits that are considered non-substantive in nature.

Existing Regulation Section 1859.82 establishes that the FHP and SMP only provides funding in cases of extraordinary circumstances that have caused an imminent health and safety threat. The proposed amendments delineate between Approved Applications received by OPSC on or before October 30, 2024 and how Education Code Section 17075.10 will be applied to projects as it read on January 1, 2024, and how Education Code Section 17075.10 as it read on November 6, 2024 will be applied to Approved Applications received by OPSC on or after October 31, 2024. The dates are consistent with Education Code Section 17070.87.

Existing Regulation Section 1859.82.1, introductory paragraph, informs school districts what a "School Building" means for purposes of the FHP. The proposed amendments include defining two terms specific to this Section ("grade category" and "facility type") to ensure the consistent meaning for purposes of this Section. The proposed amendments to the second opening paragraph clarify the meaning of "related required components" eligible for FHP funding. This paragraph also states that mitigation of asbestos that becomes friable during the course of school building maintenance, repairs or modernization do not meet the qualifying criteria under the FHP. There is a difference between encapsulated asbestos becoming friable in damaged buildings as a result of an earthquake, which would be considered an extraordinary circumstance, and asbestos that is exposed or disturbed and becomes friable during routine modernization, repair or maintenance work for fire or access compliance upgrades, or flooring replacement, which would be an eligible use of Modernization grants. Subsection (b)(1)(A) was added and (b)(1)(B) was amended to set forth the required documentation for Approved Applications for replacement funding received on or after October 31, 2024, or for Approved Applications received on or before October 30, 2024 for school buildings that were lost or damaged and are unable to be repaired as a result of a natural disaster that the SAB determined meet the requirements in Education Code Section 17075.20, or due to circumstances that are not the result of a natural disaster that the SAB determined meet the requirements of Education Code Section 17075.20. Subsections (c)(3)(A) was added and (c)(3)(B), (C), and (D)3 were amended to set forth the required documentation for Approved Applications received on or after October 31, 2024, or for Approved Applications received on and before October 30, 2024, for school buildings or components that were damaged as a result of a natural disaster that the SAB determined meet the requirements in Education Code Section 17075.20. Subsection (d)(1)(B) was amended to address the 50 percent reduction of any insurance proceeds collected by the school district for the replacement project for Approved Applications

received by OPSC on and before October 30, 2024. For Approved Applications received by OPSC on or after October 31, 2024, a 50 percent reduction of any insurance proceeds collected for the replacement project, or a commensurate amount adjusted for the matching share. Subsection (d)(1)(C) was amended to address the 50 percent reduction of net proceeds available from the disposition of the property and/or facilities in the project for Approved Applications received by OPSC on and before October 30, 2024. For Approved Applications received by OPSC on or after October 31, 2024, a 50 percent reduction of net proceeds available from the disposition of the property and/or facilities in the project or a commensurate amount adjusted for the matching share. Subsection (d)(2)(A) was amended to address the 60 percent reduction of any insurance proceeds collected by the school district for the rehabilitation project for Approved Applications received by OPSC on and before October 30, 2024. For Approved Applications received by OPSC on or after October 31, 2024, a 60 percent reduction of any insurance proceeds collected for the rehabilitation project, or a commensurate amount adjusted for the matching share. Subsection (d)(2)(B) was amended to address the 60 percent reduction of net proceeds available from the disposition of the property and/or facilities in the project for Approved Applications received by OPSC on and before October 30, 2024. For Approved Applications received by OPSC on or after October 31, 2024, a 60 percent reduction of net proceeds available from the disposition of the property and/or facilities in the project, or a commensurate amount adjusted for the matching share. Subsection (f) was added to allow school districts to apply for Environmental Hardship site funding if the site has met specific criteria in Section 1859.75.1. Throughout this Section, there are minor edits that are considered non-substantive in nature.

