

TEXT OF REGULATIONS

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

Section 10170.2. Definitions.

For the purposes of this article, the following words and phrases shall have the meaning as described below:

- (a) "Applicant" shall mean the Charter School, educational management organization, or charter management organization applying on behalf of a Charter School for a grant under this article.
- (b) "Application" shall mean the Charter School Facility Grant Program Application (CSFA Form 740-01; revised October 23, 2015), incorporated herein by reference, as developed by the Authority, and described in section 10170.6.
- (c) "Authority" shall mean the California School Finance Authority.
- (d) "Average Daily Attendance" (ADA) shall mean the unit of attendance, as reported by the Department for the second period of the school year.
- (e) "Average Daily Attendance Cap" (ADA Cap) shall mean for the 2017–18 fiscal year, an amount equal to one thousand one hundred seventeen dollars (\$1,117) per unit of ADA. Commencing with the 2018–19 fiscal year and moving forward, the amount of funding provided per unit of ADA in the preceding fiscal year, as adjusted by the Cost Of Living Adjustment Index or the amount specified in the current Budget Act.
- ~~(f)~~(e) "Chartering Authority" shall mean the school district, county board of education, or State Board of Education that granted a Charter School's petition to become a Charter School pursuant to Education Code section 47605.
- ~~(g)~~(f) "Charter School" shall mean a school established and operating pursuant to the Charter Schools Act of 1992 (Education Code section 47600, et seq.). Except where the defined term First Year Charter School is specifically used, Charter School shall also be meant to include schools that otherwise meet the definition of First Year Charter School.
- (h) "Cost Of Living Adjustment Index" (COLA Index) shall mean a percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year. This percentage change shall be determined using the latest data available as of May 10 of the preceding fiscal year compared with the annual average value of the same deflator for the 12-month period ending in the third quarter of the second preceding fiscal year, using the latest data available as of May 10 of the preceding fiscal year, as reported by the Department of Finance.
- ~~(i)~~(g) "Department" shall mean the California Department of Education.
- ~~(j)~~(h) "Estimated Annual Entitlement" shall mean the estimated grant amount to which a Charter School is entitled as calculated pursuant to section 10170.7 prior to the first apportionment.
- ~~(k)~~(i) "Final Fiscal Year Entitlement" shall mean the final calculated grant amount to which a Grantee is entitled based on the calculation prescribed in section 10170.8.

- ~~(l)~~(j) “First Year Charter School” shall mean a school that anticipates beginning operations as a Charter School in the Fiscal Year for which it submits an Application and was not open the previous school year.
- ~~(m)~~(k) “Fiscal Year” shall mean the school year for which an Application for grant funds is submitted.
- ~~(n)~~(i) “Free or Reduced-Price Meal Eligibility” or “FRPM Eligibility” shall mean the percentage of enrolled students in grades Kindergarten through 12th grade or students ages 5 through 17, whichever is greater, eligible for free or reduced-price meals, as reported by the Department and certified through the annual Fall 1 data submission to the California Longitudinal Pupil Achievement Data System (CALPADS).
- ~~(o)~~(m) “Grantee” shall mean a Charter School determined by the Authority to be eligible for a grant.
- ~~(p)~~(n) “Invoice Expenditure Report” shall mean the Charter School Facility Grant Program Facility Invoice Expenditure Report (CSFA Form 740-02; revised March 2017)(~~revised February 25, 2015~~), herein incorporated by reference.
- ~~(q)~~(e) “Prior Year” shall mean the school year prior to the school year for which an Application is submitted.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Sections 47614.5, 47600 et seq., and 47605, Education Code.

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, subject to one of the following conditions;
 - (A) Reimbursable facility rent or lease costs may not exceed prior year's costs on file with the Authority, adjusted to be consistent with the current year COLA Index; or
 - (B) The rent or lease costs of new facility agreements are at or below market rate based on an independent appraisal paid for by the Applicant.
 - (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 the~~ ADA Cap as defined in Section 10170.2 (f) 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.
 - (2) Where the Charter School's students do not migrate between eligible and ineligible schools sites, the ADA applied shall be based upon the schools self-certification of the ADA for the facility the students are assigned to.

Note: Authority cited: Section 47614.5, Education Code.
Reference: Sections 47612.5 and 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 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 following conditions shall be in effect:~~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)~~
 - (1) The Authority shall determine the pro rata share to which each Grantee is entitled by calculating the percentage of the Fiscal Year's appropriation as compared to the funds needed to fully award all Grantees. This percentage shall be applied to the Grantee's annual award and shall serve as the Grantee's pro rata share.
 - (2) The Authority shall disburse funds in three apportionments pursuant to subsections (b) - (e).
 - (A) The first apportionment shall be 50% of the pro rata share of the Estimated Annual Entitlement as determined by calculating the percentage of the Fiscal Year's appropriation as compared to the funds needed to fully award all Grantee's Maximum ADA Cap.

- (B) The second apportionment shall be 25% of the pro rata share of the Estimated Annual Entitlement as determined by calculating the percentage of the Fiscal Year's appropriation as compared to the funds needed to fully award all Grantee's Maximum ADA Cap.
- (C) The third apportionment shall be the pro rata share of the Grantee's remaining balance of the Final Fiscal Year Entitlement.
- (3) Until the current year FRPM data is made available, Charter Schools with no Prior Year enrollment data shall have their FRPM based solely on the charter school sites' Period 1 FRPM submission to the Department.
- (4) During the Final Fiscal Year Entitlement Calculation, each eligible Applicant shall receive a Notice of Eligible Facility Costs (CSFA Form 740-03; revised October 2017), incorporated herein by reference. This notice shall serve as the Section 10170.10 Notification of Grantee and upon receipt, the Applicant shall have 30 days to review and execute the notice.
- (5) The Applicant shall have the opportunity to appeal the Notice of Eligible Facility Costs and the Appeal Process under Section 10170.10 (b)-(g) shall be implemented.
- (6) The Authority shall not disburse the third apportionment under subsection (e) until each eligible Applicant's executed Notice of Eligible Facility Costs has been received or October 30, whichever is earliest.
- (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 a ~~2016-17~~ Facility Invoice Expenditure Report ~~updated March 2017~~, provided by the Authority. Grantee shall also 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 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 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) Applicants may request a single extension of up to 30 days for either of the deadlines provided in 10170.10 (b) or (d). Including the 30 day extension, the entire Appeal Process under subsections (b)-(d) may not exceed 120 days. The extension request must be approved by staff and can be granted only one time during an appeal process. Staff determination regarding appeal extensions are considered final and are not subject to an additional appeal process.
- (g) If an appeal is not able to be resolved by the deadlines provided in Section 10170.10 (b), (d), and (f), the Authority reserves the right to deny the appeal based on a failure to comply with Program regulations. This decision is considered final and is not subject to an additional appeal.
- ~~(h)~~(f) If an eligibility determination or 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) 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 supersede 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.