

TEXT OF REGULATIONS

CALIFORNIA CODE OF REGULATIONS

Title 4, Division 15, Article 2

2004 and 2009 State Charter School Facilities Incentive Grants Programs

Section 10176. Definitions.

For the purposes of this article, the words and phrases defined in section 17078.52 of the Education Code shall have the same meaning as described therein. In addition, the following words and phrases shall have the meaning as described below:

- (a) “Academic Performance Index Growth” shall mean the Growth API summarizing a school’s performance on the Standardized Testing and Report Program and California High School Exit Examination tests, as reported by the California Department of Education.
- (b) “Adequate Yearly Progress” shall mean the AYP criteria required under the No Child Left Behind Act of 2001 for identifying schools that are making adequate yearly progress.
- (c) “Applicant” shall mean the charter school or educational management organization applying on behalf of a charter school for a grant under this article.
- (d) “Application” shall mean a completed application (Form CSFA 05-01, rev. 2009), incorporated herein by reference, as defined and developed by the Authority and available on its website, and all other documents required to be submitted to the Authority.
- (e) “CBEDS Report” means the enrollment information provided through the California Basic Educational Data System (CBEDS) to the California Department of Education.
- (f) “Charter School” shall mean a school meeting the definition of a charter school in Education Code section 47600, et seq. and also meeting the federal definition of charter school as defined in section 5210(1) of the Elementary and Secondary Education Act of 1965 (20 USCA section 7221(i)), as amended by the No Child Left Behind Act of 2001.
- (g) “Chartering Authority” shall mean the governing board of the school district, or county board of education, or the State Board of Education, that granted a school’s petition to become a charter school pursuant to Education Code section 47605.
- (h) “Classroom-Based Instruction” shall have the meaning set forth in Education Code section 47612.5(e)(1).
- (i) “Free and Reduced Lunch” means the Free/Reduced Percentage as collected by the California Department of Education (CDE), and posted on the CDE website.
- (j) “Grantee” means the California School Finance Authority, which will serve as the administrator of the grant and will make final award and disbursement decisions.
- (k) “Locale Code” means a categorical code that the U.S. Department of Education has designated to identify the population density associated with a school’s physical location. Locale codes are derived by matching a school’s physical location represented by an address with U.S. Census Bureau data.
- (l) “Low-income” shall refer to the percentage of pupils deemed to be eligible for free/reduced meals as identified in the Free and Reduced Price meals data for the school on file at the California Department of Education.
- (m) “National Center of Education Statistics” means the primary entity within the U.S. Department of Education responsible for collecting and analyzing data related to education.
- ~~(n)~~ “New Construction Eligibility” means the result of the calculation determined in Education Code sections 17071.75 and 17071.76.

- ~~(m)~~(o) “Nonprofit Entity” means an entity that is organized and operated for purposes of not making a profit under the provisions of the Internal Revenue Code section 501(c)(3), or is organized and operated by a nonprofit public benefit corporation, pursuant to State Corporations Code, Title 1, Division 2, Part 2, section 5110, et seq.
- ~~(n)~~(p) “Program” means the 2009 State Charter School Facilities Incentive Grants Program (CFDA #84.282D).
- (q) “Proposition 39 pro-rata payment” means the pro-rata share payment that a charter school makes for use of a district-held property pursuant to Education Code section 47614(b)(1).
- ~~(o)~~(r) “Subgrantee” means an Applicant awarded grant funds on behalf of a charter school.

Note: Authority cited: Sections 17179 and 17180, Education Code.

Reference: Sections 17078.52, 17180, 47605, and 47612.5, Education Code.

Section 10177. Eligible Applicant.

