

## TEXT OF REGULATIONS

### CALIFORNIA CODE OF REGULATIONS

#### Title 4, Division 15 California School Finance Authority

#### Article 1.5 Charter School Facility Grant Program

##### § 10170.2. Definitions.

For the purposes of this article, the following words and phrases shall have the meaning as described below:

- (a) "Applicant" for a grant under this article shall mean one of the following: (1) a Charter School, formed as a single, non-profit entity; (2) a educational management organization, or charter management organization applying on behalf of a Charter School ~~for a grant under this article; or (3) a Chartering Authority applying on behalf of a Charter School.~~
- (b) "Application" shall mean a completed Charter School Facility Grant Program Online Application (CSFA Form 740-01; revised July 2018), incorporated herein by reference, as developed by the Authority, and described in Section 10170.6.
- (c) "Authority" shall mean the California School Finance Authority.
- (d) "Average Daily Attendance" (ADA) shall mean the unit of attendance, as reported by the Department for the second period of the school year.
- (e) "Average Daily Attendance Cap" (ADA Cap) shall mean for the 2017-18 Fiscal Year, an amount equal to one thousand one hundred seventeen dollars (\$1,117) per unit of ADA. Commencing with the 2018-19 Fiscal Year and moving forward, the amount of funding provided per unit of ADA in the preceding Fiscal Year, as adjusted by the Cost Of Living Adjustment Index or the amount specified in the current Budget Act.
- (f) "Chartering Authority" shall mean the school district, county board of education, or State Board of Education that granted a Charter School's petition to become a Charter School pursuant to Education Code Section 47605.
- (g) "Charter School" shall mean a school established and operating pursuant to the Charter Schools Act of 1992 (Education Code Section 47600, et seq.). Except where the defined term First Year Charter School is specifically used, Charter School shall also be meant to include schools that otherwise meet the definition of First Year Charter School.
- (h) "Cost Of Living Adjustment Index" (COLA Index) shall mean a percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior Fiscal Year. This percentage change shall be determined using the latest data available as of May 10 of the preceding Fiscal Year compared with the annual average value of the same deflator for the 12-month period ending in the third quarter of the second preceding Fiscal Year, using the latest data available as of May 10 of the preceding Fiscal Year, as reported by the Department of Finance.
- (i) "Department" shall mean the California Department of Education.
- (j) "Estimated Annual Entitlement" shall mean the estimated grant amount to which a Charter School is entitled as calculated pursuant to Section 10170.7 prior to the first apportionment.
- (k) "Facility Invoice Expenditure Report" shall mean the annual Charter School Facility Grant Program Facility Invoice Expenditure Report (CSFA Form 740-02; revised October 2017) herein incorporated by reference.
- (l) "Fair Market Rent" shall the mean amount of money a property would rent or lease for if it

was available at the time the appraisal was conducted.

