INITIAL STATEMENT OF REASONS

CALIFORNIA SCHOOL FINANCE AUTHORITY

Article 1.5, Sections 10170.2 through 10170.10
Title 4, Division 15
California Code of Regulations

INTRODUCTION

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

Pursuant to Education Code, Section 47614.5, the State Legislature directed the Authority to commence administration of the Program beginning 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 (OAL Regulatory Action #2014-0625-01C).

OAL approved a second permanent rulemaking action pursuant to Government Code, Section 11346.1(h) on May 3, 2016 (OAL Regulatory Action # 2016-0401-02SR). A Certificate of Compliance was approved on May 6, 2016 (OAL Regulatory Action #2016-0401-02SR).

OAL approved a third permanent rulemaking action pursuant to Government Code, Section 11346.1(h) on August 24, 2017 (OAL Regulatory Action # 2017-0719-02S). A Certificate of Compliance was approved on August 24, 2017 (OAL Regulatory Action #2017-0719-02S).

OAL approved a fourth permanent rulemaking action pursuant to Government Code, Section 11346.1(h) on October 18, 2018 (OAL Regulatory Action # 2018-0906-03C). A Certificate of Compliance was approved on October 18, 2018 (OAL Regulatory Action #2018-0906-03C).

OAL approved a fifth permanent rulemaking action pursuant to Government Code, Section 11346.1(h) on March 30, 2020 (OAL Regulatory Action # 2020-0214-01SR). A Certificate of Compliance was approved on March 30, 2020 (OAL Regulatory Action # 2020-0214-01SR).

Pursuant to Education Code, Section 47614.5(f), the Program provides assistance to charter schools with the following: “costs associated with facilities rents and leases, consistent with the definitions used in the California School Accounting Manual (CSAM) or regulations adopted by the California School Finance Authority. These funds also may be used for costs, including, but not limited to, remodeling buildings, deferred maintenance, initially installing or extending service systems, other built-in equipment, improving sites, and common area maintenance (CAM).”

1. Specific Purpose, Necessity, Administrative Requirement or Other Condition or Circumstance That the Regulation is Intended to Address (Section-by-Section Analysis)
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 current subsection (q) - The amendments to the definition of Good Standing are the removal of (1) “compliance with the terms of its Charter Agreement” and (2) "no pending or outstanding Notices of Violation described in Education Code Section 47607(g)". The Authority is removing these as a lack of compliance should lead to the official notice provided in Ed Code Sections 47607(g) and furthermore, should lead to a Notice of Revocation per Ed Code Section 47607(h). These actions should lead towards Notices of Revocation rather than just a lack of Good Standing. To reflect this change, the Authority is also creating a new form for Good Standing, CSFA Form 09-21, revised November 2021. This is reflected in the amendments which added "provided" and removed "prepared" as well adding "SB740" and updating the form number. The new form is provided as an attachment and incorporated by reference. Additionally, the Authority is requesting non substantial language to clarify the existing text. This subsection is now subsection (r) due to the addition of subsection (c) above.

Section 10170.3. Eligible Applicant.

In subsection (d)(2) – The amendment to capitalize "Attendance Area" was added and ", as determined by the local school district". 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. The removal is to also eliminate any confusion on the determination of attendance area and any confusion on the scope of what is determined by the local school district.

In subsection (d)(2) – The addition of new paragraph (A) and (B). The paragraphs provide clarity into the process the Authority uses to determine if applicant school provide a preference in admission as prescribed in Ed Code Section 47614.5(a)(2)(A). This addition will help applicants and authorizers make appropriate material additional to charter petitions lacking said preference as well uniformity for review.

The amendment to capitalize "Attendance Area" was added and ", as determined by the local school district" was removed. 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. The removal is to also eliminate any confusion on the determination of
attendance area and any confusion on the scope of what is determined by the local school district.

In subsection (f) - The amendment “may be considered in Good Standing and/or eligible for funding” was added and “may cure ineligibility for grant funds” was removed. Since the Authority is changing the definition of Good Standing as stated in Ed Code Section 47607 (h), the Authority will not consider an any applicant eligible for grant funds unless they have entered the appeal process for 47607(h). This process is provided in Ed Code Section 47607(i). This also provides additional clarity for applicants appealing a Notice of Revocation meeting the criteria under Section 47607(l) to receive funds while not in Good Standing.

