

# **MEMORANDUM**

**Date:** March 13, 2007

**To:** Members, California School Finance Authority

**From:** Katrina M. Johantgen, Executive Director

**Subject:** Approval of Proposed Regulation Text and Initiation of Rulemaking Action for the Charter School Working Capital Program, Resolution 07-06

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## **Background**

The Authority was created in 1985 to provide financing to school districts and community college districts for educational facilities as well as working capital (Education Code sections 17170-17199.5). Since the passage of the Charter School Act of 1992, charter schools have become a viable option for those seeking choice in education, and as of the 2006-07 school year, more than 570 charter schools serve over 180,000 California public school students.

Recently, the Authority's statute was amended to allow charter schools to access financing through the Authority (Walters, statutes of 2006). With cooperative support from the charter school community and capital market participants, the Charter School Working Capital Program is being developed to provide California charter schools with access to relatively low cost financing to relieve temporary cash flow deficits, generally attributable to enrollment growth, in advance of the receipt of certain state and local funding.

## **Discussion**

Proposed program regulations have been developed for the new Charter School Working Capital Program and are attached for the members' consideration. Upon adoption by the members of the proposed language, staff will initiate the rulemaking file and will distribute the Notice and text to interested parties for the 45-day public comment period.

## **Recommendation**

Staff recommends that the California School Finance Authority approve Resolution No. 07-06, Adopting the Regulations for the Charter School Working Capital Program.

## **TEXT OF REGULATIONS**

### **CALIFORNIA CODE OF REGULATIONS**

#### **Title 4, Division 15, Article 1.5 Charter School Working Capital Program**

#### **Section 10165. Purpose**

This Article implements the Charter School Working Capital Program (Program) to provide financing to California charter schools for working capital.

Authority: Sections 17179 and 17180, Education Code.

Reference: Section 17173, 17180 and 17183, Education Code.

#### **Section 10166. Definitions**

For the purposes of this article, the words and phrases defined in sections 17078.52 and 17173 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) “Applicant” means a Californian charter school applying for financing under this article.
- (b) “Application” means a completed application (Form CSFA 07-01), as defined and developed by the Authority and available on its Web site, and all other documents required to be submitted to the Authority.
- (c) “Chartering Authority” means the school district, county office 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.
- (d) “Classroom-Based Instruction” means the definition set forth in Education Code section 47612.5(e)(1).
- (e) “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.; or a governmental entity operating a charter school.
- (f) “Reserves for maintenance or operating expenses” shall include any funds generally used or usable for such purposes whether within the charter school’s general operating fund and accounts or separately held or accounted for. In addition, maintenance or operating expenses shall include any and all costs associated with classroom instructions, administration, financial management, and facilities operations including all personnel, supplies, material, and other goods and services necessary for the operation of the school.
- (g) “Reserves for debt service” shall include any funds generally used or usable for such purposes whether within the charter school’s general operating fund and accounts or separately held or accounted for.

Authority: Sections 17179 and 17180, Education Code.

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

### **Section 10167. Eligible Applicant**

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

- (a) The charter school provides classroom-based instruction.
- (b) The charter school is operated by a non-profit entity.
- (c) An approved charter has been awarded and is in place at the time of application.
- (d) 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 throughout the term of the financing. The Authority reserves the right to contact the chartering authority directly seeking written verification that the school is in good standing and in compliance with the terms of its charter.
- (e) The charter school has completed at least two school years of instructional operations, under its current County-District-School (CDS) Code issued by the California Department of Education.

Authority: Sections 17179 and 17180, Education Code.

Reference: Section 17180 and 17183, Education Code.

### **Section 10168. Evaluation of Applicants**

Applicants to the Program may be subject to the following evaluation criteria:

- (a) The charter school must demonstrate compliance with all federal and state tax requirements.
- (b) The charter school must demonstrate compliance with credit requirements established by the Authority, as modified from time to time.
- (c) The charter school must meet coverage requirements established by the Authority to achieve certain minimum credit rating thresholds.
- (d) The charter school must provide written documentation necessary to evaluate future projections based on historical financial and operational indicators.
- (e) Any other information the Authority deems necessary for the evaluation of a charter school's ability to participate in the Program.

Authority: Sections 17179 and 17180, Education Code

Reference: Section 17180, Education Code

### **Section 10169. Application Submission**

An application for financing shall be made on a form prescribed by the Authority (Form CSFA 07-01, as amended from time to time). An application package for financing shall include one original and two duplicate applications, all supporting documents, and all required fees.

Authority: Sections 17179 and 17180, Education Code.

Reference: Section 17179 and 17180, Education Code.

**Section 10170. Fees**

As a self-sustaining agency, the Authority shall charge fees for reasonable and necessary administrative and program expenses. The following fees shall be applicable:

- (a) Application Fee. A nonrefundable application fee of \$600 shall be paid at the time the formal application for financing is submitted. This portion of the filing fee is nonrefundable but shall be credited against total fees.
- (b) Authority Fee: For purposes of administration and managing the Program, the Authority will charge 2.5% of the amount financed, with a minimum fee of \$2,500 and a maximum fee not to exceed \$7,500. The authority fee is only payable if a transaction is completed.
- (c) Transaction Fee. The Authority may charge and equitably apportion among participating parties its administrative costs and expenses incurred pursuant to this article. This pro-rata fee will be calculated based on the total financing fees attributed to the total financing divided by the amount borrowed by each participant. Such financing fees shall include but not be limited to, bond and disclosure counsel fees, underwriter management fees, financial advisory fees, trustee services fees, as well as printing and other miscellaneous fees. An extraordinary cost attributable to one applicant or a set of applicants may not be apportioned among all participants. The transaction fee is only payable if a transaction is completed. The initial application fee is credited against the administrative fee at the closing of the financing.

Authority: Sections 17179 and 17180, Education Code

Reference: Section 17180(k), Education Code