FINDING OF EMERGENCY READOPTION

Title 4, Division 15, Article 1.6,
California Code of Regulations
Charter School Revolving Loan Fund Program

Introduction

Education Code Section 41365(h) states, “The California School Finance Authority may adopt any necessary rules and regulations for the implementation of this section and Sections 41366.6 and 41367. 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 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. " The Authority requires the changes to take effect through the emergency rulemaking process due to the passage of Senate Bill (SB) 631 and its January 1, 2026 effective date.

As stated in Government Code section 11346.1(a)(2) and required through California Code of Regulations, Title 1, Section 48, the Authority is providing notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. The posting shall be publicly available for at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law.

After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Authority and Reference

Authority: Education Code section 41365.

Reference: Education Code sections 41365, 41366.5, and 41366.6.

Informative Digest

The California School Finance Authority (CSFA or 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 41365, the State Legislature directed the California School Finance Authority (Authority) to commence administration of the Charter School Revolving Loan Fund Program (Program) with the 2013-14 fiscal year and to adopt regulations to implement the statute. The Program provides for loan funds of up to $250,000 to new charter schools. 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 and start-up costs associated with opening a new school.

Pursuant to Education Code, Section 41365(h), on January 8, 2014, the Authority approved the emergency regulations that became effective on February 3, 2014, for a period of 180 days (expiration date of August 5, 2014). On July 11, 2014, the Authority approved permanent regulations that became effective on March 10, 2015. The Authority approved amended permanent regulations on August 10, 2016, which became effective on December 1, 2016. The Authority then approved emergency regulations, approved by OAL on April 20, 2020, that became permanent on December 30, 2020; the proposed amended emergency regulations are intended to amend the latter.

Due to the passage of SB 631, Chapter 776, in which amended Sections 41365, 41366.5, and 41366.6 of the Education Code, approved by Governor on October 13, 2025, filed with Secretary of State on October 13, 2025, and will become effective January 1, 2026, the Authority is requesting the approval of the proposed emergency regulations.

Authority staff have identified the recommended emergency amendments to the permanent regulations. The proposed emergency amended regulations for the Program are intended to address the following: a significant shift in the legal and Program requirements pertaining to funding, eligibility, interest rate calculations, and additional reporting criteria, specifically addressing: the increase the maximum loan amount and the maximum lifetime loan limitation by $250,000 to instead be $500,000, would revise and recast the maximum repayment period of a loan, no longer make the charter school solely liable for repayment of a loan in the event of a default, revise criteria for receiving priority in the granting of loans, require money in the fund to instead be loaned at the interest rate described above or at a rate equal to 50% of the interest rate paid by the state on the most recent sale of state general obligation bonds, whichever is less, except that the it would prohibit the interest rate from being set at a rate lower than 3%, and requires the California School Finance Authority, by October 1 of each year, to provide detailed fund condition information for the Charter School Revolving Loan Fund and the Charter School Security Fund to the Department of Finance and the Legislative Analyst's Office and would require the report due by October 1, 2029, to additionally include an analysis and summary of the expenditures of loan funds made by the charter school loan recipient for loans issued on or after July 1, 2026, (2) the need to ensure regulations are consistent with current Program practices; and (3) the need to further clarity language and internal consistency within the regulations. It is noteworthy that, that due to the changes in the Program statute, the Authority is anticipating an increase in applicants and in applications due to the increase in loan amounts, and the removal of the charter renewal exemption.

The Authority is requesting approval of these revisions to ensure state compliance, timely disbursements, and the ability to properly and effectively administer the Program. Furthermore, emergency approval of the regulation changes is necessary to implement the funding round projected in Spring 2026.

On December 11, 2025, the Authority's Board of Directors approved the emergency amendments so that these revisions may become part of the permanent regulations upon the Office of Administrative Law's approval. The details and justification for these amendments are outlined below.

Purpose and Necessity:

- Section 10170.17. Definitions.
  - (a) – The defined term of "Affiliated Entity" amended to align with the Amendment of Education Code section 41365(g)(2) by Senate Bill 631 (Chapter 776, Statues of 2025).
  - (b) - The defined term of "Applicant" amended to better work with changes to Subsection (a).
  - New (i) – The defined term of "Disaster Affected Charter School" adopted to implement Education Code section 41365(e)(2), as amended by S.B. 631– All subsequent subsections re-lettered to reflect addition.
  - (l) [Formerly (k)] - The defined term of "Incorporated Charter School" amended to better work with changes to Subsection (o) [Formerly (n)].
  - (o) [Formerly (n)] - The defined term of "Nonprofit Entity" amended to align with Education Code section 47604(a).
  - (p) [Formerly (o)] - The defined term of "Pooled Money Investment Account" amended to introduce the acronym PIMA.
- Section 10170.18. Eligible Applicant.
  - (a) – Last portion is removed as a redundant definition reference.
  - [Formerly] (b) – This subsection removed due to amended defined terms in Section 10170.17.
  - (b) [Formerly (c)] – This subsection amended to specify requirement for established applicants.
  - (c) [Formerly (d)] – This subsection reworded for clarity.
  - (e) - This subsection removed due to amended defined terms in Section 10170.17.
  - (d) [Formerly (f)] – This subsection re-lettered.
  - (g) – The subsection removed due to statue change related to SB 631.
  - (e) [Formerly (f)] – The subsection amended to clarify ability to make determinations related to Legal Status Questionnaire disclosures.
  - (f) [Formerly (i)] – This subsection being amended to align with the amendment of Education Code section 41365(c) by S.B. 631.
  - (g) [Formerly (j)] - The subsection amended for clarity and due amended defined terms in Section 10170.17.
  - (h) [Formerly (k)] – This subsection amended to specify period of Good Standing (GS) request and updated to establish flexibility related to district communication, and amended for clarity and due amended defined terms in Section 10170.17..
  - (h)(1) [Formerly (k)(1)] - The subsection amended for clarity and due amended defined terms in Section 10170.17.

