

California School Finance Authority

Title 4, Division 15, Article 1.5

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 pandemic, COVID-19, and the closures of all California public schools, the Authority is submitting the regulations as an Emergency Adopt in order to assist schools affected by the pandemic as well as other concurrent crises and/or unrest.

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, Section 47600, et seq., 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).

The Authority approved amended permanent regulations in April 2019, which became effective in October 2019. These regulations removed the right for schools to appeal a decision related to a late application submission or a late facility expenditure invoice submission. Additionally, the regulations prohibited late applications and/or late invoice submission from any program funding. In hindsight, this removed the ability of the Authority to consider any late applications and/or late invoice submissions regardless of

circumstance. The proposed amended regulations are intended to provide the Authority that ability to consider late applications and/or late invoice submissions during the COVID-19 State of Emergency as well concurrent crises and unrest. Authority staff identified recommended amendments to the permanent regulations.

The proposed amended regulations for the Program are intended to address the following: (1) the ability to consider late applications and/or invoice submission as well provide funding for those that are approved and eligible; and (2) provide language regarding the consideration of late applications and/or invoice submissions.

On May 5, 2020, the Authority's Board of Directors approved Resolution 20-10, approving delegation of authority to the Authority's Executive Director to submit emergency regulations to the Office of Administrative Law due to the COVID-19 crisis. The details and justification for these amendments are outlined below:

Section 10170.5. Application Submission

- Repeal of subdivision (a)(3), which prohibited late Applications and late Facility Invoice Expenditure Reports from program funds and the appeal process described in Section 10170.10. This change is necessary for the Authority to consider late Applications for funding as well a process to appeal during the emergency period.

Section 10170.10 Notification of Grantee; Appeal Process

- Addition of subdivision (i) to specify the criteria required for late Applications and/or late Facility Invoice Expenditure Reports to submit and appeal. This includes additional subdivision that sent criteria for appeal level determination such as staff level, management or, board approval.

Mandate on Local Agencies or School Districts

The Executive Director of the Authority has determined that 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 17561 of the Government Code, and no costs or savings in federal funding to the State.