

**State of California
Office of Administrative Law**

In re:
State Allocation Board

Regulatory Action:

Title 2, California Code of Regulations

Adopt sections:

Amend sections: 1859.2, 1859.81,
1859.148.2, 1859.166.2

Repeal sections:

NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION

Government Code Sections 11346.1 and
11349.6

OAL File No. 2011-0329-03 E

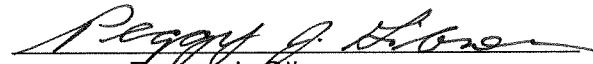
These emergency regulatory amendments extend until July 1, 2011 the sunset date of three sections that became inoperative on January 1, 2011. Extending these sections allows the Board to move projects from "inactive" status approved but unfunded SFP projects when funding becomes available. The extension also keeps financial hardship determinations in effect until July 1, 2011 for previously approved projects which the State has been unable to fund due to the lack of AB 55 loans.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action for sections 1859.2 and 1859.81 is effective on 4/5/2011 and will expire on 7/6/2011. The Certificate of Compliance for this action is due no later than 7/5/2011.

This emergency regulatory action for sections 1859.148.2 and 1859.166.2 is effective on 4/5/2011 and will expire on 10/4/2011. The Certificate of Compliance for this action is due no later than 10/3/2011.

Date: 4/5/2011


Peggy J. Gibson
Staff Counsel

Original: Lisa Silverman
Copy: Robert Young

For: DEBRA M. CORNEZ
Assistant Chief Counsel/Acting Director

EMERGENCY

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2011-0329-03E
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ENDORSED FILED IN THE OFFICE OF

2011 APR -5 PM 3: 30

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

For use by Office of Administrative Law (OAL) only	
<p>2011 MAR 29 PM 3: 10</p> <p>OFFICE OF ADMINISTRATIVE LAW</p>	
NOTICE	REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
State Allocation Board

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) * L. F. Greene Sch. Facil. Act 1998 - Fiscal Crisis Regs emo. Extension	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
		AMEND
		REPEAL

Regulation Sections 1859.2, 1859.81, 1859.148.2, and 1859.166.2.

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON Robert Young	TELEPHONE NUMBER (916) 375-5939	FAX NUMBER (Optional) (916) 376-5332	E-MAIL ADDRESS (Optional) robert.young@dgs.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Lisa Silverman</i>	DATE March 29, 2011
TYPED NAME AND TITLE OF SIGNATORY Lisa Silverman, Acting Executive Officer, State Allocation Board	

For use by Office of Administrative Law (OAL) only	
ENDORSED APPROVED	
APR 05 2011	
Office of Administrative Law	

Section 1859.2. Definitions.

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"Unfunded List" means an information list of unfunded projects, with the exception of the unfunded list defined below as "Unfunded List (Lack of AB 55 Loans)".

"Unfunded List (Lack of AB 55 Loans)" means an information list of unfunded projects that was created due to the State's inability to provide interim financing from the Pooled Money Investment Account (AB 55 loans) to fund school construction projects as declared in the Department of Finance Budget Letter #33 issued on December 18, 2008.

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Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 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, 17072.18, 17072.33, 17073.25, 17074.10, 17074.30, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17078.72(k), 17079, 17079.10, 17280, 56026, and 101012(a)(8), Education Code; Section 53311, Government Code; and Section 1771.5, Labor Code.

Section 1859.81. Financial Hardship.

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- (f) If the district submits Form SAB 50-04 within 180 calendar days of the OPSC notification of approval of financial hardship and the project(s) has been included on the "Unfunded List (Lack of AB 55 Loans)" for more than 180 calendar days as a result of the State of California's inability to provide interim financing from the Pooled Money Investment Account (AB 55 loans), the Board may suspend the unfunded review requirement as defined in Regulation Section 1859.81(e). Projects added to any other unfunded list shall be subject to the review detailed in Regulation Section 1859.81(e). Regulation Section 1859.81(f) shall become inoperative ~~January~~ July 1, 2011.

Note: Authority cited: Sections 17070.35, 17075.15, 17078.72 and 17592.73, Education Code.

Reference: Sections 17071.75, 17075.10, 17075.15, and 17079.20, Education Code.

Section 1859.148.2. Inactive Preliminary Apportionments Under a State of California Fiscal Crisis.

In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board can make a finding that a project has an Inactive Preliminary Apportionment, as defined in Regulation Section 1859.2, that no longer meets the meaning of Preliminary Apportionment as defined in Education Code Section 17078.10(c), and that the four-year period with a possible one time one-year extension requirement set forth in Education Code Section 17078.25(a) and (b) is therefore suspended as of December 17, 2008 and until such time as the Board finds that State bond funds are available for the project, the balance of four-year period with a possible one time one-year extension period which existed on December 17, 2008 shall resume. Once the Board finds that State bond funds are available for the project, the four-year period with a possible one time one-year extension requirement set forth in Education Code Section 17078.25(a) and (b) shall resume but in no case shall that period of time exceed a total of four-year period with a possible one time one-year extension while the subject project has a Preliminary Apportionment. Each project will resume where its originating period of time was suspended, as of December 17, 2008.

This regulation section shall become inoperative ~~July 1, 2011~~.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Section 17078.25, Education Code.

Section 1859.166.2. Inactive Preliminary Charter School Apportionments Under a State of California Fiscal Crisis.

In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board can make a finding that a project has an Inactive Preliminary Charter School Apportionment, as defined in Regulation Section 1859.2, that no longer meets the meaning of Preliminary Charter School Apportionment as defined in Education Code Section 17078.52(c)(3), and that the four-year period with a possible one time one-year extension requirement set forth in Education Code Section 17078.25(a) and (b) is therefore suspended as of December 17, 2008 and until such time as the Board finds that State bond funds are available for the project, the balance of four-year period with a possible one time one-year extension period which existed on December 17, 2008 shall resume. Once the Board finds that State bond funds are available for the project, the four-year period with a possible one time one-year extension requirement set forth in Education Code Section 17078.25(a) and (b) shall resume but in no case shall that period of time exceed a total of four-year period with a possible one time one-year extension while the subject project has a Preliminary Charter School Apportionment. Each project will resume where its originating period of time was suspended, as of December 17, 2008.

This regulation section shall become inoperative July 1, 2011.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52 and 17078.53, Education Code.