



**CALIFORNIA SCHOOL FINANCE AUTHORITY
901 P STREET, THIRD FLOOR, SUITE B
SACRAMENTO, CA 95814**

**Title 4, Division 15, Article 2,
CALIFORNIA CODE OF REGULATIONS
State Charter School Facilities Incentive Grant Program**

NOTICE OF PROPOSED RULEMAKING ACTION

NOTICE IS HEREBY GIVEN that the California School Finance Authority (Authority), organized pursuant to Sections 17170 through 17199.6 of the Education Code, proposes to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action. Any person interested may present written statements or arguments relevant to the proposed action to the attention of the Contact Person as listed in this Notice before Tuesday, February 25, 2025. The Authority Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposal 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(s) designated in this Notice as the 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.

Proposed Regulatory Action

The Authority proposes to amend Sections 10176, 10177, 10179, 10180, 10181, 10182, 10183, 10185, and 10190 of Title 4 of the California Code of Regulations (Regulations) as permanent regulations. The amended Regulations implement the Authority's responsibilities related to the Charter School Facilities Incentive Grants Program (Program).

Authority and Reference

Authority: Section 17179 and 17180 of the Education Code. Section 17179 provides the Authority with the ability to do all things reasonably necessary to carry out its responsibilities. Section 101780(a) provides the Authority the ability to adopt bylaws for the regulation of its affairs and the conduct of its business. Subdivision (d) authorizes the Authority to receive and accept grants from the federal government. Subdivision (o) allows the Authority the right to adopt guidelines for grants.

Reference: Education Code, Section 17180(d) of the Education Code; and Section 47600, et seq., of the Education Code. These Regulations implement the Program and include a number of the requirements of that Program contained in the reference code provisions and their implementing Regulations. They also rely on a number of provisions in the Charter Schools Act of 1992, commencing with Section 47600 of the Education Section. Section 17180(d) provides the Authority with the ability to receive grants from the federal government.



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Informative Digest/Policy Statement Overview

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).

In 2004, 2009, and 2014, the United States Department of Education approved grant awards to the Authority pursuant to the State Charter School Incentive Grant (Grant), authorized under Title V, Part B, Subpart 1 of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001. The Grant provided for \$49,250,000 in 2004, \$46,132,749 in 2009, and \$50,000,000 in 2014, to be awarded over five-year periods for the purposes of funding per-pupil facilities aid programs for California charter schools. The Authority was recently awarded a \$30 million grant award in Fall 2024. Per the Authority's application to the Department of Education, the Authority is proposing three more funding rounds of the Program starting for the 2025-26 school year. The Authority is bringing regulation changes related to changes and updates to the application and selection process as well as updates to federal law. Grant funds are applied toward a charter school's annual costs of rent, lease, mortgage, debt service, or Proposition 39 pro-rata payments for facilities, or towards the costs of purchase, design, construction, and/or renovation of a new or existing facility.

Pursuant to the federal rules governing the Grant, an annual portion of funds must be allocated during each of five consecutive federal fiscal years. The first funding round began on June 28, 2005, when an emergency rulemaking file was approved by the Office of Administrative Law. The Authority adopted regular regulations through the Office of Administrative Law's (OAL) Rulemaking process, and the regulations were approved by OAL on March 24, 2006 (OAL Regulatory Action # 05-0907-02). A number of rulemakings have amended the regulations in the years since. The Authority is proposing permanent regulations through OAL's permanent rulemaking process and a Certificate of Compliance to make additional amendments to Program regulations.

The allocation of these grant funds to eligible charter schools is based on preference points assigned for certain factors including the low income population served by the school as reported by the percentage of students eligible to receive free and reduced price meals, Other Equity Demographics, whether a school is located in an Nearby Every Student Succeeds Act Assistance School Site, the school's academic performance and its academic performance in comparison to nearby schools as measured by its Smarter Balanced Assessment data as reported by the California Department of Education (CDE).

Summary of Proposed Regulations

The Authority's last funding round opened in 2019, therefore some regulation references rely on out-of-date measures and statutory citations. The Authority is requesting approval of these revisions to ensure federal and state compliance, timely disbursements, and the



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ability to properly and effectively administer the Program. Timely approval of the regulation changes is necessary to implement the first funding round for the 2025-26 federal fiscal year. A summary of the revisions from each section within the proposed regulations is highlighted below:

