

**TEXT OF REGULATIONS**  
**CALIFORNIA CODE OF REGULATIONS**  
**Title 4, Division 15, Article 1.5**  
**Charter School Facility Grant Program**

**Section 10170.3. Eligible Applicant.**

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

- (a) The Application is submitted by or on behalf of a Charter School.
- (b) An approved charter has been awarded, is in place, and is current at the time of Application.
- (c) In the case of a First Year Charter School, a charter petition has been submitted for approval to the Chartering Authority and evidence, such as a copy of the charter petition, is submitted that the school anticipates beginning operations in the Fiscal Year for which an Application is submitted.
- (d) The Charter School meets one of the following criteria:
  - (1) Fifty-five percent (55%) or more of the student enrollment at the charter school site is eligible for prior year FRPM; or
  - (2) The charter school site for which grant funds are requested is physically located in the attendance area of a public elementary school in which fifty-five percent (55%) or more of the pupil enrollment is eligible for prior year FRPM and the school site gives a preference in admissions to pupils who are currently enrolled in that public elementary school and to pupils who reside in the elementary school attendance area where the charter school site is located, as determined by the local school district.
  - (3) First Year Charter Schools not operational in the prior year shall be eligible in the current year if the school meets the FRPM Eligibility requirements based on current year data.
  - (4) In the 2015-2016 fiscal year, the Authority may conduct an additional funding round.
  - (5) In all subsequent funding rounds, all schools shall adhere to application dates outlined in section 10170.5.
- (e) The Charter School, educational management organization, or charter management organization is not in default with the requirement of all ~~other~~ programs administered by the Authority.
- (f) 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 without interruption throughout the term of the grant. The Authority will rely on information from the chartering authority regarding the school's good standing and compliance with the terms of its charter. Charter schools may appeal any response by the chartering authority's staff directly to the chartering authority's governing board. It shall be the charter school's responsibility, and not the Authority's, to ensure that the good standing and compliance response letter is received by the stated deadline.
  - (1) Requests for good standing will be sent out to the chartering authority as follows:
    - (a) Upon receipt of the Application;
    - (b) In February, prior to the disbursement of the second apportionment as described in section 10170.9(d); and
    - (c) In June, prior to the disbursement of the Final apportionment as described in Section 10170.9(e).

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

#### Section 10170.4. Eligible Costs.

- (a) Grant funds may be applied toward a Charter School's facilities costs for all of the following:
- (1) Costs associated with facility rents or leases as evidenced by an executed rental or lease agreement;
  - (2) Costs associated with the facility but not limited to, remodeling buildings, deferred maintenance, initially installing or extending service systems and other built-in equipment, improving sites, and common area maintenance charges that are based on the Charter School's usage of the facility are limited to maintaining and repairing the facility and its common areas.
  - (3) Costs described in subdivisions (a)(1) and (a)(2) and associated with portions of school district or county office of education facilities that are not existing school district or county office of education facilities and are not reasonably equivalent facilities received from their charter authorities.
  - (4) Costs associated with a ground lease as evidenced by an executed rental or lease agreement where there is no existing district facility on the ground being leased.
- (b) Grant funds may not be apportioned for any of the following:
- (1) Units of ADA generated through non classroom-based instruction as defined in Education Code section 47612.5;
  - (2) Facility rent and lease costs associated with a Charter School's occupancy of existing district or county office of education facilities;
  - (3) Facility rent and lease costs associated with a Charter School's occupancy of reasonably equivalent facilities received from its chartering authority pursuant to Education Code section 47614
  - (4) Costs incurred to meet a Charter School's local match obligation for charter school facilities that receives funds pursuant to the Charter School Facilities Program; or
  - (5) Costs incurred for instructional or administrative costs including, but not limited to, salaries and benefits paid to teachers, instructional aides, the educational management organization or charter management organization responsible for managing the Charter School, or the chartering authority and existing district personnel.
  - (6) Lease costs assessed to the charter school based on grant funds awarded to the school by the Authority during the same funding round.
  - (7) Facility rent and lease costs associated with a facility previously purchased and paid in full by the Charter School with State Charter School Facilities Incentive Grants Program funds unless those costs are associated with capital improvements.
  - (8) Facility rent and lease costs associated with lease-to-purchase agreements where the rent and lease costs lower the final purchase price.
- (c) Grant funds must be expended and liquidated within the guidelines of this article and the Charter School Facility Grant Program.
- (d) No grant, whether for costs described in subdivision (a)(1), (a)(2), or a combination of both, shall exceed \$750 per unit of ADA or 75% of the annual facility rent and lease costs for the Charter School for the Fiscal Year for which the Application is submitted, whichever is less.
- (e) Where an application is for multiple school sites, each site's eligibility and costs will be evaluated separately. The ADA applied to the determination of the grant, as described in subdivision (d), shall only be based on the eligible site(s).
- (1) Where the Charter School's students migrate between eligible and ineligible school sites, the ADA applied shall be based upon the square footage ratio of eligible facilities to all facilities.

Note: Authority cited: Section 47614.5, Education Code.  
Reference: Sections 47612.5 and 47614.5, Education Code.

**Section 10170.8. Final Fiscal Year Entitlement Calculation.**

- (a) By the second apportionment as described in section 10170.9, Grantees shall provide final and actual rent or lease costs for the Fiscal Year.
- (b) The Authority shall obtain from the Department final average daily attendance figures and FRPM Eligibility for each Grantee.
- (c) Pursuant to section 10170.9(e), the Authority shall consider invoices for additional facility costs as submitted pursuant to section 10170.6(d). Reimbursement for additional eligible costs submitted by invoice shall be limited to the criteria set forth in section 10170.4~~(d)~~(a)(2).
- (d) Based on the information provided pursuant to subdivisions (a) - (c), the Authority shall verify program eligibility and calculate each Grantee's Final Fiscal Year Entitlement, pursuant to section 10170.4(d).

