



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

**Title 4, Division 15, Article 3,
CALIFORNIA CODE OF REGULATIONS
Charter School Facilities Credit Enhancement 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 no later than Friday, June 24, 2024. 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 amendments to Sections 10193, 10194, 10195, 10196, and 10198 of Title 4 of the California Code of Regulations (Regulations) as permanent regulations. The Regulations implement the Authority's responsibilities related to the Charter School Facilities Credit Enhancement Grant Program (Program).

Authority and Reference

Authority: Section 17179 and 17180 of the Education Code. Section 17180(o) allows the Authority to adopt regulations in order to administer the Program.

Reference: Sections 17173, 17180, 47604, 47604.1, 47604.2, 47605 and 47612.5(e)(1) of Education Code.

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 the Authority is vested with all powers reasonably necessary to carry out its powers and responsibilities (Education Code sections 17179 and 17180).

In 2009, the U.S. Department of Education awarded a grant of \$8,300,000 to CSFA, pursuant to the Credit Enhancement for Charter School Facilities Program (CFDA # 84.354A), authorized under Title V, Part B, Subpart 2 of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001 (Grant). Program funds may be used to credit enhance the financing of acquisition, renovation, or construction of charter school facilities, or the refinancing

of existing charter school facility debt.

In June 2023, the Authority applied for an additional grant award and was awarded a \$20 million grant award in Fall 2023. Per the Authority's application to the Department of Education, the Authority is proposing that \$15 million of the grant award be allocated to the Program to fund debt service reserve accounts associated with debt issued through the Authority.

The Program regulation became effective May 19, 2012 and were established in the California Code of Regulations in Title 4, Division 15, Article 3. (OAL Matter Number 2012-0308-04S).

Changes proposed for Sections 10193 and 10195 were submitted and approved through emergency rulemaking process in 2022 but reverted. The Authority let the regulations revert as the Authority did not plan to apply for the additional funding for the Program. Those emergency regulations were adopted on December 13, 2022 (OAL Matter Number 2022-1206-07EE) and reverted on March 15, 2023.

These proposed regulations set the Authority's policies and procedures for administering the Program, including but not limited to definitions; minimum eligibility requirements; application submission and content requirements; procedures for apportionment of grant funds and appeals; and policies governing grantee obligations, responsibilities, and approval of grant use change.

Summary of Proposed Regulations

1. **Section 10193. Definitions.** Add "Financing" and the associated definition as new subsection (g). Label former subsection (g) to (h) due to the added definition above. Remove "and 47600 et seq." and add "47604, 47604.1, and 47604.2," per OAL on References updated in similar regulatory sections.
2. **Section 10194. Applicant Eligibility Criteria.** Remove "and throughout the term of an award" from the subsection (a). Remove "and 47600 et seq.," and add "47604, 47604.1, and 47604.2," per OAL on References updated in similar regulatory sections.
3. **Section 10195. Award Allocation and Eligible Use of Program Funds.** Remove "\$1,500,000 per Application" and add "up to maximum annual debt service per Financing, with a maximum award limit of \$2,000,000" in subsection (b).
4. **Section 10196. Application Review and Evaluation Criteria.** Add subsection (e) to establish an application filing fee.
5. **Section 10198. Audits and Conflicts of Interest.** Remove "relying on federal funds to enter into a contract" and "34 CFR 80.36" and add "the acquisition of property or services are funded through a federal grant" and "2 CFR 200.317 through 2 CFR 200.327." in subsection (c)

Citations for Proposed Regulations Mandated by Federal Laws or Regulations

Proposed regulation Section 10198 references sections of the Code of Federal Regulations related to requirements prescribed through the United States' Department of Education as well as general conflict of interest compliance for federal grants. Those sections are listed in proposed Section 10198 and are cited below.

- Code of Federal Regulations – Title 34, Subtitle A, Part 75, Subpart E - §75.525(a)
- Code of Federal Regulations – Title 34, Subtitle A, Part 75, Subpart E - §75.525(b)
- Code of Federal Regulations – Title 2, Subtitle A, Chapter II, Part 20, Subpart D (§ 200.318 - §200.327)

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

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

The Authority has instituted an application filing fee to offset costs associated with Authority staff reviewing applications and various federal and state reporting requirements for the grant program. Application review includes, but is not limited to, reviewing and verifying application content, ensuring program eligibility, preparing grant agreements, staff reports and resolutions, liaising with program attorneys and financing team members, ensuring grant funds are disbursed to the trustee, and closing document review associated with the financing. Reporting requirements include, but are not limited to, staff reports, multiple meetings with federal program officials, liaising with program attorneys and borrow trustees, balance confirmations, and account reconciliation. The \$1,000 fee was determined to be adequate enough to cover costs related to staff time, while not being cost prohibitive for applicants.

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.

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 enhance conduit financings for charter school facilities. These facilities are often an expansion of the associated charter school organizations to serve more students. It should be noted that not all charter school facility related financings are expansions. Some financings are replacement facilities, renovations, or site improvements.

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 funding is different, 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 enhance financings 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

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

(916) 767-3256

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 Friday, June 24, 2024. 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.

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.