

INITIAL STATEMENT OF REASONS

CALIFORNIA SCHOOL FINANCE AUTHORITY

Article 1.6, Sections 10170.16 through 10170.22 Title 4, Division 15 California Code of Regulations

INTRODUCTION

The California School Finance Authority (Authority) is organized and operated pursuant to sections 17170 through 17199.5 of the California Education Code (Act).

Pursuant to Education Code, Section 41365, the State Legislature directed the Authority to commence administration of the Charter School Revolving Loan Fund Program (Program) with the 2013-14 fiscal year and to adopt regulations to implement the statute. The Program, pursuant to Education Code, Section 41365, provides loans of up to \$250,000 to Charter Schools established pursuant to Education Code, Section 47605 et seq., that are not conversions from existing public schools.

Effective July 1, 2013, the Authority initiated its administration of the Program, and pursuant to Section 41365(h), the Authority adopted emergency regulations through the Office of Administrative Law's (OAL's) Emergency Rulemaking procedures, and such emergency regulations were converted to permanent regulations and approved by OAL on March 10, 2015 (OAL Regulatory Action # 2015-0129-01 CR). In order to further streamline Program procedures and clarify Program guidelines, the amended regulations are hereby proposed as described below.

1. Specific Purpose and Necessity, Administrative Requirement or Other Condition or Circumstance that the Amendments are Intended to Address.

Section 10170.17: Definitions

This section sets forth definitions of key terms used in the regulations, adding Affiliated Organization, Free or Reduced-Price Meal (FRPM) and New Charter School.

- Addition of new subdivision (a), which clarifies the definition of "Affiliated Organization". This change is necessary to provide consistency and clarity of language and ensure that all Applicants are aware that if a school defaults on its loan and is unable to repay the loan, the Affiliated Organization shall be responsible for repayment of the loan.
- Modification of original subdivision (b) at new subdivision (c), which revises the Application form number, CSFA RLF-01: revised August 10, 2016. Applicants shall use the on-line application when it becomes available.
- Addition of new subdivision (i), which clarifies the definition of "Free or Reduced-Price Meal" or "FRPM". The California Longitudinal Pupil Achievement Data Systems (CALPADS) is used to determine schools FRPM. CALPADS data is collected and certified by the California Department of Education and has proven to be a reliable data source. The Authority uses CALPADS for other programs it administers, including the Charter School Facilities Grant Program and the State Charter School Facilities Incentive Grants Program.

- Addition of new subdivision (l), which clarifies the definition of “New Charter School”. This change is necessary to distinguish schools that have not yet commenced operations from existing schools in order to establish priority for Program loans.

Section 10170.18: Eligible Applicant

This section clarifies eligibility requirements that are necessary to participate in the Program.

- Modification of subdivision (c) to ensure that a New Charter School shall submit evidence that its charter petition has been submitted to a Chartering Authority for approval and that it anticipates beginning operations in the following fiscal year. This change is necessary to provide explicit guidance regarding eligibility for Charter Schools. This ensures that the Authority will award funds to schools that will open in the following fiscal year after the application is submitted, which limits the risk of awarding schools who may not open and may default on their loan.
- Modification of subdivision (d) to ensure that an Applicant demonstrates it is an Incorporated Charter School by providing Articles of Incorporation as part of the Application package. This change is necessary to clarify how the Authority reviews and confirms that an Applicant is an Incorporated Charter School.
- Addition of new subdivision (h) through relocation of Section 10170.19(e)(4), ensuring that a Charter School will not receive more than \$250,000 in Program loans over the lifetime of their charter. This change is necessary because this requirement is related more to eligibility criteria.
- Modification of original subdivision (h) at new subdivision (i) to make explicit that not only Charter Schools, but Affiliated Organizations, if applicable, must be in compliance with all programs administered by the Authority. This change is necessary to further protect Program funds from noncompliant Affiliated Organizations.

Sections 10170.19: Application Content and Submission

This section sets forth requirements pertaining to Application submission, including, but not limited to, due date and time, the development of an online application, and submission of acceptable documents.

- The Authority is proposing a new application form (CSFA RLF-01: revised August 10, 2016) which is incorporated by reference, and is intended to replace the originally adopted application form (CSFA 14-01: July 24, 2014). The application form was revised in order to ensure that required supporting documents are clearly delineated and redundancies are omitted within the form. The originally approved application instructions that are separate from the adopted application form are proposed to be removed from the overall regulations for the following reasons: the instructions are overly redundant and the Authority has determined that it is more efficient to inform the public of such instructions on its website through Frequently Asked Questions. A copy of the proposed application form, the original application form, and a crossed out version of the application instructions are attached to the regulatory text.
- The language in the introductory paragraph was omitted because the relevant information is relocated to new subdivisions (b) and (c).
- Relocation of original subdivision (e)(2) to subdivision (a), which sets forth that the application will be available on the Authority’s website no later than December of

each year. This relocation is necessary to provide clarity to the process description within the regulations, with the listing of all required supporting documents under a new subdivision (c).

