



**CALIFORNIA SCHOOL FINANCE AUTHORITY
901 P STREET, THIRD FLOOR, SUITE B
SACRAMENTO, CA 95814**

**Title 4, Division 15, Article 1.5,
CALIFORNIA CODE OF REGULATIONS
Charter School Facility Grant (SB740) Program**

FINDING OF EMERGENCY

Education Code Section 47614.5(m) states, "The California School Finance Authority may adopt regulations to implement this section. Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. "

Due to the importance of this funding and the timeline of the regular rulemaking process's possible effect on said funding, the Authority is submitting the proposed regulations through as an Emergency Adoption to prevent any unnecessary prohibitions or interruptions in funding.

Authority and Reference

Authority: Section 47614.5 of the Education Code. Section 47614.5(m) allows the Authority to adopt regulations in order to administer the Program.

Reference: Section 47614.5 of the Education Code, Sections 47604, 47604.1, and 47604.2 of the Education Code, Section 47605 of the Education Code, and Section 47612.5 of the Education Code. The Regulations include a number of the requirements of the Program contained in Section 47614.5. They also rely on specific provisions within the Charter Schools Act of 1992, commencing with Section 47600 of the Education Code.

Informative Digest

The Authority was created in 1985 to assist school districts and community college districts in financing school construction projects (Education Code Section 17170, et seq.). The Authority is authorized to adopt bylaws for the regulation and conduct of its business and is vested with all powers reasonably necessary to carry out its powers and responsibilities (Education Code Sections 17179 and 17180).

Pursuant to Education Code, Section 47614.5, the State Legislature directed the Authority to commence administration of the Program) with the 2013-14 fiscal year and to adopt regulations to implement the statute. Effective July 1, 2013, the Authority initiated its administration of the Program, and pursuant to Section 47614.5(m), a Certificate of Compliance was approved on August 6, 2014 by the Office of Administrative Law (OAL) (OAL Regulatory Action #2014-0625-01C).

These proposed changes were a part of two prior rulemaking attempts by the Authority. Attendance Area and the Application period dates were part of OAL Matter #2022-0125-03S and COVID-19 mitigations allowance was previously approved by the Authority Board in December 2022. Both rulemaking attempts were withheld due to unrelated section changes.

On March 30, 2023, the Authority's Board of Directors approved Resolution 23-16, approving delegation of authority to the Authority's Executive Director to submit emergency regulations to the Office of Administrative Law

The details and justification for these changes are outlined below:

Section 10170.2. Definitions

In subsection (c) - The addition of the definition for Attendance Area. The Authority is adding this section to further clarify and explain which local elementary school referenced in Program Regulation Section 10170.3(d)(2) is chosen during eligibility review. This is an eligibility benchmark described in Ed Code Section 47614.5(c)(2)(A).

In current subsections (c)-(u) – Each subsection will be amended to the next letter alphabetically due to addition of “Attendance Area” mentioned above.

In the Reference Section of the Note – The removal of “47600 et seq.” and addition of “47604, 47604.1, 47604.2”. The original reference was less accurate, and this correction has been made in other recent Authority rulemaking changes.

Section 10170.3. Eligible Applicant.

In subsection (d)(2) – The amendment to capitalize "Attendance Area" was added. This is due to the term being defined in the permanent regulation change in Program Regulation Section 10170.2. Additionally, this would provide additional clarity as "attendance area" can have different meanings.

Section 10170.4. Eligible Applicant

In subsection (a)(2) –Add “COVID-19 mitigation improvements/modifications (only incurred during the 2022-2024)” as prescribed by AB 187 (2022) providing additional funding for other facility related costs as well as the addition of any improvements and/or modification to mitigate COVID-19 during the 2022-23 and 2023-24 funding rounds.

Section 10170.5. Application Submission

In paragraph (1) - The amendments “by 9:00 a.m. on April 10th.” and “on June 2nd of the same year.” and “and deadlines” were added and “in the month of” and “the date five weeks from the date the Application is made available by the Authority.” were removed. The Authority wanted to have static dates for this annual application as this grant is essential to many charter schools throughout the state. With static dates, schools can plan apply the same time each and not miss a deadline due to the “five weeks” period requirement currently in place.

In paragraph (4) - The amendment added the language “If any of the dates listed in 10170.5(a)(1) & (2) fall on a Saturday or Sunday or a holiday listed in Education Code Section 45203, the new date will be the following business day.” The Authority shall notify the public of dates subject to this subsection.” was added. This provides clarity and direction related to new static dates provided in the paragraph (1) amendments requested above.

Mandate on Local Agencies or School Districts

The Executive Director of the Authority has determined these amendments to the emergency readopt regulations do not impose any additional mandate on local agencies or school districts for a new program or higher level of service of an existing program.

Cost Estimate

The Executive Director of the Authority has determined these emergency regulations will involve no costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable cost to local agencies or school districts under Section 17500 of the Government Code, and no costs or savings in federal funding to the State.