

MEMORANDUM

Date: December 11, 2014 Staff Summary No. 5

To: Members, California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Resolution No. 14-29 Approving Amendments to the Regulations for the State Charter School Facilities Incentive Grants Program and Authorizing the Rulemaking Process

In 2004, the California School Finance Authority (Authority) applied for and was awarded a \$49.25 million grant from the U.S. Department of Education to assist charter schools that demonstrate the most need with their facilities costs—this includes rent, renovation, or purchase. The per-pupil facilities aid grant was awarded over five years to eligible charter schools based on specific award criteria (rounds 1 to 5). In 2009, the Authority applied for and was awarded a second five-year grant in the amount of approximately \$46 million (rounds 6 to 10), with Round 10 awarded in June 2014. In 2014, the Authority applied for and was awarded a third five-year grant in the amount of approximately \$50 million (rounds 11 to 15). Staff is proposing changes to the regulations that guide the State Charter School Facilities Incentive Grants Program (Program), as described below.

The most significant changes to the regulations are the following: (1) addition of language to address federal regulations to ensure that federal grant funds supplement not supplant State grant funds for charter schools; and (2) addition of language to address the transition to Common Core Standards and implementation of Local Control Accountability Plans (LCAPs) for purposes of the Evaluation Criteria in Section 10182. Additional changes to the regulations address ensuring consistency of regulations with Program practice and needs, as well as clarification of language. To highlight:

- Effective July 1, 2013, the state-funded Charter School Facility Grant Program (SB 740) was transferred to the Authority. To ensure that federal grant funds supplement and do not supplant State grant funds through the Program, the following amendments were made: (1) addition of reference to SB 740 in the definitions; (2) addition of Section 10178(g) under “Eligible Costs,” which states that if the charter school applies for reimbursement under SB 740 for the same fiscal year, it will only be eligible for that portion of costs not reimbursable under SB 740, and that, where a charter school has applied for reimbursement for a specific site for which it has not applied for reimbursement under SB 740, the charter school may be eligible for reimbursement for that site based on meeting the other requirements for “Eligible Costs” at Sections 10178(a)-(f); and (3) changes to the Application Form 05-01, requiring that the Applicant disclose whether it intends to apply for reimbursement under SB 740 for the same fiscal year, a description of the types of costs to be requested under SB 740, the names of the landlords and physical addresses for each lease for which reimbursement is to be requested under SB 740, and the physical addresses of sites for which it intends to request reimbursement for non-lease costs under SB 740.

- Due to the transition to Common Core Standards for academic performance as well as the implementation of LCAPs, the following amendments have been made: (1) reference to LCAPs in the definitions at Section 10176; (2) addition of the phrase “to the extent data is available for all grades” to Section 10182(d) (“School Performance”) and Section 10182(e) (“School Choice”), both under Section 10182 (“Evaluation Criteria”), in order to ensure that these indicators will only be used when data is fully reported by CDE; and (3) addition of Section 10182(g), which provides discretion to the Authority to consider whether the Applicant met its measurable objectives as set forth in its LCAP, in addition to the application of preference points.

Staff notes that, based on its inquiries with CDE’s Assessment and Accountability Unit (AAU), the full reporting of API and AYP under CDE’s Accountability Progress Reporting with the incorporation of Common Core Standards remains uncertain, and is subject to further review by the State Board of Education. However, the AAU is anticipating full implementation by the 2015-16 fiscal year. The changes to the regulations enable the Authority to adapt to this transition. Staff acknowledges that further amendments to the regulations may be needed based on the State Board of Education’s future decisions.

- In order to address general programmatic needs and consistency of regulations with Program practice, multiple changes have been made, including, but not limited to: (1) addition of “CALPADS,” the new system for reporting of student enrollment to CDE, within the definitions at Section 10176; (2) addition of language under Section 10177 (“Eligible Applicant”), indicating that a district-dependent charter school may be considered eligible if the school can demonstrate operational and fiscal autonomy from its authorizing district and that a charter school must be in compliance with other programs administered by the Authority, where applicable; and (3) addition of language under Section 10181 (“Application Submission”), allowing Applicants to submit supporting documentation via CD Rom and flash drive.

The proposed key changes and amendments to the Program regulations are identified below.

10176 – “Definitions”

- “CALPADS” means the enrollment information provided through the California Longitudinal Pupil Achievement Data System (CALPADS) to the California Department of Education.
- “Local Control Accountability Plan” or “LCAP” means the plan required pursuant to Education Code, Sections 52060 – 52077.
- Change in the definition of “Non-profit Entity” to: “an entity that is organized and operated for an exempt purpose as set forth in Internal Revenue Code section 501(c)(3) and whose net earnings may not inure to the benefit of any private shareholder or individual, 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.”

Section 10177 – “Eligible Applicant”

- Addition of subdivision (j), which states the following as one of the criterion for an “Eligible Applicant”: “The charter school is in compliance with all other programs administered by the Authority, where applicable. Where an educational management organization (EMO) has submitted an application on behalf of a charter school, the compliance of affiliate charter schools within the EMO is not a requirement.”

Section 10178 – “Eligible Costs”

- Addition of subdivision (g), which states the following: “If a charter school applies for both the Program and the Charter School Facility Grant Program for reimbursement of expenses incurred during the same fiscal year, the charter school shall only be eligible for the portion of expenses that is not reimbursable under the Charter School Facility Grant Program. Where a charter school has multiple school sites, and the charter school applies for reimbursement for costs associated with a site for which reimbursement is not requested under the Charter School Facility Grant Program, the charter school shall be eligible for such costs provided that they conform to the requirements set forth in Sections 10178 (a) – (f).”

Section 10182 – “Evaluation Criteria”

- Revision of subdivision (d) (“Student Performance”) as follows: “If the charter school meets its Academic Performance Index (API) Growth Target for either Schoolwide or Subgroups for the most recent year, to the extent data is available for all grades, the applicant will receive 20 preference points. Preference points will be based on data provided by the California Department of Education.”
- Revision of subdivision (e) (“School Choice”) as follows: 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), to the extent data is available for all grades.

Recommendation: Staff recommends that the members adopt Resolution 14-29 approving amendments to the State Charter Facilities Incentive Grants Program regulations. If approved, the Executive Director will initiate the rulemaking file for processing by the Office of Administrative Law, and will distribute the proposed changes to interested parties for public comment.