1. **Section 10176. Definitions.** (b) – Update the revision date on the Application to reflect the changes once regulations are approved.
2. **Section 10176. Definitions.** (f) – Update the reference to the federal regulation code on “Charter School” and removed the out-of-date references.
3. **Section 10177. Eligible Applicant.** (g) – Remove repetitive definition and added reference to Definition Section.
4. **Section 10179. Maximum Grant.** (a)(1) – Remove “seven hundred fifty dollars (\$750)” and add “one thousand five hundred (\$1500)”.
5. **Section 10179. Maximum Grant.** (b)(1) – Remove “one thousand dollars (\$1,000)” and add “two thousand (\$2,000)”.
6. **Section 10180. Application Submission.** (a) – Remove “during regular business hours” as applications are submitted online.
7. **Section 10180. Application Submission.** (c) – Remove “March” and add “April 3rd” to designate new opening date. Also add “Deadline dates will be no earlier than the first week of June of each year.” to provide a general expectation of when deadline dates will take place.
8. **Section 10181. Content of Application.** (a) – Update the revision date on the Application to reflect the changes once regulations are approved.
9. **Section 10181. Content of Application.** (f) – Update the form number for the Authority’s Legal Status Questionnaire.
10. **Section 10181. Content of Application.** (j)(2) – Remove repetitive statute references that are established in Definition Section.
11. **Section 10182. Evaluation Criteria.** (b) – Remove Overcrowding School Site measure as it is defunct and replace with the Comprehensive Support and Improvement and the Additional Targeted Support and Improvement measure. This is provided by CDE related to federal guidelines.



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12. **Section 10182. Evaluation Criteria.** (c) – Remove Non-Profit measure as all CA charter school must operate as non-profit or direct government entities. This is replaced with additional equity measures using the four largest student demographic measures outside FRPM: English Learners, Foster Youth, Homeless/Unhoused, and Students with Disabilities. An applicant who serves a larger percentage of the groups listed above than the State as a whole, will receive 2.5 points for each group. Those that serve the same percentage will receive 1 point. And finally, those who serve less will receive 0 points. These figures will be based on the State’s most recent CALPADS or CBEDS report.
13. **Section 10182. Evaluation Criteria.** (d) – Updating this section as CDE’s Smarter Balanced Assessment provided additional information. Applicants will now be given points based on both achievement level and progress from the prior year. The points will be determined using the following:
- Level
 - Very High – 5 points
 - High – 3 points
 - Medium – 1 point
 - Low/Very Low – 0 points
 - Progress
 - Increase Significantly – 5 points
 - Increased – 3 points
 - Maintained – 1 point
 - Declined/ Increase Significantly – 0 points
14. **Section 10182. Evaluation Criteria.** (e) – Updating this section as CDE’s Smarter Balanced Assessment provided additional information to determine School Choice. Applicants will now be given points based how they compare to the State in a measure called “Distance from Standard”. Points will be assigned based on the percentage difference between the two measures.
15. **Section 10183. Award Methodology.** (a) – Directly reference Criteria sections referenced for tiebreaking. Changing “mailing” to “submission” for timing as the application is online now. This also is the reason for the removal of the last sentence.
16. **Section 10185. Obligation and Expenditure of Grant Funds.** (b)(3) – Updated to reflect the closure of those funding rounds.



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17. **Section 10185. Obligation and Expenditure of Grant Funds.** (b)(4) – Added to reflect the upcoming funding rounds funded through the 2024 grant award.
18. **Section 10190. Audits and Conflicts of Interest.** (c) – Updated federal reference.
19. **Section 10190. Audits and Conflicts of Interest.** (d) – Remove repetitive statute references that are established in Definition Section.

Citations for Proposed Regulations Mandated by Federal Laws or Regulations

Program applicants are expected to comply with federal regulations related to conflicts of interest. These regulations are stated in proposed regulations Section 10198. Specifically, applicants must comply with the following federal regulatory code as required by the United States Department of Education as well as general conflict of interest compliance for federal grants.:

34 CFR 75.525(a) which prohibit a person from participating in an administrative decision regarding a project if (a) the decision is likely to benefit that person or their immediate family members; and (b) the person is a public official or has a family or business relationship with the Awardee.

34 CFR 75.525(b) which provides further that an Awardee may not permit any person participating in a project to use their position for a purpose that is - or gives the appearance of being - motivated by a desire for a private or financial gain for that person or for others.

2 CFR 200.318 through 2 CFR 200.327. These standards require federal grant Awardees to develop written procurement procedures and to conduct all procurement transactions in a manner that provides, to the maximum extent possible, open, and free competition. No employee, officer, or agent of the Awardee may participate in the selection, award, or administration of any contract supported by federal funds if a real or apparent conflict of interest exists.

