

## MEMORANDUM

Staff Summary No. 6

Date: May 25, 2021

To: Members, California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Resolution No. 21-14 Approving Amendments to the Regulations for the State Charter School Revolving Loan Fund Program and Authorizing the Rulemaking Process

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Background: The Charter School Revolving Loan Fund Program (Program) provides loans of up to \$250,000 to charter schools that are within their first charter term. These loans are repaid over a five-year period using the intercept mechanism in the California School Finance Authority (Authority) Act. The Authority assumed Program administration in 2013-14. Since that time, the Authority has approved several regulation changes to improve the efficiency of the Program.

These recent proposed amendments to the regulations address the following: (1) modify the use of Free and Reduced Price Meal (FRPM) data and regions used to determine preference in the event of Program oversubscription; (2) ensure that the regulations are consistent with current Program practices (i.e. application content); and (3) clarify language and internal consistency within the regulations.

Staff also recommends that the Program application content be updated to align with current internal practices that focus on financial soundness for loan recommendations.

The Authority will be requesting approval of these revisions to become part of the permanent regulations upon approval from the Office of Administrative Law. The details and justification for these amendments are outlined below.

### **Section 10170.17. Definitions**

- (c) "Application" – Online Application updated to reflect new version.
- (i) "Free or Reduced-Price Meal" – Deleted this definition. No longer needed since the oversubscription process will no longer be in use.
- (m) "New Charter School" – Revised language as it is no longer correct now that the Authority holds multiple funding rounds a year.
- (q-t) Regions (one-four) – Deleted definitions. No longer needed since the oversubscription process will no longer be in use.

### **Section 10170.18. Eligible Applicant**

(d) Revise the language regarding a “first year charter” that “anticipates beginning operations in the following fiscal year”. The language is outdated now that the Authority has multiple funding rounds and some “first year charters” are already in operation.

(e) Added language to reflect that a school must be in operation within six months of application submission due to the Authority offering multiple funding rounds in a year

### **Section 10170.19. Application Content and Submission**

(a) Revise the application form and date once the application is revised.

(b) Delete “Based on availability of funding”, Applications will be accepted on an ongoing first come first-served basis, with priority given based on date of submission and criteria set forth at Section 10170.20.” because the language is not consistent with the Authority’s internal process.

(c)(1) Nonprofit Entity verification is new language from the last regulation change, but it is not reflected in the application. Added to the application and moved to coincide with articles of incorporation.

(c)(2) Delete “Nonprofit Entity verification as described in Section 10170.17(n)” because it has added it to (c)(1).

(c)(3) Delete “Description of the intended use of an award of loan funds” because it has been deemed not useful information in determining a loan award.

(c)(8) Delete “Most recent business plan and/or strategic plan for at least the next five academic years” because most schools provide the charter petition, which is also a business plan.

(c)(9) Delete “List of the Charter School’s board of directors”, because this information is typically provided in the charter petition and it has been deemed not helpful in determining if a school will be recommended for a loan.

(c)(10) Delete “Resumes of key staff”, because this information is typically provided in the charter petition and it has been deemed not helpful in determining if a school will be recommended for a loan.

(c)(11) Add enrollment and wait list to improve the accuracy of our enrollment projections review.

(c)(14) Delete the word “and” to keep format consistent.

### **Section 10170.20. Application Review and Evaluation/Underwriting Criteria.**

(a)(2) Typo. Remove “s” from “Applicants”.

(a)(3) Add “school’s” in front of “charter” to provide clarity.

(b)(1) Delete “Soundness of the Charter School’s business plan, and the expertise of key management at the Charter School because this is already done by the school’s authorizer.

(b)(2) Delete “Availability to the Charter School of” and add “Status of” to clarify language.

(b)(3) Delete “Impact of receipt of Program funds received on the Charter School’s receipt of other private and public financing” because it is not necessary for evaluation.

(b)(6) Remove “business and/or strategic plans” because it’s being deleted from the application. Add “audits and grants” because these items are reviewed by staff.

(c) Add “Priority will be determined by the most recent school opening date that is confirmed by the California Department of Education Website.” To clarify and simplify how priority will be determined for all applicants.

(d)(1-2) Delete methodology of establishing priority if there are insufficient funds. The updated language in Section 10170.20. (c) will be used instead.

#### **Section 10170.21. Loan Amount and Repayment Terms.**

(a) Add the revised form number.