- (m) "Final Fiscal Year Entitlement" shall mean the final calculated grant amount to which a Grantee is entitled based on the calculation prescribed in Section 10170.8.
- (n) "First Year Charter School" shall mean a school that anticipates beginning operations as a Charter School in the Fiscal Year for which it submits an Application and was not open the previous school year.
- (o) "Fiscal Year" shall mean the school year for which an Application for grant funds is submitted.
- (p) "Free or Reduced-Price Meal Eligibility" or "FRPM Eligibility" shall mean the percentage of enrolled students in grades Kindergarten through 12th grade or students ages 5 through 17, whichever is greater, eligible for free or reduced-price meals, as reported by the Department and certified through the annual Fall 1 data submission to the California Longitudinal Pupil Achievement Data System (CALPADS).
- (q) "Good Standing" shall mean the Applicant satisfies all three of the following conditions: 1) compliance with the terms of its Charter Agreement, 2) no pending or outstanding Notices of Violation described in Education Code Section 47607(g), and 3) no pending or outstanding Notices of Intent to Revoke described in Education Code Section 47607(h). The Authority will rely on information prepared by the Chartering Authority and the submission of a Good Standing Confirmation Form (GSCF) (CSFA Form 1119), incorporated herein by reference.
- (r) "Grantee" shall mean a Charter School determined by the Authority to be eligible for a grant.
- (s) "Independent Appraisal" shall mean a value assessment of rent and lease costs for a Charter School facility completed and signed by a Certified Real Estate Appraiser or Certified General Appraiser licensed by the California Department of Real Estate Appraisers who confirms that the appraisal is in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP).
- (t) "New Facility Agreement" shall mean either ~~(1) a rental or~~ lease agreement for a facility not previously occupied by the Charter School; ~~(2) a rental or~~ lease agreement that includes ~~additional square footage not included~~ a change in the leased space as compared to the previous year's lease; ~~(3) a modification of a prior lease agreement;~~ ~~or~~ ~~3~~ with a bona fide change in lessor; or ~~(4) a new agreement for existing facilities or square footage when the existing lease is up for renewal or expires.~~ agreement has expired. Options to renew contained in existing ~~rent or~~ lease agreements on file with the Authority executed by the ~~Charter School~~ Applicant and the lessor will not be considered a New Facility Agreement.
- (u) "Prior Year" shall mean the school year prior to the school year for which an Application is submitted.
- (v) "School Official" shall mean any designated board member, officer, or employee listed in the Applicant's approved conflict of interest code and required to submit a Statement of Economic Interests (Form 700) as prescribed by the California Political Reform Act (Title 9 Section 87200 of the California Code of Regulations).

Note: Authority cited: Section 47614.5, Education Code. Reference: Sections 47614.5, 47600 et seq. and 47605, Education Code.

#### **§ 10170.5. Application Submission.**

- (a) Application for grant funds shall be made on an online form (CSFA Form 740-01) prescribed by the Authority, and will be available as described below. The Authority will accept Applications during the Application periods described. Applications may not be submitted

by email or facsimile.

(1) The Initial Application period for each grant year shall be made available by the Authority by 9:00 a.m. on April 10th. Application deadlines shall be 5:00 p.m. on August 31 of the same year. The Authority shall make Application materials available on the Authority's website and notify the public of the Application release and deadline dates.

(2) The Second Application period for each grant year shall be made available by the Authority on September 10 of each Fiscal Year. The Application deadline shall be 5:00 p.m. on October 15 of each Fiscal Year. The Authority shall make Application materials available on the Authority's website and notify the public of the Application release date. Under the following circumstances, an Application may be submitted during the Second Application Period:

(A) A Charter School relocates from a facility that was ineligible for a grant award to a facility that is eligible, and the Application includes a description of the change in facility circumstances; or

(B) A First Year Charter School.

~~(3) Late Applications and late Facility Invoice Expenditure Reports are ineligible for Program funds and are not eligible for the appeal process described in Section 10170.10.~~

(4)(3) If any of the dates listed in Section 10170.5(a)(1) and (2) fall on a Saturday, Sunday, or a holiday listed in Education Code Section 45203, the new date will be the following business day. The Authority shall notify the public of dates subject to this subsection.

(b) The Authority's review and evaluation of an Application for purposes of calculating the Estimated Annual Entitlement shall be based on the information contained in and submitted with the Application, and supporting information obtained directly from other state and local agencies.

(c) Organizations operating more than one Charter School, as identified by separate County District School (CDS) codes, must submit a separate Application for each Charter School with a separate CDS code for which a grant award is sought. Organizations operating more than one facility location under the same CDS code must combine all facilities operating under that CDS code in one Application.

Note: Authority cited: Section 47614.5, Education Code. Reference: Section 47614.5, Education Code.

#### **§ 10170.6. Content of Application.**

Completed Applications and all attachments shall be submitted to the Authority via the online Application form (CSFA Form 740-01) and shall include all of the following items.

(a) Application. The Application shall include identifying information, a completed Legal Status Questionnaire, and signed certification that the data and information reported is true and correct and the charter will continue to comply with state and federal laws.