The full text of the federal regulations referenced above are found in the Code of Federal Regulations, which is available online at <https://www.ecfr.gov/>

Other Matters Prescribed by Statutes Applicable to the Specific State Agency or to any Specific Regulation or Class of Regulations

No other matters prescribed by statute are applicable to the Authority or to any specific regulation or class of regulations pursuant to Section 11346.5(a) (4) of the California Government Code pertaining to the proposed Regulations or the Authority.

Mandate on Local Agencies or School Districts



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The Authority has determined the proposed regulations do not impose a mandate on local agencies or school districts.

Evaluation of Inconsistency and Incompatibility

The Authority performed a search in the California Code of Regulations and the proposed regulations are neither inconsistent nor incompatible with existing regulation.

Fiscal Impact

As related to Fiscal Impact, the Authority is not aware of any cost to local agency or school districts requiring reimbursement pursuant to Gov. Code sec. 17500 et seq.; nor any cost or savings to any state agency beyond the Authority; nor other Non-discretionary costs or savings imposed on local agencies; nor any costs or savings in federal funding to the state; and nor any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Initial Determination Regarding any Significant, Statewide Adverse Economic Impact Directly Affecting Business

The Authority has made an initial determination that the proposed regulations will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Effect on Small Businesses

The Authority has determined that the adoption of the proposed regulations will not affect small business. The Program is a voluntary grant program available to charter schools to assist in the costs of charter school facilities.

Results of Economic Impact Analysis

Assessment of Effect on Jobs and Business Expansion, Elimination or Creation

Adoption of these regulations will not create or eliminate jobs within California, nor create new businesses or eliminate existing businesses within California. The proposed regulations could likely impact the expansion of businesses currently doing business within the State of California. This program will provide additional grant funding for charter school facilities. These facilities are a need for charters schools of the associated charter school organizations to serve more students.

Assessment of Effect to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The purpose of the program and proposed regulations is to set forth administrative criteria and requirements for administering this grant program. The Authority do not expect any anticipated benefits to worker safety or the State's environment. However, while each grant is different,



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funding for facilities may allow schools to free up assets potentially allowing actions resulting in improved worker safety. Additionally, there may be a positive effect on the welfare of some California residents. As the intent of the program is to provide grant funding related to charter school facilities, the Program and its proposed regulations have the potential to directly benefit the welfare of students and their related communities.

Cost Impact on Housing

The proposed regulations will not have any effect on housing costs.

Reasonable Alternatives

In accordance with Government Code section 11346.5(a)(13), the Authority must determine that no reasonable alternative to the regulations considered by the Authority or that has otherwise been identified and brought to the attention of the Authority, would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Authority invites interested persons to present statements with respect to alternatives to the proposed regulations during the written comment period.

Agency Contact Person(s)

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

Katrina Johantgen, Executive Director,
California School Finance Authority at:

300 S. Spring Street, Suite 8500
Los Angeles, CA 90013
(213) 620-4608

or

901 P Street, Third Floor, Suite B
Sacramento, CA 95814
(916) 651-7710

or

kjohantgen@treasurer.ca.gov

or

csfa@treasurer.ca.gov



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

Ryan Storey
300 S. Spring Street, Suite 8500
Los Angeles, CA 90013
(213) 620-6360

or

rstorey@treasurer.ca.gov

Written Comment Period

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulations to the Authority. The written comment period on the regulations will end on Monday, February 24, 2025. All comments to be considered by the Authority must be submitted in writing to the Agency Contact Person identified in this Notice by that time. In the event that changes are made to the proposed regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified regulations for 15 calendar days after the date on which such regulations, as changed or modified, are made available to the public pursuant to Title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

Availability of Initial Statement of Reasons, Rulemaking File and Express Terms of Proposed Regulations

The Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 901 P Street, Third Floor, Suite B, Sacramento, California, during normal business hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, and the proposed text of the Regulations. Copies of these items are available upon request, from the Agency Contact Person designated in this Notice. The Sacramento address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including the Initial Statement of Reasons and the proposed text, may be viewed on the Authority's Web site at www.treasurer.ca.gov/csfa.

Public Hearing

No public hearing regarding the proposed regulations has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to the Authority at least 15 days before the end of the written comment period. Such request should be addressed to the Agency Contact Person identified in this Notice and should specify the regulations for which the hearing is being requested.



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15-Day Availability of Changed or Modified Text

After the written comment period ends and following a public hearing, if any is requested, the Authority may adopt the proposed regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public (including through the Authority's website described above) for at least fifteen (15) calendar days before the Authority adopts the proposed regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.

Availability of Final Statement of Reasons

The Authority is required to prepare a Final Statement of Reasons pursuant to Government Code section 11346.9. Once the Authority has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy and will be available on the Authority's website described above. Written requests for copies should be addressed to the Agency Contact Person identified in this Notice.