(c) Delete “The loan repayment shall begin in the first fiscal year following the date of disbursement as determined by the Authority’s accounting office, and all disbursements shall be in a single fiscal year” because it’s redundant. The second sentence says the same information in a different way.

(d) Rephrase “the loan shall be based on equal annual payments, including principal and interest” to say “the loan shall be based on equal annual principal payments, including interest” because the interest isn’t the same every year.

#### **Section 10170.22. Loan Agreements.**

(c)(4) Delete language as it is addressed in the proposed changes in (c)(5).

(c)(5) Added “Good Standing” language that is consistent with other Authority Program regulations.

(i) Added language to allow schools the option to cure should they be found in default or not in compliance. All other Authority Programs include this opportunity.

Recommendation: Staff recommends the Board adopt Resolution 21-14 approving the amended permanent regulations for the administration of the Charter School Revolving Loan Fund Program. If approved, the Executive Director will include the resolution demonstrating board approval with the rulemaking file to the Office of Administrative Law.

TEXT OF REGULATIONS

CALIFORNIA CODE OF  
REGULATIONS

Title 4, Division 15, Article 1.6  
Charter School Revolving Loan Fund Program

Section 10170.17. Definitions.

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

- (a) “Affiliated Organization” shall mean a legal entity that assumes financial, legal, and operational responsibility for a Charter School(s), including but not limited to, a school district, parent company and charter management organization.
- (b) “Applicant” shall mean the Charter School or Chartering Authority applying on behalf of a Charter School for a loan under this article.
- (c) “Application” shall mean a completed Charter School Revolving Loan Fund Program Application (CSFA Form 0606 RLF-01; revised ~~August 10, 2016~~ June 2021), incorporated herein by reference, as defined and developed by the Authority, and all other documents required to be submitted to the Authority.
- (d) “Authority” shall mean the California School Finance Authority
- (e) “CDS Code” shall mean the County-District-School identifier assigned to all California Charter Schools.
- (f) “Charter School” shall mean a school established and operating pursuant to the Charter Schools Act of 1992 (Education Code Section 47600, et seq.)
- (g) “Charter School Revolving Loan Fund” shall mean the designated fund within the State Treasury established pursuant to Education Code section 41365 for the purpose of disbursing Program loans to Charter Schools.
- (h) “Chartering Authority” shall mean the school district, county board of education, or State Board of Education that approved a Charter School’s petition to become a Charter School pursuant to Education Code section 47605.
- ~~(i) “Free or Reduced Price Meal” or “FRPM” 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 California Department of Education and certified through the annual Fall 1 data submission to the California Longitudinal Pupil Achievement Data System for the same fiscal year within which the Applicant applies.~~
- (i) ~~(j)~~ “Good Standing” shall mean the Applicant meets all three of the following conditions: 1) is in compliance with the terms of the charter, 2) does not have any pending or outstanding corrective actions as described in a notice issued pursuant to Education Code Section 47607(g), and 3) does not have a pending or outstanding Notice of Intent to Revoke as described in Education Code Section 47607(h). The Authority will rely on information

prepared by the chartering authority and the submission of a Good Standing Confirmation Form (GSCF) (CSFA Form 1119) herein incorporated by reference.

**(j) ~~(k)~~ “Incorporated Charter School” shall mean a Charter School operated by a corporate entity, such as a non-profit corporation, limited liability corporation, or partnership.**

**(k) ~~(l)~~ “Loan Recipient” shall mean the Charter School or Chartering Authority that has applied on behalf of a Charter School for which the Authority has approved and issued a loan through the Program.**

**(l) ~~(m)~~ “New Charter School” shall mean:**

**1) for a funding round held during the months of January through June, a Charter School planning to begin operations in the fiscal year following the fiscal year in which an Application has been submitted.**

**2.) for a funding round held during the months of July through December, a Charter School is in its first year of operation.**

**(m) ~~(n)~~ “Nonprofit Entity” shall mean an entity organized and operated for an exempt purpose as set forth in Internal Revenue Code section 501(c)(3), or is organized and operated by a nonprofit public benefit corporation, pursuant to California Corporations Code, Title 1, Division 2, Part 2, section 5110, et seq., and no part of the organization's income is distributed to its members, directors, or officers.**