(b) Copy of current charter agreement and verification of Authorizing Board adoption and expiration date.

(c) Copy of the rent or lease agreement contract, or other documentation, verifying the Charter School's facilities rent or lease costs for the Fiscal Year for which a grant award is requested, and evidence that the rent or lease term matches or exceeds the anticipated grant term. If the Charter School does not have an executed rent or lease agreement for the Fiscal Year, the Applicant shall produce an executed lease or rental agreement for the Prior Year or other documentation sufficient to show the Charter School's actual facilities rent or lease

costs for the Prior Year. If the Charter School does not have a rental or lease agreement for the Fiscal Year or Prior Year, the Applicant shall provide such other evidence to the satisfaction of the Authority, such as a pending lease agreement, that establishes the Applicant's best estimate of such costs for the Fiscal Year.

~~(d)~~ After the Authority has confirmed the Applicant's eligibility and determined one or more of the Applicant's facilities is the subject of a New Facility Agreement, the Authority ~~following~~ will ~~use an~~ be required:

(1) The most recent and complete list of School Officials.

(2) The most recent completed and submitted Form 700 from every School Official listed in subsection (1).

~~(4)~~ (3) An Independent Appraisal, completed within the last three Fiscal Years, that was previously filed with the Authority during a prior Application round. Otherwise, the Authority will request an Independent Appraisal completed within the Fiscal Year. The Appraisal shall be consistent with the USPAP, and at a minimum ~~contain~~ meet the following ~~items~~ requirements:

(A) ~~Use~~ Be prepared by a Certified Real Estate Appraiser or Certified General Appraiser licensed by the California Department of Real Estate Appraisers;

(B) ~~The Appraiser shall not be a Related Party as defined in~~ Comply with Section 10170.14 ~~(a)(3); as an Appraisal is considered a service under this section;~~

(C) The "Client" shall be the ~~Charter School~~ Applicant;

(D) The "Intended User" shall be the California School Finance Authority for Charter School Facility Grant Program eligibility;

(E) Provide a Fair Market Rent Analysis including an explanation that supports the conclusions reached; and

(F) ~~Signed~~ Contain a signed Certification consistent with language found in USPAP.

~~(d)~~ (e) An Applicant requesting reimbursement for Charter School costs associated with remodeling buildings, deferred maintenance, initially installing or extending service systems and other built-in equipment, improving sites and common area maintenance charges shall submit no later than August 31 following the applicable Fiscal Year all of the following:

(1) A description of the work for which the reimbursement is requested, including how it meets one of the categories of eligible work;

(2) A Facility Invoice Expenditure Report, as provided by the Authority, detailing the costs to be reimbursed; and

(3) Applicable contracts for work to be performed to the extent they exist at the time of the Application.

~~(e)~~ (f) An Applicant applying for or on behalf of a First Year Charter School shall submit an Application and the supporting documentation listed in subdivisions (f)(1)-(3), as they are made available. Grant funds will not be disbursed until items (1), (2) and (3) have been received by the Authority.

(1) An approved charter agreement evidencing the First Year Charter School's intention of operating a Charter School during the Fiscal Year for which grant funds are requested. If an approved charter agreement is not available, the Applicant shall submit the charter petition and Application and additional documentation demonstrating its intent to receive charter approval to operate a Charter School during the Fiscal Year for which grant funds are requested;

(2) An executed rental or lease agreement for the Fiscal Year for which grant funds are requested. If an executed rent or lease agreement is not available at the time of Application, the Applicant shall submit an estimate of rent or lease costs for the Fiscal Year; and

(3) A Charter School 20 Day Attendance Report shall be submitted within 20 days of initial California Department of Education Application submission date.

~~(f)~~(g) The Authority shall be entitled to the return of all grant funds from an Applicant if it is determined that the Applicant failed to provide complete and accurate information, or provided misleading information, that resulted in the disbursement of grant funds for which an Applicant is not eligible.