Any Applicant shall be eligible to apply for a grant if all of the following conditions are met:

- (a) An approved charter has been awarded and is in place and current at the time of application, and without interruption throughout the application review and approval process.
- (b) The charter school is in good standing with its chartering authority and is in compliance with the terms of its charter at the time of application submission and without interruption throughout the term of the grant. The Authority will rely on information from the chartering authority regarding the school’s good standing and compliance with the terms of its charter. Charter schools may appeal any response by the chartering authority’s staff directly to the chartering authority’s governing board. It shall be the charter school’s responsibility, and not the Authority’s, to ensure that the good standing and compliance response letter is received by the stated deadline.
- (c) The charter school has completed at least one school year of instructional operations under its current County-District-School (CDS) Code and charter number issued by the California Department of Education.
- (d) The charter school is not a current subgrantee pursuant to the 2004 State Charter School Facilities Incentive Grants Program (Rounds 1 – 5) and has not received an award pursuant to the 2009 Program (Rounds 6 – 10).
- (e) At least eighty percent (80%) of the instructional time offered by the charter school shall be at the school site, and the charter school shall attain an average daily attendance rate of at least eighty percent (80%) based on the school’s most recent CBEDS report.
- (f) The charter school is established pursuant to Education Code section 47600, et seq., and also meets the federal definition of charter school as defined in section 5210(1) of the Elementary and Secondary Education Act of 1965 (20 USCA section 7221(i)), as amended by the No Child Left Behind Act of 2001.
- (g) The charter school admits students by lottery in the event more students want to attend the school than the school can accommodate.
- (h) The charter school is able to demonstrate costs are eligible pursuant to Section 10178.

Note: Authority cited: Sections 17179 and 17180, Education Code.

Reference: Sections 17078.52 and 17180, Education Code.

Section 10178. Eligible Costs.

- (a) Grant funds may be applied toward a charter school’s costs of one of the following two options:

- (1) ~~rent, and lease, mortgage, and debt service, and/or Proposition 39 pro-rata payments for existing or new facilities; or~~
- (2) ~~mortgage and debt service payments for existing or new facilities; or~~
- (3) ~~purchase, acquisition, design, construction, and/or renovation of a facility.~~
- (b) Grant funds must be used to pay current and future facilities costs, for up to a three-year period. Awards may not be used to reimburse a charter school for costs incurred prior to the date the grant is awarded. ~~Awards may not be used toward the same debt or project (purchase/construction/ renovation) related to a project designated in a prior grant award.~~ In addition to documented evidence of ~~an existing lease, rent, mortgage or debt obligation~~ annual ongoing costs associated with a charter school facility, the Authority reserves the right to evaluate prior year's facilities costs to determine eligibility for the current funding round.
- (c) Grant funds may not be applied toward a school district's costs of providing a charter school with a facility.
- (d) Grant funds may not be used to: 1) supplement a New Construction project funded through the Charter School Facilities Program; 2) make Charter School Facilities Program payments to the State; or 3) satisfy a Charter School Facilities Program recipient's local matching share.
- (e) Grant funds must be expended and liquidated within the guidelines of this article and the State Charter School Facilities Incentive Grants Program.

Note: Authority cited: Sections 17179 and 17180, Education Code.
 Reference: Section 17180, Education Code.

Section 10182. Evaluation Criteria.

Preference points will be calculated for all eligible applications. An application shall receive preference points based on the total of (a), (b), (c), (d), (e), and (f), up to a maximum of ~~160~~ 150 points, as follows:

- (a) Low Income: Up to 60 points based on the percentage of pupils at the charter school meeting the definition of low-income. Preference points assigned shall be based on data collected and posted by the California Department of Education on its website. The following sliding scale will be used to determine the number of preference points:

Percentage Receiving Free/Reduced Lunch	Preference Points Assigned
NA or unestablished	0
1-15%	2
16-25%	4
26-30%	8
31-35%	10
36-40%	14
41-45%	18
46-50%	22
51-55%	26
56-60%	28
61-65%	30
66-70%	34
71-75%	38
76-80%	42
81-85%	46
86-87%	50
88-89%	54
90%	55
91%	55.5
92%	56
93%	56.5
94%	57
95%	57.5
96%	58
97%	58.5
98%	59
99%	59.5
100%	60

(b) ~~Overcrowded School District: Up to 20 points if the charter school qualifies as overcrowded through either of the following two options. The charter school may only receive overcrowding points pursuant to subsection (b)(1) or subsection (b)(2). The charter school may not receive points from both subsection (b)(1) and subsection (b)(2), or any combination thereof. If the charter school is eligible for overcrowding points under both subsections, preference points shall be awarded based on the greater of subsection (b)(1) or subsection (b)(2).~~

