

REPORT OF THE EXECUTIVE OFFICER  
State Allocation Board Meeting  
September 27, 2023

PROPOSED AMENDMENTS TO THE  
CALIFORNIA PRESCHOOL, TRANSITIONAL KINDERGARTEN AND FULL-DAY  
KINDERGARTEN FACILITIES GRANT PROGRAM

PURPOSE

To present the State Allocation Board (Board) with policy recommendations to modify funding deadlines and requirements for projects Apportioned during the third and fourth funding rounds of the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program (Program) and propose regulatory amendments.

DESCRIPTION

In 2018, the Program provided one-time grants to construct or retrofit school facilities for the purpose of providing full-day kindergarten classrooms to house existing kindergarten students. With the enactment of the Assembly Bill (AB) 130 in 2021, the Program now provides funding to construct new school facilities and retrofit existing school facilities for the purpose of expanding existing programs or providing new programs for California preschool, transitional kindergarten, and full-day kindergarten pupils.

Projects being funded under the expanded Program in the third and fourth funding rounds are experiencing more complexities than the projects funded during the first and second funding rounds. The expansion of the grade levels that the Program can serve have resulted in projects generally becoming larger and more complex. School districts are also facing lingering impacts on construction timelines and access to materials, due in part to the COVID-19 pandemic. The Program's current fund release and project completion timelines and requirements have remained unchanged from the original adoption of the Program's regulations in 2018.

Staff is presenting proposed amendments to the Program's regulations, forms, and grant agreement in order to provide additional time to meet fund release and project completion deadlines. Staff is also recommending that the Board allow the additional time allowed to meet these two deadlines be applied to school districts funded during the third and fourth funding rounds. This item seeks Board approval for the following amended documents:

- Proposed Program Regulations (Attachment C)
- *Application for Funding* (Form SAB 70-01) (Attachment D)
- *Fund Release Authorization* (Form SAB 70-02) (Attachment E)
- *Expenditure Report* (Form SAB 70-03) (Attachment F)
- Grant Agreement (Attachment G)

AUTHORITY

See Attachment A.

BACKGROUND

**Program History**

Since its establishment in 2018, the Program has undergone significant changes as the result of several statutory amendments. The following chart provides an overview of the history of the Program and Staff's proposed amendments to fund release and project completion deadlines:

BACKGROUND (cont.)

	Funding Available	Eligible Project Types	Current Fund Release Deadlines	Current Project Completion Deadlines	Proposed Fund Release Deadline	Proposed Project Completion Deadline
<b>Round 1</b> (Occurred 1/2/2019 – 1/31/2019)	\$37.5 million	Only full-day Kindergarten projects	<ul style="list-style-type: none"> <li>• 12 months from first Apportionment for Applications <i>with</i> Advance Release of funds</li> <li>• 180 days from first Apportionment for Applications <i>without</i> Advance Release of funds</li> </ul>	One year from final fund release	N/A	N/A
<b>Round 2</b> (Occurred 5/1/2019 – 5/30/2019)	\$60 million	Only full-day Kindergarten projects			N/A	N/A
<b>Round 3</b> (Occurred 4/1/2022 – 4/30/2022)	\$225 million	Full-Day Kindergarten, Transitional Kindergarten, and Preschool projects			18 months from first Apportionment	3 years from first Apportionment
<b>Round 4</b> (Occurred 2/1/2023 – 3/2/2023)	Approximately \$365.3 million					

**Overview of the Advanced Fund Release for Design Conversion Process**

The Board originally had three years to encumber funds when the Program was first established in 2018. After a series of stakeholder meetings, Staff drafted the establishing program regulations in a manner that would allow the Board to promptly expend the Program funds within this given time frame. Regulatory amendments later adopted by the Board, after three stakeholder meetings, to incorporate the statutory changes enacted through AB 130 kept the same fund release and project completion deadlines listed below.

The regulations set the following deadlines by which school districts must meet full fund release requirements, which include obtaining plan approvals by the Division of the State Architect (DSA) and the California Department of Education (CDE) as well as award a contract(s) for the completion of the project:

- School districts that received new construction or retrofit grants *without* an advance release of funds must submit a *Fund Release Authorization* (Form SAB 70-02) and all required submittals within 180 days of the first Apportionment.
- School districts that receive new construction or retrofit grants *with* an advance release of funds must submit a Form SAB 70-02 and all required approvals within 12 months of the first Apportionment.

Program Regulation Section 1860.16 currently states that, if the required submittals are not submitted to OPSC within the appropriate timeline, “the Apportionment shall be rescinded, and the Full-Day Kindergarten Facilities Grant will return to the Program for reallocation.”

## STAFF ANALYSIS/STATEMENTS

### **First and Second Funding Round Applications**

The applications Apportioned during the first and second funding rounds were subject to the more narrowed scope of the original Program wherein one-time grants were provided for the purpose of only providing full-day kindergarten classrooms to house existing kindergarten students. The narrowed scope played a part in the relatively smaller scope of first and second round Apportioned applications, with the average project size being two classrooms.