In Paragraph (1) – The amendments of “superseding” and "funding round's" were added. This is to add clarity to a remedy that already existed. Additionally, the Authority is requesting non substantial language to clarify the existing text with removal of "The" and addition of "An"

In Paragraph (2) - The amendment added the language “The Notice of Intent to Revoke has been withdrawn by the chartering authorizer,” and removed “An Applicant found not to be in Good Standing solely due to the Applicant failing to meet the requirements of Education Code Section 47607(f)(3) must provide evidence demonstrating fiscal solvency to the satisfaction of the Authority. Such evidence may include the Applicant’s organizational budgets and audited financials." This was to remove any conflict with Ed Code Section 47607 and better align with the laws set forward in that Section. The addition was to add a remedy based on the Notice of Revocation no longer being active and not reliant on the authorizer to provide a superseding confirmation of Good Standing.

In Paragraph (3) - The amendment added the language “An Applicant actively appealing a Notice of Revocation and meets the criteria described in Education Code Section 47607(l).” This addition was to provide clarity regarding Section 47607(l) which requires the Authority to provide funding to applicants appeal revocation based on a material violation of any of the conditions, standards, or procedures set forth in the charter and/or failing to meet or pursue any of the pupil outcomes identified in the charter.

In Paragraph (4) - The amendment “(4) An Applicant that successfully appeals said revocation per Section 47607(m).” was added. This is to ensure applicant that did have a revocation successful reversed will be considering to be ineligible due to a lack of Good Standing which is not explicitly stated in Section 47607.

**Section 10170.5. Application Submission**

In paragraph (1) - The amendments “by 9:00 a.m. on April 1.” and “on June 1 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.

**Section 10170.6. Content of Application**

In subsection (h) - The amendments “initial”, “related to documentation requested”, and “a full or partial reduction” were added. This paragraph was originally added in 2019 as the Authority was unable to meet the statutory deadlines, due to late submissions of requested documents needed to complete applicants’ eligibility review or award calculation. This request change to further clarify the eligibility process within the Program and limit this timeline to initial eligibility only and not appeals. The addition of the “full or partial reduction” is to clarify documents related to award amounts and not eligibility. An example of this would be an applicant not providing an appraisal by the deadline but still has an eligible lease agreement. The requested changes are to further clarify the process and remove possible any conflict with the appeal related deadline in Section 101710.10(f)

**Section 10170.9. Apportionment of Grant Funds.**

In subsection (f) – The amendment added the language " or if a Grantee’s charter is revoked and was provided any funds provided related to under Section 10170.3(f)(2),". This provides the Authority the ability to invoice and collect funds provided Section 10170.3(f)(2). It also provides a deadline for applicants to send back requested funds.

**Section 10170.10. Notification of Grantee; Appeal Process.**

In subsection (f) – The amendment removed “Including the 30-day extension, the entire Appeal Process under subsections (b)-(d) may not exceed 120 days.” This amendment is to better clarify this subsection as it is about an extension, not the appeal timeline. Subsection (g) discusses the appeal timeline, and the Authority is requesting an amendment discussed below.

In subsection (g) – The amendments are the addition of applicant fails to reach Section 10170.10 (e) within 120 days from receipt of the Authority’s notice described in Section 10170.10(b)” and removed " appeal is not able to be resolved by the deadlines provided in Section 10170.10 (b), (d), and (f)”. This was done to provide additional clarity to the appeal timeline.

In subsection (i) – The amendment added the language " Applicants whose charter has been revoked and noticed as of Education Code Section 47607(n) and were determined ineligible based on a lack of Good Standing confirmation are not eligible
for the appeal process provided in this section." This was added to prevent applicants whose charter petition had been revoked by the state to enter an additional appeal regarding an action the Authority has no oversight of or input in.

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 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.

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 the California School Facility Grant Program is a grant Program designed to award financial assistance for charter school facilities. The regulations do nothing more than provide clarity to the application, evaluation, and appeal process by which grant awards are awarded. 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 Grant funds to awardees would result in the elimination of jobs. The purpose of the proposed regulations is to set forth administrative criteria and requirements for
administering a Grant program that will disburse funds to existing charter schools in need across the State of California for per pupil facilities funding. 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 administrative criteria and requirements for administering a Grant program that provides per pupil facilities funding to existing charter schools in need. 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 because of the proposed regulations.

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 Grant program that will provide per pupil facilities funding to existing charter schools.

8. Problems and Benefits

The Authority has emergency regulations for the Program, but they must be made permanent to effectively administer the Program on an ongoing basis. Without permanent regulations, the Authority does not have uniform standards and guidelines to administer the Program, ensure Applications do not receive a fair and consent evaluation, and Applicants do not have guidelines to direct them through the Application process. The benefits of the proposed regulations are to ensure the Authority has uniform standards, internal controls, and guidelines to maintain consistent and effective administration of the Program.