Existing Regulation Section 1859.82.2, introductory paragraph, informs school districts what a “School Building” means for purposes of the SMP. The proposed amendments include defining two terms specific to this Section (“grade category” and “facility type”) to ensure the consistent meaning for purposes of this Section. The proposed amendments to the third paragraph set forth the funding calculation for the replacement of school buildings (50 percent) and for the rehabilitation of school buildings (60 percent) for Approved Applications received by OPSC on or after October 31, 2024. Subsection (b)(2)(G) was added to inform school districts that an inventory of all school buildings on the affected site along with detailed information about the buildings would need to be submitted with their application in order to qualify for replacement funding. Subsection (b)(2)(H)5 was added to inform school districts when requesting site development funding that a detailed cost estimate including eligible site development costs contained in Regulation Section 1859.76 and any other justification documents that support the work are required to be submitted to be considered a complete Approved Application. Subsection (b)(4)(B)2 (includes a. through f.) was amended to clarify how the total eligible replacement square footage would be determined for qualifying school buildings and/or classrooms based on the facility type in the chart. Subsection (b)(4)(B)3.j. was added to ensure that qualifying SMP replacement applications may receive funding to properly account for added costs presented by urban construction that these new construction-type projects may face and that are not part of the base funding for SMP replacement funding. Subsection (c)(3)(A) was amended to set forth specificity in the licensed design professional’s report in order to fund the minimum work necessary to allow the continued use of unenclosed roofed structures (lunch shelters, shade structures, and covered walkways) or the minimum work to replace such structure(s) to obtain plan approval. Subsection (c)(3)(D)5 was added to allow flexibility funding for additional costs for replacement of what was existing but may include required safety upgrades for unenclosed roofed structure(s), including lunch shelters and covered

walkways. Subsection (c)(4)(A) was amended to address SMP rehabilitation funding for Approved Applications received by OPSC on or before October 30, 2024, which will be funded at 50 percent of the eligible costs in the Form SAB 58-01. Subsection (c)(4)(B) was added to address SMP rehabilitation funding for Approved Applications received by OPSC on or after October 31, 2024, which will be funded at 60 percent of the eligible costs in the Form SAB 58-01. Subsection (c)(4)(D)3 was removed from the list of supplemental grants that qualifying SMP rehabilitation applications may request as it is duplicative. Such costs required by the Division of the State Architect are already eligible to be included in the cost estimate. Subsection (d)(1)(B) was amended to address the 50 percent reduction of any insurance proceeds collected by the school district for the replacement project for Approved Applications received by OPSC on or before October 30, 2024. For Approved Applications received by OPSC on or after October 31, 2024, a 50 percent reduction of any insurance proceeds collected for the replacement project, or a commensurate amount adjusted for the matching share. Subsection (d)(1)(C) was amended to address the 50 percent reduction of net proceeds available from the disposition of the property and/or facilities in the project for Approved Applications received by OPSC on or before October 30, 2024. Subsection (d)(1)(D) was added to address the 50 percent reduction of net proceeds available from the disposition of the property and/or facilities in the project or a commensurate amount adjusted for the matching share for Approved Applications received by OPSC on or after October 31, 2024. Subsection (d)(2)(A) was amended to address the 50 percent reduction of any insurance proceeds collected by the school district for the rehabilitation project for Approved Applications received by OPSC on or before October 30, 2024. Subsection (d)(2)(B) was added to address the 60 percent reduction of any insurance proceeds collected by the school district for the rehabilitation project, or a commensurate amount adjusted for the matching share for Approved Applications received by OPSC on or after October 31, 2024. Subsection (d)(2)(C) was amended to address the reduction of 50 percent of the net proceeds available from the disposition of any displaced facilities in the project for Approved Applications received by OPSC on or before October 30, 2024. Subsection (d)(2)(D) was added to address the 60 percent reduction of the net proceeds available from the disposition of any displaced facilities in the project for Approved Applications received by OPSC on or after October 31, 2024. Subsection (f) was added to allow school districts to apply for Environmental Hardship site funding if the site has met specific criteria in Section 1859.75.1. Throughout this Section, there are minor edits that are considered non-substantive in nature.

Existing Regulation Section 1859.82.3 allows for FHP and SMP conceptual approvals and specifies that school districts may request SAB approval to determine FHP or SMP eligibility in advance of project funding. In addition, this section specifies the conceptual application submission requirements for potential FHP and SMP replacement or rehabilitation projects. The proposed amendments also make edits that are non-substantive in nature.

Existing Form SAB 50-04 *Application for Funding*, (Rev. ~~02/26~~ 12/26) and incorporated by reference, is submitted by school districts to apply for State funding for new construction and modernization projects, as well as FHP and SMP projects. The proposed regulatory amendments: 1) under Specific Instructions, page 3, left column, #2a: corrected a reference to the proper regulation sections for the FHP and the SMP; 2) page 4, left column, #5j: was added as an update to request this additional grant even though FHP and SMP projects are already eligible for this grant; 3) page 7, under #1, Type of Application, Facility Hardship and Seismic Mitigation: added 60 percent because rehabilitation costs can only be entered at 60 percent; 4) page 7, under #1, Separate

Apportionment, lines 4-7: added Site Only and Site Only (District owned) for the FHP and SMP to facilitate the processing of the funding requests; and 5) page 8, left column, #5j: was added to conform with page 4 under Specific Instructions with lines added for the entry of Toilet square footage and Other square footage. In addition to these amendments, the revision date for this Form has been changed from 02/26 to 12/26 and includes the latest Office of Administrative Law (OAL) approval for emergency regulations, specifically OAL File #2026-0605-01E, that became effective June 15, 2026. The revision date of 12/26 is a projected date as this Form has been revised frequently through many regulatory actions in calendar years 2025 and 2026. As these regulations proceed through the Administrative Procedures Act, the final revision date will be the month/year OAL approves them.