The majority of applications Apportioned during the first and second funding rounds that requested an advance release of design funds successfully submitted the approvals and Form SAB 70-02 required for a full fund release. However, most of these school districts ended up doing so outside of the originally allotted 12-month deadline stated in Regulation Section 1860.16. The few applications that did not submit the required documents for full fund release were withdrawn by the Districts on their own accord.

The school districts with these Apportioned applications were working on meeting the full fund release requirements during the period that the State of Emergency due to the COVID-19 pandemic was in place. The pandemic added many challenges for school districts trying to meet original deadlines for school construction projects funded by the Board. Many of these school districts submitted formal extension requests for the Program's full fund release deadline, with most requesting to extend the deadline by several months. The majority of the requests were administratively approved by the Office of Public School Construction's (OPSC) Executive Officer pursuant to California Code of Regulations Section 1580, which grants the Executive Officer the authority to extend impacted program deadlines when a State of Emergency is declared by the Governor.

### **Third Funding Round Applications**

Applications submitted during the third funding round were under the expanded Program that allowed funding for facilities to not only house existing full-day kindergarten students but also to support existing or expand programs for California preschool students and transitional kindergarten students. There have been several factors that have added challenges for the school districts with Apportioned third funding round applications trying to meet the Program's full fund release requirements within the original 12-month deadline.

These factors include expanding the grade level eligibility of the Program, which has led to an increase in the number of classrooms being requested. On average, applications Apportioned in the third round requested funding for four classrooms, which is double the average number of classrooms requested by applications Apportioned in the first and second round. More classrooms require more planning in order to determine design and the broader impacts on the site and the community. Additionally, these school districts still face lingering impacts from COVID-19, such as complications with material availability and supply chains as well as workload backlogs throughout the design and construction industry. The school districts who opted for modular construction to meet Program deadlines also were impacted by the implementation of changes to the California Building and Energy Code at the beginning of this year because the code updates, while regularly occurring, do require updated approvals for modular designs, which elongate the design and approval timeframes.

Citing the issues described above, four school districts with projects Apportioned and submitted during the third funding round have each submitted an appeal request for a 12-month extension to the full fund release deadline. Other school districts with Apportioned third funding round applications have also communicated similar concerns to OPSC. As shown on Attachment B, only three out of the 69 projects Apportioned in the third funding round have submitted a Form SAB 70-02 and met the requirements for full fund release with deadlines quickly arriving in September, October, and November of 2023.

STAFF ANALYSIS/STATEMENTS (cont.)

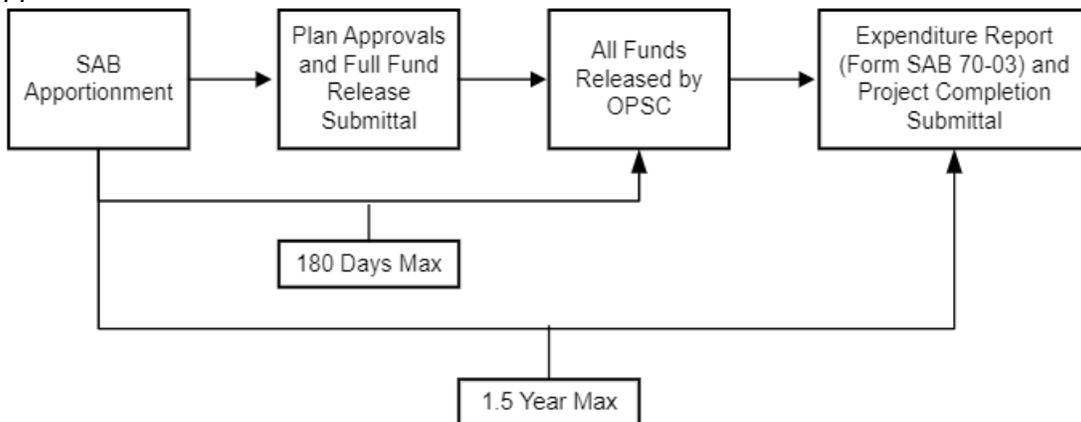
**Policy Recommendation and Proposed Regulatory Amendments**

Staff is making a policy recommendation that the Board allow the extended fund release and project completion deadlines listed below be applied to applications Apportioned in the third funding round that were received from April 1, 2022 through April 30, 2022, and to applications that will be Apportioned in the fourth funding round that were received from February 1, 2023 through March 2, 2023. Staff also proposes the following amendments to Program regulations, which will apply future funding rounds:

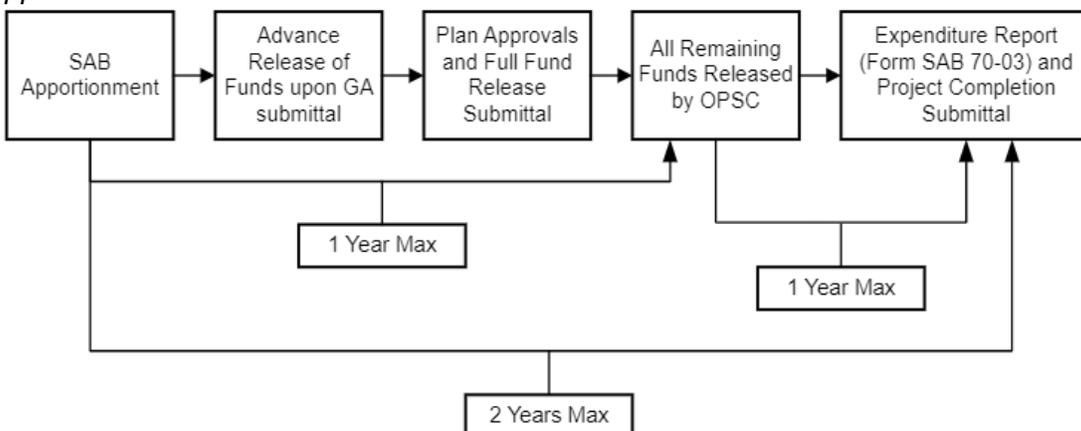
- Amend the current deadline that school districts must submit the required plan approvals and Form SAB 70-02 for full fund release from 180 days or 12 months, depending on the type of application, from the first Apportionment to 18 months from the first Apportionment.
- Amend the current deadline by which school districts must meet project completion requirements and submit an *Expenditure Report* (Form SAB 70-03) from one year from the date of the final fund release to three years from the date of the first Apportionment.
- Provide an option for school districts to submit other evidence in writing to the Board demonstrating that substantial progress has been made on the project if they are unable to submit a request for full fund release within 18 months. However, in no instance will a district have more than a combined three years from first Apportionment to request the release of funds and complete the project.

Current Fund Release and Project Completion Deadlines – 1.5 year to 2 years

*Applications without an advance release of funds*



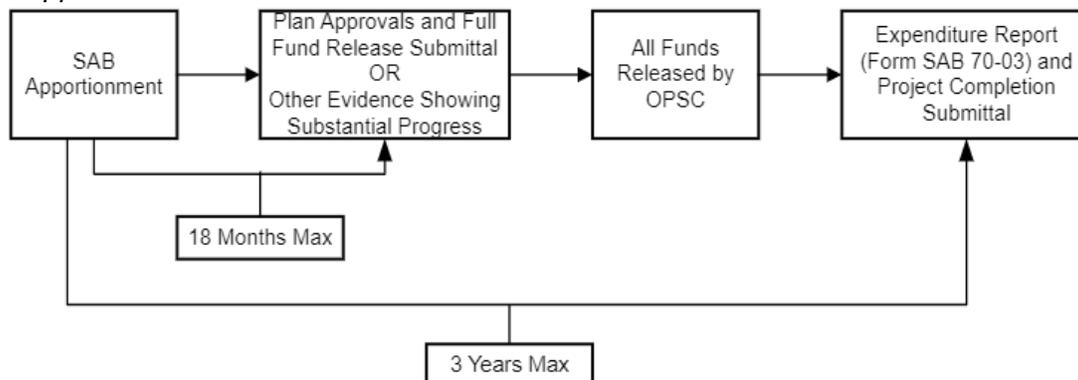
*Applications with an advance release of funds*



STAFF ANALYSIS/STATEMENTS (cont.)

Proposed Fund Release and Project Completion Deadlines – Extended to 3 years

*All applications*



Providing additional time for school districts to meet full fund release and project completion requirements will help school districts meet deadlines for the larger and more complicated projects under the expanded Program. Extending these deadlines may also enable school districts to choose permanent construction because school districts will have significantly more time to design and complete projects. The lengthened deadlines will better align the Program with the timelines used for School Facility Program projects wherein school districts have 18 months to show substantial progress on their project and have a project completion deadline of three years for elementary school projects. Incorporating the proposed amendments into Program Regulations, Forms, and Grant Agreement allow this policy to apply to all future applications seeking Program funding.

**Conforming Regulation Updates**

The proposed amendments to Program regulations, forms, and grant agreement also incorporate changes implemented by the passage of Senate Bill 114 that extends the amount of time that Program funds shall be available for encumbrance or expenditure by the Board. These proposed changes will also address several appeals filed by a number of districts seeking to extend the deadlines for the projects awarded in the third funding round and alleviate potential concerns for projects awarded in future funding rounds.

RECOMMENDATIONS

1. Allow the proposed extensions to Program deadlines as outlined in the proposed amendments to Regulation Section 1860.16 to apply to Apportioned applications received during the third funding round (applications received from April 1, 2022 through April 30, 2022) as well as the Apportioned applications that were received during the fourth funding round (applications received from February 1, 2023 through March 2, 2023).
2. Adopt the proposed amendments to Program regulations, forms, and grant agreement as shown in Attachments C through G.
3. Authorize the Executive Officer to file the proposed Regulatory Amendments with the Office of Administrative Law (OAL) and make the Regulation permanent.

This Item was approved by the State Allocation Board on September 27, 2023.