**(n) ~~(o)~~ “Pooled Money Investment Account” shall mean the designated account within the State that is managed by the State Treasurer’s Office and governed by the Pooled Money Investment Board to invest taxpayers’ money and manage the State’s cash flow. The yield on the Account is used to set the interest rate on an approved loan at the time that the loan proceeds are disbursed to Charter Schools.**

**(o) ~~(p)~~ “Program” shall mean the Charter School Revolving Loan Fund Program.**

**~~(p) “Region One” shall consist of the following counties: Alpine, Amador, Butte, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba.~~**

**~~(r) “Region Two” shall consist of the following counties: Alameda, Calaveras, Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono, Monterey, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Stanislaus, Tulare, and Tuolumne.~~**

**~~(s) “Region Three” shall consist of the following counties: Los Angeles, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura.~~**

**~~(t) “Region Four” shall consist of the following counties: Imperial, Orange, Riverside, and San Diego.~~**

**Note: Authority cited: Section 41365, Education Code.**

**Reference: Sections 41365 and 41366.5, Education Code.**

**Section 10170.18. Eligible Applicant.**

**An Applicant shall be eligible to apply for a loan if the following conditions are met:**

- (a) The Application is submitted by a Charter School or by a Chartering Authority.**
- (b) The Charter School shall not operate as, or be operated by, a for-profit corporation, a for-profit educational management organization, or a for-profit charter organization.**
- (c) The Charter School is established pursuant to Education Code section 47600 et seq.**
- (d) An approved charter has been awarded, is in place, and is current at the time of Application. In the case of a charter that has not been approved first-year Charter School, the Applicant shall submit evidence that its charter petition has been submitted to a Chartering Authority for approval and that it anticipates beginning operations in the following fiscal year.**
- (e) Pursuant to Section 10170.17 (l)(1) A New Charter School applying for any funding round must be in operation with enrolled students within six (6) months of Application submission.**

**~~(f) (e)~~ If the Applicant is a Charter School applying on its own behalf, the Charter School shall be an Incorporated Charter School as demonstrated by Articles of Incorporation.**

**~~(g) (f)~~ The Charter School is not a conversion from an existing public school.**

**~~(h) (g)~~ The Charter School has not had its charter renewed as of the date of submission of its Application.**

**~~(i) (h)~~ The Charter School has no material legal issues.**

**~~(j) (i)~~ A Charter School may receive multiple loans. In no instance may a Charter School receive more than \$250,000 in Program loans over the lifetime of the Charter School.**

**~~(k) (j)~~ The Charter School and/or Affiliated Organization, if applicable, are in compliance with all programs administered by the Authority.**

**~~(l) (k)~~ The Charter School is in Good Standing as described in Section 10170.17(j) during the fiscal year. An Applicant found not to be in Good Standing, as determined by their Chartering Authority, shall be ineligible for program funds. The Applicant may cure ineligibility for program funds by meeting one of the following criteria:**

- (1) The Applicant receives confirmation of Good Standing within the same fiscal year of application; or**
- (2) Applicants found not to be in Good Standing solely due to the Applicant failing to meet the requirements of Education Code Section 47607(f)(3) must provide evidence demonstrating fiscal solvency to the satisfaction of the Authority. Such evidence may include the Applicant's organizational budgets and audited financials.**

**~~(m) (l)~~ The Authority shall determine whether the Application is complete. If the Authority determines that additional information is needed, the Authority shall notify the Applicant and request such information. If the Applicant fails to**

provide the information as requested, the Applicant shall be ineligible for a Program loan.

Note: Authority cited: Section 41365, Education Code.

Reference: Sections 41365 and 41366.5, Education Code.