(1) ~~Overcrowded School Site: If the applicant charter school is physically located within three miles the driving distance of any public school as designated in the table below for which the public school is either 1) eligible for funding under the Overcrowding Relief Grant based on the current list qualified by the most recent current CBEDS, or 2) meets the criteria for the Critically Overcrowded School program with based on the most current CBEDS, as identified for either program by the California Department of Education, the applicant will receive 10 preference points. The driving distance will be determined by the Locale Code assigned by the U.S. Department of Education, and~~

found on the National Center for Education Statistics (NCES) website. If no data is available on the NCES website for the applicant charter school, no points will be awarded under this category. The following table will be used to determine the maximum driving distance to receive preference points in this category:

<u>Locale Code</u>	<u>Maximum Driving Distance in Miles</u>
<u>City/Urban</u>	<u>3</u>
<u>Suburban</u>	<u>10</u>
<u>Town/Rural</u>	<u>15</u>

<u>Locale Code</u>	<u>Maximum Driving Distance in Miles</u>
<u>City, Large</u>	<u>3</u>
<u>City, Midsize</u>	<u>3</u>
<u>City, Small</u>	<u>3</u>
<u>Suburb, Large</u>	<u>5</u>
<u>Suburb, Midsize</u>	<u>5</u>
<u>Suburb, Small</u>	<u>5</u>
<u>Town, Fringe</u>	<u>40</u>
<u>Town, Distant</u>	<u>40</u>
<u>Town, Remote</u>	<u>40</u>
<u>Rural, Fringe</u>	<u>40</u>
<u>Rural, Distant</u>	<u>40</u>
<u>Rural, Remote</u>	<u>40</u>

(2) ~~Overcrowded School District: The school district where the charter school is physically located is determined to be overcrowded. The Percentage Overcrowded is determined by dividing the district's remaining New Construction Eligibility by its current enrollment (round up) and multiplying the product by 100. Charter schools located in districts that do not have current new construction eligibility established by the Office of Public School Construction, Department of General Services, will not be assigned any points in this category. The following sliding scale will be used to determine the number of preference points:~~

Percentage Overcrowded	Preference Points Assigned
Unestablished	0
1-2%	2
3-5%	4
6-10%	6
11-15%	8
16-20%	10
21-25%	11
26-30%	12
31-35%	13
36-40%	14
41-45%	15

46%	16
47%	17
48%	18
49%	19
50% and above	20

- (c) Nonprofit Entity: If the charter school or entity operating the charter school meets the definition of a nonprofit entity as defined in this article, the applicant will receive 20 preference points.
- (d) Student Performance: If the charter school meets its Academic Performance Index (API) Growth Target for either Schoolwide or Subgroups for the most recent year, the applicant will receive 20 preference points. Preference points will be based on data provided by the California Department of Education. Staff will rely on data posted on CDE's website when assigning points in this category.
- (e) School Choice: If the charter school is providing a school choice option in a community of greatest need, it may receive up to 20 points through the following two opportunities. The charter school may receive 10 points pursuant to subsection (e)(1) and 10 preference points pursuant to subsection (e)(2). The charter school may receive 10 points from each subsection (e)(1) and subsection (e)(2), or from either of the subsections, for a maximum of 20 preference points.
- (1) Adequate Yearly Progress: If the applicant charter school is physically located within ~~three miles~~ the driving distance as found in the table in subsection (b) of any traditional public school (serving the same grade levels as the applicant charter school) for which CDE has calculated AYP criteria and indicates the traditional school did not meet all AYP criteria for the most recent year, and the applicant charter school did meet all AYP criteria for the most recent year, the applicant charter school will receive 10 preference points. Verification of AYP data shall be based on data ~~posted~~ provided by the California Department of Education ~~on its website~~. The driving distance will be determined by the Locale Code assigned by the U.S. Department of Education, and found on the NCES website. If no data is available on the NCES website for the applicant charter school, no points will be awarded under this category.
- (2) Academic Performance Index Growth Target: If the applicant charter school is physically located within ~~three miles~~ the driving distance as found in the table in subsection (b) of any traditional public school (serving the same grade levels as the applicant charter school) for which the API Growth Target has been calculated, however, the traditional school did not meet its API Growth Target for Both Schoolwide and Subgroups for the most recent year, and the applicant charter school did meet its API Growth Target for Both Schoolwide and Subgroups for the most recent year, the applicant charter school will receive 10 preference points. Verification of API Growth Target data shall be based on data ~~provided~~ posted by the California Department of Education ~~on its website~~. The driving distance will be determined by the Locale Code assigned by the U.S. Department of Education, and found on the NCES website. If no data is available on the NCES website for the applicant charter school, no points will be awarded under this category.
- (f) First-Time Award Competitive Priority: If an applicant charter school has not received an award under the 2004 State Charter School Facilities Incentive Grants Program (Rounds 1-5), the applicant charter school shall receive an additional 20 preference points.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Sections 17078.56 and 17180, Education Code.

