

ADDENDUM TO INITIAL STATEMENT OF REASONS

CALIFORNIA SCHOOL FINANCE AUTHORITY

Article 1.5, Sections 10170.2 through 10170.6

Title 4, Division 15

California Code of Regulations

Section 10170.2. Definitions

In section (q) – the addition of a Good Standing definition was added to the regulations. ““Good Standing” shall mean the Applicant meets all three of the following conditions: 1) is in compliance with the terms of the charter, 2) does not have any pending or outstanding corrective actions as described in Education Code 47607(d), and 3) does not have a pending or outstanding Notice of Intent to Revoke as described in Education Code 47607(e). The Authority will rely on information prepared by the Chartering Authority and the submission of a Good Standing Confirmation Form (GSCF) (CSFA Form 0719) herein incorporated by reference.”

Since 2016, the Authority has requested a good standing confirmation from the Authorizers for the SB740 Program and these other Programs: the Charter School Facilities Program, State Charter School Facilities Incentive Grants Program, Charter School Revolving Loan Fund Program, and Project Acceleration Notes and Credit Enhancement Alternatives, administered by the Authority. Many Authorizers and other stakeholders have expressed concerns regarding the need and the meaning of a good standing confirmation.

The Good Standing definition is based on language in Education Code 47607 (d) and (e). The additional text also introduces the Good Standing Confirmation Form (CSFA Form 0719). This form allows the Authority to determine eligibility for all Authority Programs including the SB740 Program, which is currently oversubscribed. Applicants not in good standing will be ineligible for grant funds. The Authority is requesting this substantive addition to existing text.

In sections (q) to (t) – the amendment repositioned text (q) to (t) into the new positions of (r) to (u) due to the addition of the Good Standing definition. The Authority is requesting non-substantial correction to the repositioning of existing text.

In section (s) - the amendments to the definition of Independent Appraisal included additional language “in the fiscal year”, “The Appraiser must be”, “and shall”, stakeholder input revealed the additional language was unnecessary and requested the Independent Appraisal definition be revised to the original content. The Authority removed the strikeouts “who”, “s”, and “that”. The Authority is requesting non-substantial language to clarify the existing text.

In section (t) – the amendment to the definition of New Facility Agreement include “Exception: options to renew contained in existing rent or lease agreements on file with the Authority, executed by the Charter School and the lessor, will not be considered a New Facility Agreement.” This language was moved from section 10170.4(a)(1)(B)(iii) into the definition of New Facility Agreement to provide a comprehensive and clearer definition for a New Facility Agreement. The Authority is requesting this substantive addition to existing text.

10170.3. Eligible Applicant

In section (f) – the language was stricken and repositioned “The charter school is in good standing with its chartering authority and is in compliance with the terms of its charter at the time of application submission, and without interruption throughout the term of the grant. The Authority will rely on information from the chartering authority regarding the school's good standing and compliance with the terms of its charter. Charter schools may appeal any response by the chartering authority's staff directly to the chartering authority's governing board. It shall be the charter school's responsibility, and not the Authority's, to ensure that the good standing and compliance response letter is received by the stated deadline.” into section 10170.2(q) and 10170.3(f).

The amendment replaces the good standing requirement to require the eligible Applicants to be in Good Standing as defined in Section 10170.2(q). The amendment also discusses how the applicant may become eligible if they are found not in Good Standing.

“The Applicant is in Good Standing as described in Section 10170.2 (q) during the Fiscal Year. An Applicant found not to be in Good Standing, as determined by their Chartering Authority, shall be ineligible for grant Funds. The Applicant may cure ineligibility for grant funds by meeting one of the following criteria:

- (1) The Applicant receives confirmation of Good Standing within the Fiscal Year shall be eligible for grant funds; or
- (2) Applicants found not to be in Good Standing solely due to the Applicants failing to meet generally accepted accounting principles, or engaged in fiscal mismanagement must provide evidence demonstrating fiscal solvency, to the satisfaction of the Authority. Such evidence may include the Applicant's organizational budgets, and audited financials.”

