

NOTICE OF PROPOSED EMERGENCY ACTION

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Title 5. Education

Division 4. California Student Aid Commission

Chapter 1. California Student Aid Commission

Article 15.5. Middle Class Scholarship Program

NOTICE IS HEREBY GIVEN that the California Student Aid Commission (Commission) proposes to adopt proposed emergency regulations to the Middle Class Scholarship Program (MCS Program) pursuant to Senate Bill 142 (*Stats. 2023, Ch. 195, Sec.3*) and SB 117 (*Stats. 2023, Ch. 50, Sec. 9*).

At its March 7, 2024, meeting, the Commission approved proposed emergency regulations to address statutory changes to Middle Class Scholarship (MCS) Program pursuant to Education Code Section 70022 and Education Code Section 70023 as amended by Senate Bill 142 (*Stats. 2023, Ch. 195, Sec. 6.*) and Senate Bill 117 (*Stats. 2023, Ch. 50, Sec. 9*). At that time, the Commission took action on Agenda Item 6 “Consideration to approve the proposed regulations for the Middle Class Scholarship (MCS) Program (Education Code section 70020 et seq.) (Action).” After inviting members of the public to comment on the proposed emergency regulation, the Commission acted as follows:

MOTION By Commissioner Valladolid, **SECONDED** by Commissioner Takagi and **CARRIED TO APPROVE** the proposed emergency regulatory amendments for the Middle Class Scholarship (MCS) Program and authorize staff to complete the emergency regulatory process, including initiating a five-day public comment period, preparing, and submitting all required documents to the Office of Administrative Law (OAL), and making any nonsubstantive changes to the regulations and supporting documentation as requested by the OAL.

This Notice of Commission Action shall be maintained in the Commission’s record and submitted to the Office of Administrative Law as a record of the action taken by the Commission on the proposed emergency regulations.

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Government Code Section 11346.1, subdivision (a) (2), requires that, at least five working days prior to the submission of a proposed emergency action to the Office of Administrative Law (OAL), the adopting agency must provide a notice of the proposed emergency action to every person who has filed a request for notice of proposed action with the agency. After the submission of the proposed emergency regulation, OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6. This document provides the required notice.

PROPOSED TEXT OF EMERGENCY REGULATIONS

The text of the proposed emergency regulations is attached to this notice.

FINDING OF EMERGENCY

Education Code Section 70023 subdivisions (c) and (g) expressly authorizes the Commission to adopt emergency regulations to implement the Middle Class Scholarship Program and finds that the Commission's adoption of such regulations constitutes an emergency as defined under the Administrative Procedures Act.

Education Code Section 70023(c) provides that: *"The commission may adopt regulations necessary to carry out the purposes of this article under subdivision (b) as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of the Administrative Procedure Act, including Section 11349.6 of the Government Code, the adoption of those regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, notwithstanding subdivision (e) of Section 11346.1 of the Government Code. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any regulation adopted pursuant to this section shall not remain in effect more than 180 days unless the commission complies with all provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, as required by subdivision (e) of Section 11346.1 of the Government Code."*

In addition, Education Code Section 70023(g) provides that: *"The commission may adopt regulations it deems necessary for the implementation of this article. If the commission adopts regulations pursuant to this subdivision, the regulations may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). For purposes of the Administrative Procedure Act, including Section 11349.6 of the Government Code, the adoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, notwithstanding subdivision (e) of Section 11346.1 of the Government Code."*

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 70023 subdivisions (c) and (g) of the Education Code, the proposed regulations implement, interpret and make specific Section 70020 et seq. of the Education Code. The Commission is proposing to adopt new regulations within Division 4 of Title 5 of the California Code of Regulations to implement the MCS Program.

