

MEMORANDUM

Date: October 23 2015 **Staff Summary No. 10**

To: Members, California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Resolution No. 15-33 Approving New Regulations for the Charter School Facility Grant Program and Authorizing the Regular Rulemaking Process

Pursuant to AB 86 (Chapter 48, Statutes of 2013), the administration of the Charter School Facility Grant Program (Program) was transferred to the California School Finance Authority (Authority) commencing with the 2013-14 fiscal year. The Program provides assistance with facilities rent and lease costs as well as specific facilities-related maintenance costs for pupils in charter schools and requires the Authority to allocate facilities grants to eligible charter schools.

Since the transfer of the program and adoption of permanent regulations in August 2014, eligibility for the program was impacted by passage of AB 948 in January 2015 and AB 104 in June 2015. AB 948 expanded Program eligibility in any year in which additional funds remain by reducing the Free or Reduced-Price Meal Eligibility (FRPM) threshold one-percentage point at a time, but in no case below sixty percent (60%). At its March 11, 2015 board meeting, the Authority board adopted emergency regulations to address this change as well as other proposed changes. AB 104 expanded eligibility by reducing the FRPM Eligibility threshold to fifty-five percent (55%). At its September 9, 2015 board meeting, the Authority board adopted amended emergency regulations (under an emergency readopt) to address this change.

The proposed permanent regulations include the changes applied during the Emergency Rulemaking Action as well as additional changes based on updates from Authority staff, counsel and current stakeholders presented and approved by the Executive Director during the 2015 calendar year. The current staff summary addresses the additional proposed changes since the Emergency Rulemaking Action (and emergency readopt) (reference “the previously board-approved changes from March 11, 2015 and September 9, 2015 board meetings). The completion of the Certificate of Compliance under the Regular Rulemaking Action is required to convert the emergency regulations to permanent regulations, and to adopt the additional proposed changes into amended permanent regulations. The Authority intends to proceed with the Regular Rulemaking Action and Certificate of Compliance upon the Authority Board’s approval of the proposed amended permanent regulations.

Section 10170.3 Eligible Applicant

The amended Section requires a charter school to be in good standing with its chartering authority and in compliance with the terms of its charter in order to participate in the program. The change to this Section is necessary to provide program consistency with the Incentives grant program, as schools are eligible to participate in both programs.

Section 10170.4 Eligible Costs

The amended Section removed rent and lease as the criteria for charter schools to receive other costs associated with the facility. The change to this Section is necessary to provide guidance to the charter school community and recognize that the statute allows for other costs associated with the facility to be eligible for the Program under certain conditions.

The amended section allows charter schools with district ground lease agreements to participate in the Program. The provision further clarifies only ground leases with no existing district facilities would be eligible for funding.

Section 10170.5 Application Submission

The amended Section added online application submission as an option to submitting the program application. As the Authority continues to improve and develop the application process, adding this language will allow the Authority to use an online application.

Section 10170.6 Content of Application

The amended Section changes the date for other costs reimbursement to July 15th. The changes to this Section are necessary, as schools are able to submit a final invoice to the Authority for other costs incurred by the school.

A school found ineligible based on Application submission because of misleading information or failure to provide complete and accurate information shall return all grant funds. The change to this Section are necessary to provide explicit guidance regarding eligibility for charter schools, ensure eligibility based on a charter school's compliance with other CSFA programs, where applicable, and ensure that all eligibility requirements are current and relevant, and ensure that where an applicant has received grant funds as a result of an incomplete application or due to misrepresentations made during the application the Authority will have a means to seek a return of those grant funds.

Application

The amended Eligibility Section updated to fifty-five percent (55%) FRPM to reflect the passage of AB 93 and to correspond with Section 10170.3(d) of the permanent regulations. The term (sub)lessor was added to the Related Parties section to include all property owners renting or leasing facilities to charter schools. The changes to this Section are necessary, as schools' eligibility is based on the charter school's FRPM, and ensures that all eligibility requirements are current and relevant.

Recommendation

Staff recommends that the Authority adopt Resolution 15-33 approving the proposed regulations for the administration of the Charter School Facility Grant Program. If approved, the Executive Director will initiate the regular rulemaking file for processing by the Office of

Administrative Law, and will distribute the proposed changes to interested parties in accordance with the permanent rulemaking process.