Amend 2 Cal. Code Regs. Section 18438.2 as follows:


(a) For purposes of Government Code Section 84308, a “proceeding involving a license, permit or other entitlement for use” means any proceeding to grant, deny, revoke, restrict, or modify a license, permit or other entitlement for use that does not solely involve purely ministerial decisions and is:

(1) Applied for by the party;

(2) Formally or informally requested by the party; or

(3) A contract between the agency and the party or a franchise granted by the agency to the party, other than a contract that is competitively bid, a labor contract, or a personal employment contract. For purposes of this provision:

(A) A “labor contract” is a contract or agreement reached through collective bargaining or with a representative group regarding the salary, benefits, or terms and conditions under an employment or retirement policy for employees or retirees, including a project labor agreement entered under Public Contract Code Section 2500.

(B) A “personal employment contract” is a contract for employment, including the terms and conditions of employment, between the agency and an agency employee.

(C) Except as provided in subdivision (a)(3)(A), a contract between the agency and an independent contractor is neither a labor agreement nor personal employment contract.

(b) A proceeding involving a license, permit or other entitlement for use is “pending before” an agency:

(1) When the application has been filed, the proceeding has been commenced, or the issue has otherwise been submitted to the jurisdiction of an agency for its determination or other action.
(2) It is the type of proceeding where the officers of the agency are required by law to make a decision, or the matter has been otherwise submitted to the officers of the agency for their decision; and

(3) The decision of the officer or officers with respect to the proceeding will not be purely ministerial.

[OPTION 1] (b) “Pending.” A proceeding involving a license, permit, or other entitlement for use has commenced and is pending only when:

(1) The decision is before the officer for the officer’s consideration. If the officer is a member of a governing body, this includes any item placed on the agenda for discussion or decision at a public meeting of the body; or

(2) It is reasonably foreseeable the decision will come before the officer in the officer’s decisionmaking capacity and the officer knows or has reason to know:

(A) That an application has been filed; or

(B) The issue is otherwise within the jurisdiction of the agency for its determination.

[OPTION 2] (b) “Pending.” A proceeding involving a license, permit, or other entitlement for use has commenced and is pending only when:

(1) The application has been filed; or

(2) The issue is otherwise within the jurisdiction of the agency for its determination or other action.