

October 17, 2024

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

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED EMERGENCY REGULATORY ACTION

In accordance with Assembly Bill 1302, Chapter 713, Statutes of 2006, enclosed are proposed emergency regulations adopted by the State Allocation Board (SAB) at its meeting on September 25, 2024. The proposed regulation and the Finding of Emergency are attached to this Notice. These documents can also be accessed on the Office of Public School Construction's (OPSC) website at:

<https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

At its meeting on September 25, 2024, the SAB approved proposed regulatory amendments, on an emergency basis, that would allow the SAB to extend the fund release requirements up to 18 months for projects specifically pertaining to a school facility located on a military installation that is the recipient of a federal grant that requires a local matching share. Under the School Facility Program (SFP), school district projects for new construction and/or modernization have 180 days from apportionment (for non-financial hardship projects) or 365 days from apportionment (for financial hardship projects) to meet fund release requirements as established in SFP Regulation Section 1859.90. For those school districts that have a school facility on a military installation and are a recipient of a federal grant that requires a local matching share, the existing fund release requirements may or may not allow enough time to align SFP deadlines with federal timelines. The proposed regulatory amendments provide the ability for the SAB to provide an extended fund release timeline, not to exceed 18 months, which is already the maximum allowed in statute.

*Background and Problem Being Resolved*

The Department of Defense (DOD) established the Public Schools on Military Installations (PSMI) program in 2010 to administer an appropriation designated for the construction, renovation, repair, or expansion of elementary and secondary public schools on military installations in order to address capacity needs or facility condition deficiencies. The DOD assessed the condition and capacity of public schools on military installations as part of the PSMI program. It developed a priority list of these schools with the most serious condition and/or capacity deficiencies. The PSMI program provides federal funding of 80 percent of project costs to school districts and the school district provides the local matching share of 20 percent of the project cost.

In 2018, the DOD continued an ongoing assessment of the condition and capacity of schools on military installations. Based on the assessment, the DOD developed an updated priority list. As new federal funds have been appropriated, the Office of Local Defense Community Cooperation

(OLDCC) which administers these federal funds, has continued to invite California school districts to participate in the PSMI program.

The problem being resolved is not a problem but a unique opportunity in which school districts are invited to participate in the PSMI program and receive federal funding as long as they submit verification to the OLDCC that local matching funds are available to leverage and receive final approval for federal funding. Funding from the SFP is a significant supporting component in each school district's proposal to access this federal funding opportunity. Since 2012, the SAB and OPSC have provided support to school districts invited to participate in the PSMI program. SAB approvals have provided approximately \$78.9 million in state funding for 19 projects on ten school sites which has leveraged over \$365 million in federal funding for these types of projects across the State of California. Including the September 2024 actions, SAB approvals have provided \$103.8 million in state funding which is expected to leverage more than \$702 million in federal funding.

As noted in the introductory paragraph on the first page, the Finding of Emergency and the proposed regulation are attached to this Notice. These documents may be viewed on OPSC's website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>. Copies of the proposed regulation and Finding of Emergency will be mailed to any person requesting this information by using the OPSC contact information set forth below. The proposed regulation provides the ability for a school district that has a school facility on a military installation that has been invited to participate in the PSMI program to meet the SFP fund release requirements while aligning with federal timelines. This ensures equity that public schools on military installations receive new and/or modernized school facilities as well as ensuring the integrity of the SFP.

OPSC, on behalf of the SAB, intends to submit the emergency regulations to the Office of Administrative Law (OAL) in October 2024. The following is an overview of the proposed regulation.

#### Summary of the Proposed Regulation

A summary of the proposed regulation is as follows:

Existing Regulation Section 1859.90 aligns the direct Apportionment process with the timelines of the existing Priority Funding process in order for school districts to submit a valid Form SAB 50-05 and Grant Agreement within 180 days to request the release of funds for non-financial hardship school districts and 365 days for those school districts approved with financial hardship status. The proposed regulatory amendments provide the ability to extend the fund release deadlines, not to exceed 18 months, for a school district that has a school facility located on a military installation that is the recipient of a federal grant that requires a local matching share.

#### SUBMISSION OF COMMENTS

Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the OAL, the adopting agency provide a Notice of the Proposed Emergency Action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed regulation to the OAL, the OAL shall allow interested persons five calendar days to submit comments on the proposed regulation as set forth in Government Code Section 11349.6.

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

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

Reference Attorney

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

E-mail Address: [staff@oal.ca.gov](mailto:staff@oal.ca.gov)

Fax No.: (916) 323-6826

For the status of the SAB submittal to the OAL for review, and the end of the five-day written submittal period, please consult the website of 1) the OAL at [www.oal.ca.gov](http://www.oal.ca.gov) under the heading “Emergency Regulations,” and 2) OPSC at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>, then scroll down to School Facility Program “Pending Regulatory Changes.”

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

Lisa Jones, Regulations Coordinator

Mailing Address: Office of Public School Construction  
707 3<sup>rd</sup> Street, 4<sup>th</sup> Floor  
West Sacramento, CA 95605

E-mail Address: [lisa.jones@dgs.ca.gov](mailto:lisa.jones@dgs.ca.gov)

#### AGENCY CONTACT PERSONS

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