Section 10188. Release of Funds.

- (a) No grant funds shall be released until the grant agreement and supporting attachments have been provided and it has been determined by the Executive Director that the charter school continuously meets the requirements of the grant program.
- (b) Applicants will be afforded two options for disbursement of grant funds, depending on the use of the grant award. Under the first option, charter schools shall apply monthly disbursements of grant funds toward the monthly costs of rent, lease, mortgage or debt service payments over a three-year period, if such costs are sufficiently documented to the Executive Director's satisfaction. Under the second disbursement option, charter schools have the choice of applying grant funds (equal to a three-year award) toward the costs of acquiring a facility or land and constructing and/or renovating a facility, if such costs are sufficiently documented to the Executive Director's satisfaction. Charter schools requesting the second option will be required to demonstrate a commitment toward the acquisition of a facility at the time of application. Such commitment may include, but not be limited to, verification of the charter school's possession of an option to purchase land and/or detailed project plans and drawings.
- (c) Grant fund awards shall be released on the dates listed in the grant agreement.
- (d) All disbursements of Grant fund awards shall be processed according to the schedule established by the Authority.
- (e) All subgrantees shall submit documentation of continued eligibility on a semi-annual basis during the months of February and August.
 - (1) Documentation of continued eligibility shall include, but not be limited to, copies of the current charter and current leases(s); verification of any changes to the subgrantee's name, project, project location, or facility costs; executed amendments to the grant agreement, when appropriate; and verification and/or status of pending or threatened legal issues or investigations.
 - (2) Documentation of continued eligibility shall require verification the subgrantee charter school is continuously in good standing with its chartering authority and continuously in compliance with the terms of its charter without interruption throughout the term of the grant. The Authority will rely on information from the chartering authority regarding the school's good standing and compliance with the terms of its charter. Charter schools may appeal any response by the chartering authority's staff directly to the chartering authority's governing board. It shall be the charter school's responsibility, and not the Authority's, to ensure that the good standing and compliance response letter is received by the stated deadline.
 - (3) Documentation of continued eligibility must be received and approved by the Authority on or before February 28th and August 31st of each year in order for the Authority to release a disbursement.
 - (4) Failure to meet the February 28th or August 31st deadline shall result in the subgrantee being declared ineligible to receive the first monthly disbursement of the respective semi-annual disbursement period. The forfeited funds cannot be disbursed retroactively and will immediately revert back to the Authority.
 - (5) If the required documentation is not received and approved by the Authority within 30 calendar days following the February 28th and August 31st deadline, the subgrantee shall be declared ineligible to receive the remaining five monthly disbursements for the

respective semi-annual disbursement period. The forfeited funds cannot be distributed retroactively and will immediately revert back to the Authority.

- (6) Failure to meet the semi-annual deadlines consecutively and provide documentation within 30 calendar days from each deadline shall result in the subgrantee being declared ineligible to receive all remaining disbursements under the grant program. The forfeited funds will immediately revert back to the Authority.
- (f) Subgrantees applying grant funds toward the costs of acquiring land and purchasing, constructing, or renovating a facility must also provide all documentation verifying eligible costs annually, as described in Section 10185.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Section 17180, Education Code.