#### Section 10170.19. Application Content and Submission.

- (a) The Application (CSFA ~~Form 0606~~RLF-01; revised ~~August 10, 2016~~ June 2021) will be made available on the Authority's website, based on available funding.
- (b) ~~Based on availability of funding, Applications will be accepted on an ongoing first come first served basis, with priority given based on date of submission and criteria~~  
set forth at Section 10170.20. Applicants shall submit an Application and all supporting documents via the online Application system.
- (c) Each completed Application shall include the following documents (in addition to supporting documents required for the Application, CSFA RLF-01; revised August 10, 2016):
- (1) Articles of Incorporation and Nonprofit Entity verification as described in Section 10170.17(n) for an incorporated charter or operational agreement or Memorandum of Understanding between the Charter School and the Chartering Authority for a dependent charter;
  - ~~(2) Nonprofit Entity verification as described in Section 10170.17(n);~~
  - ~~(3) Description of the intended use of an award of loan funds;~~
  - (2)(4) Copy of current charter petition and evidence supporting charter approval and term;
  - (3)(5) Audited financial statements, if available;
  - (4)(6) An adopted budget, if available, for the first fiscal year for which the Applicant is applying;
  - (5)(7) Multi-year budget projections for at least the five fiscal years beyond the first fiscal year for which the Applicant is applying, including written budget assumptions;
  - ~~(8) Most recent business plan and/or strategic plan for at least the next five academic years;~~
  - ~~(9) List of the Charter School's board of directors including their occupations, cities of residence, and terms of office;~~
  - ~~(10) Resumes of key staff members (e.g., Chief Executive Officer, President, Operations Manager, Chief Financial Officer, Principal, etc.) of the Charter School;~~
  - (6)(11) Historical, current, and projected enrollment and attendance, by grade level, for the next five years, including current enrollment and waitlist figures.
  - ~~(7)(12) Targeted student population and demographics;~~

- ~~(8)(13)~~-A listing of historical, current, and anticipated future funding through private contributions;
  - ~~(9)(14)~~-List the total amounts, annual amounts, interest rates, and maturity dates of all existing and anticipated short- and long-term debt obligations of the Applicant or Charter School; ~~and~~
  - ~~(10)(15)~~-List and copy of all material contracts, including, but not limited to, management, support services, transportation contracts, and any such anticipated contracts involving use of space or equipment.
- (d) The Authority will request completion of the GSCF directly from the Chartering Authority. This form needs only to be completed and returned if the Chartering Authority is aware of any outstanding compliance or revocation issues, otherwise no action from the Chartering Authority is necessary. An Applicant may appeal any response by the Chartering Authority's staff directly to the Chartering Authority's governing board.
- (1) Requests for confirmation of Good Standing will be sent out to the Chartering Authority upon receipt of each Application.
  - (2) The Authority reserves the right to request an additional Good Standing Confirmation at any time during the life of the loan.
- (e) An Affiliated Organization operating more than one Charter School, as identified by separate CDS Codes, must submit a separate Application for each Charter School with a separate CDS Code for which a loan award is sought.

Note: Authority cited: Section 41365, Education Code.  
 Reference: Sections 41365 and 41366.5, Education Code.

**Section 10170.20. Application Review and Evaluation/Underwriting Criteria.**

- (a) The Authority will evaluate and determine Program loans based on the following:
  - (1) The Applicant meets all Eligibility Criteria under Section 10170.18;
  - (2) The Applicants demonstrates the ability to repay the loan; and
  - (3) The Applicant demonstrates that use of loan funds will be strictly for supporting the operations and financing of the Charter School consistent with the intent of the school's charter pursuant to Education Code Section 47605.
- (b) In addition, the Authority may consider the following criteria as it relates to the Application:
  - ~~(1) — Soundness of the Charter School's business plan, and the expertise of key management at the Charter School;~~
  - ~~(1)(2) Availability to the Charter School of Status of other sources of funds;~~
  - ~~(3) — Impact of receipt of Program funds received on the Charter School's receipt of other private and public financing;~~



- ~~(2)~~(4) Compliance with other Programs under the Authority, if the Charter School, or its affiliate(s) received an award under other Program(s);
- ~~(3)~~(5) Compliance with repayment of all prior Program loan(s), if the Charter School or its affiliate received all previous Program loan(s); and
- ~~(4)~~(6) In the Authority's evaluation of supporting financial information submitted pursuant to Section 10170.19(d), the Authority shall consider the reasonableness of projected financial performance and corresponding assumptions based on current and historical performance ~~and Charter School's business and/or strategic plans~~. The Authority may consider current and historical performance, including cash flow, major revenues, degree of reliance on loans and fundraising, enrollment trends, student performance data, projected average daily attendance, expenses, audits, grants, and debt service coverage, if applicable.
- (c) Priority shall be given to New Charter Schools for start-up costs. If additional funds are available after New Charter Schools have been deemed eligible, consideration for a Program loan will be given to existing Charter Schools that have not had their charter's renewed. Priority will be determined by the most recent school opening date that is confirmed by the California Department of Education Website.
- ~~(d) If there are insufficient funds available during an Application cycle, the Authority shall establish priority as follows:~~
- ~~(1) Among New Charter Schools, if applicable, based on highest FRPM across Regions ensuring equal representation to the extent feasible among Regions pursuant to Section 10170.17(q)-(t);~~
  - ~~(2) Among existing Charter Schools, based on highest FRPM across Regions ensuring equal representation to the extent feasible among Regions pursuant to Section 10170.17(q)-(t).;~~
- ~~(e) Pursuant to subdivision (d), in the event that the Charter School's FRPM data is not available, the Authority shall award loans based on the FRPM of the school's projected elementary school attendance area.~~

