

## MEMORANDUM

Staff Summary No. 11

**Date:** May 9, 2017

**To:** Members of the California School Finance Authority

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

**Re:** Resolution No. 17-14 Approving Amendments to Regulations for the Charter School Facility Grant Program

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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 requires the Authority to allocate facilities grants to eligible charter schools. Grant funding provides assistance with facility rent and lease costs, as well as specific facility-related maintenance costs.

Since the transfer of the program and adoption of initial permanent regulations under the Authority's administration in August 2014, the regulations have incurred two major revisions through the permanent rulemaking process. In March 2017, the Board approved amendments made to the regulations through the Emergency Rulemaking Action.

The proposed permanent regulations include changes previously approved by the Board at its March 2017 meeting and subsequently approved by the Office of Administrative Law through the Emergency Rulemaking Action, as well as additional changes from Authority staff, General Counsel, and the Executive Director. This staff summary addresses the additional changes proposed since approval of the Emergency Rulemaking Action. Authority staff has identified the additional changes to the permanent regulations with single underlines, strikeouts, and yellow highlights. 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 following proposed amended permanent regulations:

### Section 10170.4 Eligible Costs

- Modification of subdivision (b)(5) to further clarify the types of costs ineligible for reimbursement. The term "administrative costs" was added to exclude reimbursement of employee and back office support costs, salaries, and benefits.

- Addition of subdivision (b)(6) will prevent reimbursement of additional costs incurred by the charter school if those additional costs are based on funds awarded to the school through the Program.
  - Program participants have submitted for reimbursement lease agreements which stipulate that the charter school's facility costs will retroactively increase based on funds awarded to the school by the Program. As the award calculation for the program is based on the school's annual facility costs, these retroactive increases make it programmatically impossible to calculate 75% of the school's annual facility costs. For this reason the facility's base rent shall remain eligible, but any additional costs based on funds received by the Program must be ineligible for reimbursement.
- Addition of subdivision (b)(7) to prevent reimbursement of lease obligations generated by the charter school or affiliated organization where the facility was previously purchased and paid in full by the school using State Charter School Facilities Incentive Grants funds. Such lease costs will be eligible only if the charter school provides evidence that the costs will reimburse capital improvements made to the leased facility.
- Addition of subdivision (b)(8) to clarify the intent of the Program is to "provide assistance with facilities rent and lease costs." Leases with purchase options may be eligible if the charter school provides evidence that the rent and lease costs will not lower the final purchase price of the facility leased.
- Addition of subdivision (e)(1) to clarify how the Authority shall review ADA breakdown for schools whose students migrate from eligible to ineligible facilities during the course of the school day.

**Recommendation:** Authority staff recommends the Board adopt Resolution 17-14 approving the amended permanent regulations for the administration of the Charter School Facility Grant Program. If approved, the Executive Director will include the Resolution demonstrating the Board approval with the permanent rulemaking file.