

NOTICE OF PROPOSED RULEMAKING ACTION

CALIFORNIA SCHOOL FINANCE AUTHORITY

Article 1.6, Sections 10170.17 through 10170.19 & 10170.21 Title 4, Division 15 California Code of Regulations

NOTICE IS HEREBY GIVEN that the California School Finance Authority (Authority), organized and operating pursuant to Sections 17170 through 17199.6 of the Education Code, is proposing to take the action described in the Informative Digest. Any person interested may present written statements or arguments relevant to the proposed action. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under **Contact Person** in this Notice, must be received by the Authority no later than Monday, November 2, 2020.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the contact person listed below no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the California School Finance Authority Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as **Contact Person** and will be mailed to those persons who submit statements related to this proposal or who have requested notification of any changes to the proposal.

Public Comment Period: September 18, 2020 through November 2, 2020.

AUTHORITY AND REFERENCE

Authority & Reference cited: Sections 41365, 41366.5, 47600 et seq., and 47605, Education Code.

INFORMATIVE DIGEST

A. Informative Digest

Under authority established in California Education Code sections 17179 and 17180, the Authority may adopt rules and regulations to carry out its responsibility of assisting school districts and community college districts with financing for school projects that may consist of the following elements; acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor

The Authority processes between 28 to 48 applications for loans under the Charter School Revolving Loan Fund Program (Program) each year. Currently, the Authority accepts applications between December and February of each year. These loans are intended to assist new Charter Schools in meeting their short-term cash flow needs when State revenues based on student attendance are not sufficient to cover operating expenses. In recent funding rounds, over 30% of Program applicants have been online charter schools. In light of the passage of AB 1505, which places a two-year moratorium on the establishment of new charter schools offering nonclassroom-based instruction, the Authority anticipates a decrease in the number of applications to the Program. To offset this, the Authority is proposing to transition from one annual application submission process to multiple funding rounds or rolling application process, subject to funding availability. This change will also provide potential funding relief for schools that have been negatively impacted as a result of the worldwide COVID-19 pandemic. On March 4, 2020, Governor Gavin Newsom issued an executive order that declared a State of Emergency in California “as a result of the threat of COVID-19”. The impact of COVID-19 has left charter schools throughout California struggling to meet cash flow needs. With the proposed amended regulations, the Authority would be able to provide Program awards year-round in a streamlined process to better assist newer, less established schools in meeting working capital needs during the unforeseen crisis.

All programs administered by the Authority refer to charter schools as established pursuant to Education Code section 4700 et seq., the Charter Schools Act of 1992. With the passage of Assembly Bill (AB) 406, Chapter 291, Statutes of 2018, on and after July 1, 2019, a Charter School may not operate as, or be operated by, a for-profit corporation, a for-profit educational management organization, or a for-profit charter management organization. The proposed regulations address this change.

The regulations were enacted prior to current automation efforts. The proposed regulations recognize the Program’s current ability to accept applications online, providing efficiency and convenience to applicants and reduced waste of natural resources. The regulations as proposed also serve to ensure Program regulations are consistent with current Program practices, and include revisions to language to provide clarity and promote internal consistency within the regulations as well as consistency between regulations of the programs administered by the Authority.

Pursuant to its authority to promulgate rules and regulations under Section 41365(h) of the Education Code, the Authority proposes to amend sections 10170.17, 10170.18, 10170.19, and 10170.21 of Title 4, Division [15], [Article 1.6] to the California Code of Regulations to accomplish the following objectives:

1. To permit additional funding rounds per year.
2. To offset the impact of AB 1505 on demand for the Program.
3. To ensure the Program is in compliance with AB 406.
4. To add a definition of “Good Standing” and set forth the procedure and forms used to determine whether an applicant is in Good Standing.
5. To improve internal consistency of the regulations and make them easier to understand.