~~(g)~~(h) All requested documentation required to complete the Applicant's eligibility review or award calculation shall be due to the Authority within 60 calendar days of notification. Failure to submit this documentation by the stated deadline will result in Program ineligibility or ineligibility of applicable facility costs described in Section 10170.4(a)(1)-(4).

~~(h)~~(i) The Authority will request completion of the GSCF directly from the Chartering Authority. This form shall be completed and returned only if the Chartering Authority is aware of any outstanding compliance or revocation issues; otherwise, no action is necessary. An Applicant may appeal any response by the Chartering Authority's staff directly to the Chartering Authority's governing board.

(1) Requests for completion of the GSCF will be sent out to the Chartering Authority upon receipt of each Application.

(2) The Authority reserves the right to request completion of an additional GSCF at any time during the Fiscal Year.

Note: Authority cited: Section 47614.5, Education Code. Reference: Section 47614.5, Education Code.

#### § 10170.14. Conflicts of Interest.

~~(a) For purposes of this section, the following definitions shall apply:~~

~~(1) "Affiliate" shall mean a shareholder, partner, member, officer or board member of, or person who directly or indirectly controls, a Corporate Entity.~~

~~(2) "Corporate Entity" shall mean any type of organization or legal entity other than an individual, including a corporation, partnership, limited liability company or unincorporated association.~~

~~(3) "Related Party" shall mean:~~

~~(A) School Official or a spouse, domestic partner, or dependent child of a School Official; or~~

~~(B) A Corporate Entity if a School Official or a spouse, domestic partner, or child of a School Official is an Affiliate of the Corporate Entity, except that a nonprofit Corporate Entity formed exclusively for the purpose of managing or providing support to the Applicant or Charter School or to a group of related charter schools, and any direct or indirect wholly owned subsidiary of any such Corporate Entity, shall not be considered a Related Party.~~

~~(C) "School Official" shall mean a board, member, officer, or employee of an Applicant or the Charter School.~~

(a) Grantees must avoid actual conflicts of interest when applying for or receiving grants from the Authority.

(b) Grant funds may not be used by an Applicant or Charter School to pay for any lease or rental or service agreement with wherein a Related Party, unless all of School Official's Form 700 lists the following conditions are satisfied: associated lessor or service provider .

~~(4) The Related Party, and, in the case of a Corporate Entity, any School Official who is an Affiliate of the Corporate Entity, abstains from voting, or participating in the discussion of the governing board of the Charter School, regarding approval of the lease, rental agreement, or any amendment thereto;~~

~~(5) The Related Party, and, in the case of a Corporate Entity, any School Official who is an Affiliate of the Corporate Entity, abstains from voting, or participating in the discussion of the governing board of the Charter School, regarding the decision to apply for a grant to cover costs associated with the lease or rental agreement, as well as abstaining from participating in the Application for grant funds or administration of the Charter School's receipt of grant funds;~~

~~(6) The Related Party, and, in the case of a Corporate Entity, any School Official who is an Affiliate of the Corporate Entity, discloses its interest in the lease or rental agreement to the governing board of the Charter School;~~

~~(7) The amount of the lease or rent is at or below Fair Market Rent based on an Independent Appraisal paid for by the Applicant or Charter School or the governing board in approving the lease or rental agreement or amendments thereto has made a finding that the agreement is reasonable under the circumstances, and~~

~~(8) The lease or rental agreement is not signed by the Related Party, or in the case of a Corporate Entity, by any School Official who is an Affiliate of the Corporate Entity, on behalf of the Applicant or Charter School.~~

(c) Nothing in this section is intended to ~~supercede~~supersede Government Code Section 1090, the Political Reform Act (commencing with Government Code Section 81000), or any other conflicts of interest laws that may be applicable to the Applicant or Charter School's participation in the program.

Note: Authority cited: Section 47614.5, Education Code. Reference: Section 47614.5, Education Code.