- Omission of specific language under subdivision (a) relating to required submission of loan amount, Articles of Incorporation, and the school's legal status. This omission is necessary as the requirement to submit Articles of Incorporation is captured under new subdivision (c) and the loan amount and legal status are captured within the Application form itself, therefore reducing redundancy.
- Relocation of original subdivision (e)(3) to a new subdivision (b), which sets forth the application submission requirements relating to submission of a printed Application form and the submission deadline. In addition, this new subdivision (b) sets forth a new requirement that a copy of the Application form and supporting documentation required at new subdivision (c) must be submitted via flash drive or CD-ROM and that, upon implementation of an online application system, an Applicant must submit documentation through that system. This relocation of subdivision (e)(3) is necessary to provide clarity to the overall application review process within the regulations.
- Addition of a new subdivision (c) (replacing original subdivision (d)), which sets forth the listing of the specific supporting documents. The Application provides for the following specific modifications:
 - (c)(1) consolidation of requirement for submission of Articles of Incorporation for an independent charter with requirement to submit a operational agreement or Memorandum of Understanding with the Chartering Authority for a dependent charter (moved from original (d)(7)); and
 - (c)(3) modification setting forth that the current charter petition should be provided rather than charter agreement, and addition of "evidence supporting charter approval and term".

These changes are necessary to clarify specific documentation that is to accompany the application.

- Omission of original subdivisions (b) and (c) because the related submission requirements are incorporated into the listing of submission requirements as set forth in new subdivision (c).
- Modification of original subdivision (d)(2) at new subdivision (c)(5), which sets forth that an adopted budget, if available should be provided. This change is necessary because not all New Charter Schools have had a budget adopted.
- Modification of original subdivision (d)(3) at new subdivision (c)(6), which sets forth that multi-year year budget projections for at least the five fiscal years beyond the first fiscal year for which the Applicant is applying should be provided. This change is necessary as the financial soundness review for Applicants normally involves review of five projected years rather than four.
- Modification of original subdivision (d)(4) at new subdivision (c)(7), which sets forth that the most recent business plan and/or strategic plan for at least the next five academic years should be provided. This change is necessary as the financial soundness review normally involves the review of five projected years.
- Modification of original subdivision (d)(9) at new subdivision (c)(11) which sets forth that targeted student population and demographics should be provided, and omits reference to student year-to-year retention rates. This change is necessary as targeted student population and demographics is significant to the application

review, and year-to-year retention rates are not normally available for Applicants, given that most Applicants are either newly established or in their first year of operations.

- Omission of subdivisions (e)(1-4) due to subdivisions (2-4) being incorporated into other subdivisions, and subdivision (e)(1) being omitted as it relates to the 2013-14 academic year only.
- Modification of original subdivision (e)(5) at new subdivision (d), which clarifies that an Affiliated Organization must provide a separate application for each school that has a separate CDS Code. This change is necessary to clarify that “organizations” means “Affiliated” Organizations.

Section 10170.20: Application Review and Evaluation/Underwriting Criteria

This section sets forth criteria analysts consider while reviewing and evaluating Applications, including the process following when the Program is oversubscribed.

- Modification of subdivision (c), which sets forth that if funds are left over after new Charter Schools are awarded, consideration for a Program loan will be given to existing Charter Schools that have not had their charters renewed. Reference to representation by Regions within this subdivision is omitted, as the application of Regions for purposes of setting priority among Applicants is clarified at subdivision (d)(1). This change is necessary to clarify to the Applicant how Program awards are prioritized.
- Modification of subdivision (d), which sets forth that if there are insufficient funds available during an application cycle, the process described in subdivisions (d)(1-2) will be followed, omitting specific language. This change, as well as the addition of new subdivisions (d)(1-2), is necessary to accurately describe the Program procedure to establish priority in the event of oversubscription.
- Addition of new subdivisions (d)(1-2), which first set forth that, in the event of oversubscription, priority first will be established among New Charter Schools, if applicable, based on FRPM across each Region such that equal representation among Regions, to the extent feasible, is established pursuant to new Sections 10170.17(o)-(r) and second priority will be established among existing Charter schools based on FRPM across each Region such that equal representation among Regions, to the extent feasible, is established pursuant to new Sections 10170.17(o)-(r). These changes are necessary to make explicit the Program methodology for establishing priority for Program awards in the event of oversubscription.
- Addition of new subdivision (e), which sets forth that pursuant to subdivision (d), in the event that the Charter School’s FRPM data is not available, the Authority shall award loans based on the FRPM of the school’s projected elementary school attendance area. This change is necessary to provide consistency with the methodology that the Authority uses in its other programs and to clarify to the Applicant how Program awards are to be prioritized if a school does not have FRPM data.