Existing Form SAB 58-01, *Facility Hardship Cost Estimate*, (~~New 05/20~~ Rev. 10/25) and incorporated by reference, provides instructions to school districts on the use of this Form. It is the standardized form for the submission of rehabilitation cost estimates for the FHP and the SMP. This Form formalizes the calculation of grants provided for soft costs that a school district is eligible to request and will provide a consistent structure required by the two programs. The proposed amendments to this Form align the calculations for contractor burden (currently labeled soft costs), with the applicable Sierra West publishing guide and industry standards. OPSC reviewed these changes with the publisher on several occasions to ensure accuracy. The proposed amendments also clarify that costs for General Conditions, which are provided using a sliding scale based on the total project costs to account for economies of scale, will be calculated based on the total project cost reported to the Division of the State Architect (DSA) for the DSA-approved plan set, which may contain work beyond the minimum work required for the mitigation. This approach takes into account the economies of scale attributable to the total project and then applies it to the fundable portion of the project. In addition, the changes are consistent with an Excel version of the form that has been used by school districts to calculate the various allowances in Parts II and III of the Form.

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.

Anticipated Benefits of the Proposed Regulations

The proposed regulations promote a stricter accountability of State bond funds for health and safety projects, while streamlining processes that increase efficiencies for the programs. The proposed regulations also promote the State's general welfare, including protection of public health and safety, by increasing the State's infrastructure investment of school facilities. In addition, there are benefits to health, safety, and welfare of California residents (school children and school faculty) because school facilities will be built stronger and safer. School districts utilize construction and trades employees to work on school construction projects and although the proposed regulations do not directly impact worker's safety, existing law provides for the availability of a skilled labor force. 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.

The proposed regulatory amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of these proposed regulations will have a positive impact on public health and safety at public K-12 schools by providing school districts with the opportunity to continue to submit applications in order to address health and safety issues. These proposed regulatory amendments result in a positive impact to the State's economy and has the potential of creating an unknown number of jobs.

These proposed regulations may have a positive impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities, along with the creation of an unknown amount of jobs. The proposed regulations may also provide a positive impact to the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California.

Statutory Authority and Implementation

Education Code Section 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.

Impact to California Businesses and Jobs

The SFP is a \$54.5 billion school facilities construction program. Under the SFP, the FHP and the SMP exist. Under the FHP, projects can be repaired or replaced with new classrooms and related facilities and, under the SMP, it is work to address deficiencies in buildings of the Most Vulnerable Category 2 Buildings (which is defined in SFP Regulation Section 1859.2) that may not perform well in the event of an earthquake. Both programs provide funding calculated based on the minimum work necessary to mitigate health and safety issues.

Manufacturing and construction-related industries may be competing for construction jobs because of the demand on these industries. This is because the SFP consists of the New Construction and Modernization programs, which are the primary programs of the SFP, in addition to the FHP and SMP, for which applications are processed on a continuous basis for health and safety projects. Funds are released once the school districts submit the fund release form and associated grant agreement. It is anticipated that there will be a positive impact to the State's economy and the potential for job creation.

Therefore, the proposed regulations will likely have a positive effect on the State's economy, creation of jobs, creation of new businesses, expansion of businesses, and will not eliminate jobs or eliminate existing businesses within California.

The number of school districts that receive funding under the SFP are many and are at different stages in the construction process. Nevertheless, with all the construction activity and funding flowing into the economy, it is reasonable and logical that the extent of the proposed regulations will have a positive impact to job creation and business expansion/creation, which is why it is difficult to quantify the number of jobs and businesses.

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

- The proposed regulations promote the State's general welfare, including protection of public health and safety, by increasing the State's infrastructure investment of school facilities. In addition, the proposed regulations promote fairness by aligning calculations for contractor burden with the applicable Sierra West publishing guide and industry standards, while promoting transparency by standardizing language to make both the FHP and SMP equivalent where appropriate, and improving user readability of the regulations governing these programs.
- There are benefits to health, safety, and welfare of California residents (school children and school faculty) because school facilities will be built stronger and safer.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts utilize construction and trades employees to work on school construction projects and although these proposed regulations do 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.