

Item 8

(Action Item)

Consideration to approve two extensions for the emergency regulations of the Middle Class Scholarship (MCS) Program and to initiate permanent rulemaking process

SUMMARY:

This item outlines the proposed steps to extend the emergency regulations for the Middle Class Scholarship (MCS) Program and the process to initiate the regular rulemaking process. Included are separate requests for two extensions of the emergency regulations and accompanying documents. California Student Aid Commission staff are also seeking authorization to initiate the regulatory process for the adoption of permanent regulations.

RECOMMENDATION:

Staff recommends the Commission authorize staff to request two 90-day extensions of the emergency regulations for the Middle Class Scholarship (MCS) Program and to initiate the permanent rulemaking process.

BACKGROUND:

At the March 7, 2024, Commission Meeting, the Commission approved emergency regulations for the Middle Class Scholarship Program and authorized staff to complete the emergency regulatory process. The Office of Administrative Law (OAL) subsequently approved the emergency rulemaking package. The emergency regulations were formally endorsed by the Secretary of State and became effective on March 21, 2024.

Pursuant to Government Code Section 11346.1(e), Emergency regulations are effective for 180 days, during which time the Commission may pursue permanent rulemaking to ensure that these regulations remain in effect for the duration of the program. The end of the 180 effective period of the MCS emergency regulations is September 18, 2024. If the Commission is unable to complete the permanent rulemaking within 180 days, the Commission may request up to two 90-day extensions.

The first 90-day extension will extend the emergency regulations from September 18, 2024, until December 17, 2024. The second 90-day extension would begin December 17, 2024, and extend until March 17, 2025. Staff are requesting authorization from the Commission to seek two 90-day extensions so that the emergency regulations can remain in effect while staff completes the permanent regulation process.

California Student Aid Commission

In addition to the extensions, the staff is requesting authority to begin the permanent rulemaking process. This will include the development of the proposed final text, including amendments based on issues identified since the adoption of the emergency regulations and the Budget Act of 2024, the Initial Statement of Reasons, the STD 399 Fiscal Impact Statement, and the Notice of Proposed Regulatory Action. In addition, Staff have also been working on fulfilling the requirement for permanent regulation. Staff will reach out to participating institutions and students for their feedback. Staff will prepare an economic impact also known as Standardized Regulatory Impact Assessment (SRIA) to the Department of Finance for Major Regulation due to the regulation exceeding fifty million dollars (\$50,000,000). Lastly, staff is working on extending the emergency regulation to remain effective for the duration of the program.

The rulemaking process requires, at a minimum, a 45-day public comment period. After the initial 45-day public comment period, the Commission may decide to amend its initial proposal either in response to public comments received or on its own initiative. Depending on whether the change is non-substantial or substantial, an additional comment period of either 15-days or 45-days may be required. The Commission must summarize and respond in the rulemaking file to timely comments that are directed at the proposal or at the procedures followed by the Commission during this process. With each comment, the Commission must either (1) explain how it has amended the proposal to accommodate the comment, or (2) explain the reasons for making no change to the proposal. The summary and response to comments are included in the Final Statement of Reasons that is submitted to OAL.

Once the complete rulemaking file is submitted to OAL, OAL has 30 working days to conduct its review. OAL must review the rulemaking record to determine whether it demonstrates that the Commission satisfied the procedural requirements of the APA and complied with the appropriate legal standards. Once OAL has completed its review, and assuming the Commission has met its obligations, OAL files the regulation with the Secretary of State and the regulations become effective.

Staff recommends the Commission approve two 90-days extensions at this time so that emergency regulations can remain in place for an additional 180 days, if necessary, without returning to the Commission for further approvals, and for staff to initiate the permanent rulemaking process.

RESPONSIBLE PERSON(S):

Tae Kang, Deputy Director
Program Administration and Services Division

Edmundo Aguilar, Acting General Counsel
Executive Office

California Student Aid Commission

ATTACHMENT(S):

OAL Regular Rulemaking Process
OAL Emergency Rulemaking Process
Education Code Section 70020 et seq.
Text of Emergency Regulations
Resolution for MCS Extensions