Section 10170.21: Loan Amount and Repayment Terms

This section provides clarification on how loan amounts and repayment terms are determined and when repayment of the loan shall begin.

- Addition of new subdivision (b)(1), which sets forth that the loan term of a new Charter School will not exceed the length of the school's approved charter term. This change is necessary to help protect Program funds from schools that may close at the end of their charter with several loan repayment years left.
- Omission of subdivision (c) based on redundancy with original Section 10170.19(e)(4), which is incorporated into new Section 10170.18(h).
- Addition of new subdivision (c), which sets forth that loan payments shall begin the fiscal year following the fiscal year in which the school is disbursed the loan from the Authority, as determined by the Authority's accounting office. This change is necessary to clarify to the Applicant when loan repayment begins.

Section 10170.22: Loan Agreements

This section sets forth the requirements of the Loan Agreement and the repayment of the loan.

- Modification of subdivision (e)(2), clarifying that if a school closes or fails to open, the Charter School will be invoiced for the loan balance. This change is necessary to clarify that not only if a school fails to open, but if it ever closes, it will be responsible for the repayment of the entire loan balance.
- Modification of subdivision (g), which sets forth that in the event the Charter School is unable to repay the loan and the Charter School is operated by an Affiliated Organization or Chartering Authority, the Authority will require the Affiliated Organization or Chartering Authority to repay the loan. This change is necessary to help further protect Program funds from default schools.

2. Technical, Theoretical, and/or Empirical Study, Reports, or Documents

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the amendments to the Regulations.

3. Reasonable Alternatives to the Amendments to the Regulations and the Agency's Reasons for Rejecting those Alternatives

No other alternatives to the Regulations were presented to or considered by the Authority.

4. Reasonable Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Impact on Small Businesses

The Authority has not identified any adverse impacts nor have any adverse impacts otherwise been identified and brought to the attention of the Authority that would affect businesses. In fact, the amendment of these regulations could result in greater opportunities for expansion of Charter Schools throughout the state since the intent of the Program is to assist New Charter Schools within California with meeting their start-up needs.

5. Description of Efforts to Avoid Conflict with and Duplication of Federal Regulations

Not applicable. The Authority is not a Department, Board, or Commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshall.

6. Facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business

The Authority relied on the fact that Charter School Revolving Loan Fund Program is a loan Program designed to award loan funds to New Charter Schools for start-up costs and that the regulations do nothing more than provide for the application and evaluation process by which loan awards will be made. As a result, there can be no adverse economic impact on business by the adoption of the regulations.

7. Economic Impact Assessment

The proposed regulations will unlikely have an impact on the creation or elimination of jobs within the State of California. In addition, the Authority is unaware of any reason providing Program loan funds to awardees would result in the elimination of jobs. The purpose of the proposed regulations is to set forth uniform and consistent criteria to administer a loan program that will assist Charter Schools in California with their start-up needs and to evaluate Applicants for Program loans. There are no provisions within the proposed regulations which place additional burdens, obligations, or expenses on existing businesses such that jobs would be created or eliminated as a result.

The proposed regulations will unlikely have an impact on the creation or elimination of new businesses within the State of California. As noted above, the purpose of the proposed regulations is to set forth uniform and consistent criteria to administer a loan program that will assist Charter Schools in California with their start-up needs and to evaluate Applicants for Program loans. There are no provisions within the proposed regulations, which place additional burdens, obligations, or expenses on existing businesses such that businesses would be created or eliminated.

The proposed regulations will unlikely have an impact on the expansion of businesses currently doing business within the State of California. The purpose of the proposed regulations is to set forth uniform and consistent criteria to administer a loan program that will assist Charter Schools in California with their start-up needs and to evaluate Applicants for Program loans.

The proposed regulations are intended to assist Charter Schools throughout the State of California with their start-up needs, with priority given to New Charter Schools based on representation across four designated Regions within California, and in the event the Program is oversubscribed, priority given to Charter Schools based on highest FRPM across Regions ensuring equal representation among Regions. As such, to the extent that the awards benefit the long-term viability of Charter Schools and the expansion of New

Charter Schools, the Program and its proposed regulations have the potential to directly benefit economically vulnerable populations and communities throughout the State.

8. Problems and Benefits

The Authority has amended regulations for the Program in order to streamline Program procedures and strengthen eligibility and repayment requirements. Without these amended regulations, many of the Application processes will be redundant and the Program is at higher risk of losing Program funds from default schools.

The benefits of the proposed regulations are to ensure the Authority has clear and uniform standards, internal controls, guidelines to ensure consistent and effective administration of the Program, further protection of Program funds and the public understands the expectations of the Program.