In subsection 1 - an ineligible Applicant will be able to receive Program funds if the good standing is restored by the end of the fiscal year. In subsection 2 - an Applicant found ineligible by the Chartering Authority due to fiscal concerns must provide evidence to the Authority. The new text provides clarity to the Authorizer when determining the Applicant's Good Standing status this replaces the current Good Standing language found in Section (f). In subsections (1) and (2) the language was repositioned to Section 10170.6 (i) as noted by the double strikeouts. The Authority is requesting this substantive addition to existing text.

Section 10170.4 Eligible Cost

Section 10170.4 (a)(1)(B)

In subdivision (i) and (iii) – the amended text was removed and restored to the original text. The amendment to (i)(a) repositioned the text to Section 10170.6 (d), the amendment to (i)(b) was stricken from the proposed text, because the COLA Cap was duplicative of section (a)(1)(A)(i). The amendment to (iii) repositioned the text to Section 10170.2 (s). By moving these two subdivisions the proposed text returned to the original text found in Section 10170.4 (a)(1)(B)(i).

In division (C) – the amended text was stricken “Rent or lease costs are reimbursable from time of occupancy. The Authority reserves the right to request a Certificate of Occupancy or other such evidence needed to establish the date the applicant began to occupy the site.” and replaced with text in subsection (b)(9).

In subsection (b)(9) - the amendment was revised to “Facility rent and lease costs associated with a facility that is inaccessible to the applicant. The Authority reserves the right to request evidence to the satisfaction of the Authority, such as Certificate of Occupancy or letter from the lessor that establishes the date the Applicant began to occupy the leased site; or” The amendment clarifies eligible costs for school reimbursement. Charter schools with lease agreements for facilities not being occupied by school staff or pupils consider ineligible. If the applicant has access or occupies the site during the Fiscal Year then the site’s costs will be evaluated for reimbursement. The Authority reserves the right to request evidence needed to establish the date the applicant began to occupy the site. The Authority is requesting this substantive addition to existing text.

In subsection (b)(10) – the amendment was added “Costs incurred during the period the Applicant is found not to be in Good Standing.” As stated in section 10170.3(f) an eligible applicant must be in good standing, therefore the Program will not reimburse costs incurred while the Applicant is not in good standing. The Authority is requesting this substantive addition to existing text.

10170.5. Application Submission

In division (2) the addition of the word “each” placed in front of September and October clarifies the Second Application as an annual Application period. The Second Application is only available for a select pool of Applicants. The Authority is requesting this non substantive addition to existing text.

10170.6. Content of Application.

In section (d) - the amendment was added “use an Independent Appraisal, completed within the last three Fiscal Years, that was previously filed with the Authority during a prior Application round. Otherwise the Authority will”, “completed within the Fiscal Year” was repositioned from Section 10170.4 (a)(1)(B)(i)(a). The additional text will allow applicants to minimize appraisal costs. As a result of Assembly Bill (AB) 1808 Chapter 32, Statutes of 2018, the Authority began requiring appraisals for all New Facility Agreements in July 2018, specifically beginning with the 2017-18 funding round. In 2017-18, 159 sites required appraisals; in 2018-19, this increased to 241 sites that required appraisals - of which, 50 percent (50%) were annual renewals. Annually renewing leases generally do not have any substantial changes that would warrant a revised appraisal. The Authority is requesting this substantive addition to existing text.

In section (i) the amendment was added “The Authority will request completion of the GSCF directly from the Chartering Authority. This form shall be completed and returned only if the Chartering Authority is aware of any outstanding compliance or revocation issues otherwise no action is necessary. An Applicant may appeal any response by the Chartering Authority’s staff directly to the Chartering Authority’s governing board.”

- (1) “Requests for good standing will be sent out to the Chartering Authority as follows:
 - (A) Upon receipt of the Application;
 - (B) The Authority reserves the right to request an additional good standing confirmation anytime during the fiscal year.”

The section (i) text provides guidance to the Chartering Authority when completing the GSCF. The Chartering Authority will only need to return the GSCF if the Applicant has a compliance

or revocation issue as described in the Good Standing definition. The Applicant will not be penalized if the Chartering Authority does not return the GSCF.

In subsection (1) – the amendment repositioned text from the original text in 10170.3(f)(1)(A)(B). to Section 10170.6 Content of the Application, to identify the documentation needed to establish eligibility. In subsection (1) there was no change to the original language proposed in the 45 day Notice of Proposed Rulemaking.