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

**Section 10170.9. Apportionment of Grant Funds.**

- (a) Prior to making any awards for Fiscal Year grants, the Authority shall first determine whether any Grantees that received awards in the Prior Year are entitled to reimbursement for unreimbursed eligible costs for that year. Such costs shall be the first funding priority prior to the Authority disbursing apportionment of current Fiscal Year grants to Grantees and shall be determined by the Authority based on the Final Fiscal Year Entitlement calculation made for each Grantee for the Prior Year. Reimbursements for Prior Year costs shall be made by the Authority to Prior Year Grantees within 60 days of the Authority providing notice.
- (b) The first apportionment of 50% of the Estimated Annual Entitlement, following disbursements required pursuant to subdivision (a), shall be disbursed to each Grantee by August 31 of the Fiscal Year for which the grant is requested, or 30 days after enactment of the annual Budget Act, whichever is later.
- (c) For a Grantee that submitted an Application pursuant to section 10170.5(b), the first ~~apportionment~~apportionment of 50% of the Estimated Annual Entitlement shall be made within 30 days after the Authority determines eligibility and the Estimated Annual Entitlement.
- (d) No later than March 1 of each Fiscal Year, the Authority shall provide to each Grantee a second disbursement of 75% of the Estimated Annual Entitlement less the initial disbursement and less any adjustments due to receipt of the executed rent or lease agreement for the designated Fiscal Year.
- (e) No later than 30 days after the end of each Fiscal Year or 30 days after receiving the data and documentation needed to compute the Charter School's total annual entitlement, whichever is later, the Authority shall provide to each Grantee a third disbursement of 100 percent of the Final Fiscal Year Entitlement less the first two disbursements and adjusted for any changes to the FRPM Eligibility data, ADA, and executed rental or leases agreements for the designated Fiscal Year. If reimbursement of invoices considered eligible pursuant to section 10170.4(a)(2) is requested, these costs will be incorporated into this final disbursement.
- (f) If insufficient funds remain available from the Fiscal Year's appropriation, the Authority shall determine the pro rata share to which each Grantee is entitled and disburse such amounts to each Grantee. The Authority shall calculate each Grantee's pro-rated award based upon the

- previous year's ADA and previous year's rent/lease costs unless current year's rent/lease costs are available at the time of submission. For Charter Schools that do not have Prior Year enrollment data, the Authority shall calculate the pro-rated award pursuant to section 10170.7 (f)
- (g) If a Grantee's Final Fiscal Year Entitlement is less than the amount disbursed to the Grantee through the first two apportionments the Authority shall provide the Grantee with notice and require that the Grantee reimburse the Authority for the excess within 60 days of the Grantee's receipt of such notice.
  - (h) Prior to disbursement of funds for costs associated with remodeling buildings, deferred maintenance, initially installing or extending service systems and other built-in equipment, improving sites, and common area maintenance, the Grantee shall complete an Invoice Report, provided by the Authority, as well as submit supporting invoices, work orders, or other evidence of completed work to the Authority. Upon presentation of such evidence of actual costs incurred, such costs shall be reimbursed as a portion of the final apportionment. Such evidence shall be provided to the Authority no later than July 15 of the applicable Fiscal Year.
  - (i) At any time during each Fiscal Year the Authority reserves the right to:
    - (1) Adjust each Grantee's Estimated Annual Entitlement on a pro rata basis based on the number of approved Grantees, the total amount of Estimated Annual Entitlements, and the amount of funds available;
    - (2) Adjust Estimated Annual Entitlements for individual Grantees based on the Authority's receipt of updated data from the Grantee or the Department; and
    - (3) If final data for FRPM Eligibility provided by the Department establishes that the Grantee is not eligible for the program pursuant to section 10170.3(d), request reimbursement of grant funds already disbursed to the Grantee consistent with subdivision (e).

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

#### **Section 10170.10. Notification of Grantee; Appeal Process.**

- (a) The Authority will provide notice to each Applicant of Authority staff's eligibility determination and ~~Estimated Annual Entitlement award~~ calculation pursuant to sections 10170.7 and 10170.8.
- (b) An Applicant shall have 30 calendar days from receipt of the Authority's notice to request reconsideration of eligibility or the ~~Estimated Annual Entitlement award~~ calculation by Authority staff.
- (c) Authority staff shall have 30 calendar days to review an Applicant's request for reconsideration and provide a final staff decision.
- (d) If the Applicant is unsatisfied with Authority staff's final decision, the Applicant shall have 30 calendar days following receipt of notice of the decision to notify the Authority that the Applicant wishes to appeal the matter to the Authority board.
- (e) Upon receipt of an appeal notice from an Applicant, the matter will be considered by the Authority board at the next regularly scheduled Authority meeting.
- (f) If an eligibility determination or ~~Estimated Annual Entitlement award~~ calculation is modified by Authority staff or the Authority Board, changes in apportionments will be processed and distributed to the Applicant within 30 days.

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 non-profit 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.
- (b) Grantees must avoid actual conflicts of interest when applying for or receiving grants from the Authority.
- (c) ~~Beginning with the 2014-15, g~~ Grant funds may not be used by an Applicant or Charter School to pay for any lease or rental or service agreement with a Related Party, unless all of the following conditions are satisfied:
- (1) 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;
  - (2) 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;
  - (3) 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;
  - (4) The amount of the lease or rent is at or below market rate 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
  - (5) 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.
- (d) Nothing in this section is intended to supercede 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.