INFORMATIVE DIGEST

Assembly Bill 94, enacted in 2013, established the Middle Class Scholarship (MCS) Program under the administration of the California Student Aid Commission. The MCS was established to provide scholarships for new and continuing undergraduate students with family incomes and assets under the specified ceilings for the academic

year who were not already receiving federal, state, or institutional grants that exceeded 40% of the charged mandatory systemwide tuition/fee amount. The 2021-22 state budget introduced significant changes to the MCS Program. Starting with the 2022-23 academic year, going from a tuition/fee model to a cost of attendance model. The annual appropriation amount for the MCS Program is determined in the Annual Budget Act.

Under the new model, MCS awards are determined based on the difference between the student's cost of attendance and the sum of the following amounts:

(i) Other federal, state, and institutionally administered student scholarships, grants, or fee waivers.

(ii) The amount of private grants and scholarships awarded to the student, and institutionally awarded emergency housing funds and other basic needs emergency assistance awarded to the student, including emergency assistance awarded by an institution-based foster youth support program, in excess of the sum of the amounts in clauses (iii) and (iv).

(iii) Seven thousand eight hundred ninety-eight dollars (\$7,898), reflecting an expected student contribution toward cost of attendance from work earnings or other resources.

(iv) For dependent students with an annual household income exceeding one hundred thousand dollars (\$100,000), 33 percent of the parents' contribution from adjusted available income, as determined using the federal methodology established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1087 mm et seq.), and applicable rules and regulations adopted by the Commission.

The proposed emergency regulations were developed by Commission staff to address the required policies, processes, and procedures necessary to administer the MCS Program on behalf of undergraduate students. The regulations would primarily apply to college financial aid administrators. MCS is currently only offered at the University of California (UC), California State Universities (CSU), and select California Community Colleges (CCC) that offer a baccalaureate program.

The proposed regulations were developed to implement the Commission's MCS Program and to satisfy these recent amendments to the Education Code. The Commission carried out a search of existing regulations and has determined that the proposed regulations are not inconsistent or incompatible with any existing State regulations.

OTHER MATTERS PRESCRIBED BY STATUTE

No other matters prescribed by statute are applicable to the Commission or to any specific regulation or class of regulations.

LOCAL MANDATE

The Commission has determined that the proposed emergency regulations do not impose a mandate on local entities. The regulations would only apply to public higher education institutions to implement the MCS Program. Participation in the program for public higher education institutions is voluntary. Thus, the Commission has determined that the proposed emergency regulations do not impose a mandate on local entities.

FEDERAL MANDATE

There are no comparable provisions of federal law related to this proposal. The regulation would only apply in California and specifically to implement the MCS Program. The regulations would neither affect nor conflict with any federal regulations or federal education programs.

BENEFIT TO THE STATE

The MCS Program continues to benefit the State, and citizens of California, by reducing students' total cost of attendance, increase California resident undergraduate enrollment, and support college affordability at California's postsecondary education systems. The proposed regulations, will in particular, benefit the State's higher education institutions by clarifying how program funds should be processed and administered.

ESTIMATE OF COST OR SAVINGS

The Commission has determined that the proposed emergency regulations do not impose any additional costs or savings to any State agency, any cost to any local agency or school district that is required to be reimbursed under Government Code section 17500 et seq., any other non- discretionary cost or savings to any local agency, or any cost or savings in federal funding to the State.

NONDUPLICATION

The Commission attempts to avoid unnecessary duplication of statutory language in proposed regulations. However, in some instances duplication is necessary to provide clarity and consistency regarding the requirements and procedures for participation in the program. Where it occurs, such duplication may assist interested parties by encapsulating program requirements and procedures in one place.

RELIED ON DOCUMENTS

No technical documents or studies were relied upon in support of the Commission's determination of the necessity of emergency regulations for the MCS Program.

CONTACT PERSONS

Inquiries concerning the proposed adoption of the regulations and written comments may be directed to:

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WEBSITE ACCESS

Materials regarding this proposal can be viewed and downloaded from the Commission's Web site at <https://www.csac.ca.gov/proposed-regulations-rulemaking-documents>.