- (h)(2) [Formerly (k)(2)] - The subsection amended for clarity and due amended defined terms in Section 10170.17.
- (i) [Formerly (l)] – This subsection re-lettered.

- Section 10170.19. Application Content and Submission.
  - (a) - This subsection added to specify two Application periods and timelines for general funding information.
  - New (b) [Formerly portion of (a)] – This subsection added to provide specific timeframes for Application periods.
  - New (c) [Formerly (b)] – This subsection added to limit submissions to the Application periods.
  - New (d) [Formerly (c)] – This subsection re-lettered.
  - New (d)(1) [Formerly (c)(1)] - The subsection amended for clarity and due amended defined terms in Section 10170.17.
  - New (d)(5) [Formerly (c)(5)] - The subsection amended for clarity and due amended defined terms in Section 10170.17.
  - New (d)(8) [Formerly (c)(8)] - The subsection amended for clarity and due amended defined terms in Section 10170.17 and also to include requirement for prospective site information.
  - New (d)(9)-(14) [Formerly (c)(9)-(14)] - These subsections amended for clarity and/or due amended defined terms in Section 10170.17.
  - New (d)(16) – This subsection added to established Application related documents required for Disaster Affected Charter Schools.
  - Formerly (d) – This subsection removed as determined to not be in the proper section. GS is an eligibility related requirement performed by the Authority and Chartering Authority. This does **not** remove or affect any GS requirements in Section 10170.18 above.
  - (e) - The subsection amended due amended defined terms in Section 10170.17.
- Section 10170.20. Application Review and Evaluation/Underwriting Criteria.
  - (b)(1) - This subsection amended to ensure clarity that all applicant fact patterns are required to submit the requested information if applicable.
  - (b)(3) - This subsection amended to ensure clarity that all applicant fact patterns are required to submit the requested information if applicable.
  - (c) – This subsection amended to implement Education Code section 41365(e)(2), as amended by S.B. 631.
  - New (c)(1) [Formerly part of (c)] – These subsections separated for clarity
  - New (c)(2) – This subsection amended to implement Education Code section 41365(e)(2), as amended by S.B. 631.
  - New (c)(3) [Formerly (c)(2)] – This subsection amended to establish schools that do not fit into the first two priority but are still in their 1st petition as third priority until July 1, 2029.

- New (c)(4) [Formerly (c)(3)] – This subsection amended to establish any school out of the three fact patterns does not have a priority.
- (d)(1) - The subsection amended due amended defined terms in Section 10170.17 and re-lettering.
- New (d)(2) [Formerly part of (d)(1)] – This subsection separated and reworded to reference Subsection (c)(2). Reworded due to updated definitions and re-lettering.
- New (d)(3) – This subsection amended to address ties between schools lacking any priority.

- Section 10170.21. Loan Amount and Repayment Terms.
    - (a) – The subsection amended to align with the amendment of Education Code section 41366.5(a) by S.B. 631 and are also non-substantive.
    - (b) – This subsection amended to establish loan term determination to match petition terms outside of Disaster Affected Charter Schools.
    - (c) – This subsection amended for clarity.
    - New (c)(1) [Formerly (c)] – This subsection separated from former subsection for clarity.
    - New (c)(2) – This subsection added to align with the amendment of Education Code section 41365(f)(3)(B) by S.B. 631.
    - (d) – This subsection amended for flexibility in payments within fiscal year.
    - (e) – This subsection amended to establish alternative loan term maximum for Disaster Affected Charter Schools to align with Education Code section 41365(f)(3)(B), amended by S.B. 631.
- Section 10170.22. Loan Agreements.
    - (b) - This subsection amended for clarity.
    - (c)(4) - This subsection amended for clarity.
    - (c)(5) - This subsection amended for clarity.
    - (c)(7) - This subsection amended for clarity.
    - (c)(8) - This subsection amended for clarity.
    - (e)(2) - This subsection amended for clarity.
    - (g) - The subsection amended for clarity and due amended defined terms in Section 10170.17.
    - (h) - The subsection amended for clarity and due amended defined terms in Section 10170.17.
- Section 10170.23. Internal Controls, Audits and Conflicts of Interest.
    - (c) - This subsection amended for clarity.
    - New (d) – This section added to establish the Authority's right to check eligibility related to GS at any point in the loan term.
    - New (e) – This subsection amended to align reporting requirement with Education Code section 41366.6(b)(2), amended by SB 631.

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 17500 of the Government Code, and no costs or savings in federal funding to the State.

Evaluation of Inconsistency and Incompatibility

The Authority has determined that these proposed regulations are not inconsistent or incompatible with existing state or federal regulations. After conducting a review for any regulations that relate to or affect this area, the Authority has concluded that these are the only regulations in California concerning the issues presented. No comparable federal regulations exist.

Non-Duplication Justification

Some of the proposed regulations repeat or rephrase Education Code sections 41365 and 41366.5. The duplication is necessary to concentrate relevant Charter School Revolving Loan Fund Program requirements in a single location – namely, the Authority's regulations.

Compliance with Government Code section 11346.1(e)

The Authority has made progress towards the certification of compliance and establishing these regulations. Rulemaking documents have been drafted but the Authority Board needs to approve these changes for the regular rulemaking process as they have only been approved for the emergency rulemaking process. The Authority Board will hear the item in September and will proceed with a regular rulemaking action during the ninety (90) day period, including a forty-five (45) day public comment period.