B. Policy Statement Overview / Anticipated Benefits or Proposal

The proposed amendments were drafted to transition the Program from a single application period per year to multiple funding rounds each year. The amendments also define “Good Standing” and set forth the procedure used by the Authority in determining whether an applicant is in good standing. The changes are necessary to bring the regulations into compliance with AB 406, and add clarity and internal consistency. The benefits of these proposed regulations are three-fold: 1) increased funding opportunities for schools, especially during a time when many charter schools are struggling to meet operating costs due to the world-wide COVID-19 pandemic, 2) offset potential decreased demand for the Program caused by AB 1505’s two year moratorium on online schools, allowing the Program to better achieve its responsibility of assisting school districts and community college districts with financing, and 3) provide clarity and predictability surrounding the “Good Standing” determination and make this determination consistent across programs administered by the Authority.

C. Consistency / Compatibility with Existing State Regulations

The Authority has conducted an evaluation as to whether there are any related regulations on this matter and has found that these are the only regulations dealing with this type of loan program. Therefore, the proposed regulations do not present any inconsistencies or incompatibilities with existing state regulations.

D. Documents Incorporated by Reference

In accordance with 1 CCR 20(c)(3) and Government Code Sections 11346.1(b)(2) and 11346.5(a)(3), the Authority provides a Good Standing Confirmation Form (GSCF) (CSFA 1119, rev. November 2019), incorporated herein by reference.

E. Documents Relied Upon in Preparing the Regulations: Economic Impact Assessment

FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Mandate on local agencies and school districts: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability to Compete: The Authority has made an initial determination that this regulatory

action merely proposes to implement, interpret, or make specific existing requirements and procedures and therefore will not have a significant, statewide adverse economic impact directly effecting business, including the ability of California businesses to compete with businesses in other states. In fact, by providing additional funding opportunities to charter schools, this regulatory action will make establishing a new charter school in California easier and more attractive.

Impact on Jobs/New Businesses: The Authority has determined that this regulatory proposal will not have any negative impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. However, because of the increased funding opportunities for new Charter Schools, such schools in California may be able to begin operations more quickly and be at less risk of failure.

Cost Impact on Representative Private Person or Business: The Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

Effect on Small Business: The Authority has determined that this regulatory proposal may have a positive impact on charter schools and businesses supporting Charter Schools. The creation of additional funding opportunities to provide start-up costs to California Charter Schools may result in a large number of Charter Schools, or in the survival of Charter Schools that would not have survived without funding assistance.

Economic Impact Assessment/Analysis Summary Comments: This proposed regulation is not a "major regulation", therefore there is no economic impact assessment comment from the Department of Finance and no response.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), CSFA must determine that no reasonable alternative considered by CSFA or that has otherwise been identified and brought to the attention of CSFA would be more effective in carrying out the purpose for which the Regulations are proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested persons may present statements or arguments relevant to the above determination during the written comment period.

**INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL, AND THE
RULEMAKING FILE**

The Authority has prepared an Initial Statement of the reasons for the proposed action and has available all of the information upon which the proposal is based. The Initial Statement of Reasons is available on the Authority's website.

Copies of the express language of the proposed regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the Authority Contact Person or on the website listed below. The file is available for inspection at CSFA's office at 915 Capitol Mall, Sacramento, California, during normal business hours. Please be aware that due to COVID-19, the office is not fully staffed at all times. If you wish to inspect the documents in person, please call first.

**AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND
RULEMAKING FILE**

A Final Statement of Reasons will be created after the closing of the public comment period. You may obtain a copy of the final statement of reasons once it has been prepared from the Contact Person named below or by accessing the website listed below.

CONTACT PERSON

Written comments, inquiries, and any questions regarding the substance of the Regulations shall be submitted or directed to:

Katrina Johantgen, Executive Director
California School Finance Authority

at:

300 South Spring Street, Suite 8500
Los Angeles, CA 90013
(213) 620-4467

or

915 Capitol Mall
Sacramento, CA 95814
(916) 651-7710

Or to: kjohantgen@treasurer.ca.gov

or

csrlf@treasurer.ca.gov

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The following person is designated as a backup Contact Person for inquiries only regarding the Regulations:

Ravinder Kapoor, Senior Attorney
State Treasurer's Office
915 Capitol Mall, Room 110
Sacramento, CA 95814
(916) 653-2995

Website Access: Materials regarding this proposal can be found at <https://www.treasurer.ca.gov/csfa/csfgp/public-comment.asp>