Note: Authority cited: Section 41365, Education Code.

Reference: Sections 41365 and 41366.5, Education Code.

#### Section 10170.21. Loan Amount and Repayment Terms.

- (a) The Authority shall establish a loan amount and repayment period, for an approved loan, which shall be memorialized in a written Loan Agreement (Form CSFA RLF-LA-01: Revised June 2021) and subject to an interest rate equal to the interest rate earned in the Pooled Money Investment Account as of the date of loan disbursement.

- (b) The Authority shall consider the term of the charter as well as the amount of the loan in establishing the repayment period.
  - (1) In the case of a New Charter School, the loan term will not exceed the length of the school's approved charter term.
- (c) ~~The loan repayment shall begin in the first fiscal year following the date of disbursement as determined by the Authority's accounting office, and all disbursements shall be in a single fiscal year.~~ In the case of charter schools receiving multiple disbursements, the first fiscal year of repayment shall be based on the date of final disbursement.
- (d) The repayment amount for each fiscal year following the issuance of the loan shall be based on equal annual principle payments, including ~~principal and~~ interest, over the number of years determined by the Authority.
- (e) In no event shall the repayment period on a Program loan exceed five years.

**Note: Authority cited: Section 41365, Education Code.**

**Reference: Sections 41365 and 41366.5, Education Code.**

#### **Section 10170.22. Loan Agreements.**

- (a) Prior to the issuance of each loan award, the Authority shall require each Loan Recipient to agree to terms and conditions set forth in a written Loan Agreement, which shall specify the loan amount, repayment period, covenants, and requirements in the event of inability to make payments or default.
- (b) The Loan Agreement requires each Loan Recipient to have a valid CDS Code.
- (c) The Loan Agreement shall require each Loan Recipient to agree to each of the following:
  - (1) Having its loan payments intercepted and offset at the state level, pursuant to Sections 41365(f) of the Education Code;
  - (2) Defending, indemnifying and holding harmless the Authority and the State, and all officers, trustees, agents, and employees of the same, from and against any and all claims, losses, costs, damages, or liability of any kind or nature, whether direct or indirect, arising from or relating to the Program;
  - (3) Complying with any audit provisions as may be required by the Authority, State Controller, or the California State Auditor;
  - (4) Maintaining a valid charter and operating a Charter School continuously throughout the term of the loan. ~~The Authority reserves the right to contact the Chartering Authority directly seeking written verification that the Loan Recipient is in Good Standing and in compliance with the terms of its charter;~~

- (5) The Authority will request completion of the GSCF directly from the Chartering Authority. This form shall be completed and returned only if the Chartering Authority is aware of any outstanding compliance or revocation issues; otherwise, no action is necessary. Requests for completion of the GSCF will be sent out to the Chartering Authority upon receipt of each Application. The Authority reserves the right to request completion of an additional GSCF at any time during the Fiscal Year;**
- ~~(6)~~(5) Notifying the Authority, within 30 days, of any material changes to its financial condition or that of the Charter School that occur between the time of Application and the end of the loan period;**
- ~~(7)~~(6) Ensuring that the expenditure of all loan funds is consistent with the intent of the Program and solely for the purpose of supporting the operations and financing of the Charter School;**
- ~~(8)~~(7) Notifying the Authority within 30 days of a Loan Recipient's determination that all or a portion of loan funds are no longer needed for their intended use, as identified in the Application, and providing remittance to the Authority of all such funds that have already been disbursed; and**
- ~~(9)~~(8) Such other terms and conditions as agreed upon by the Authority and the Charter School.**
- (d) The Loan Agreement shall include a loan repayment schedule.**
- (e) In the case of insufficient funds to make the annual payment during a fiscal year, any available funds will be offset as scheduled and any deficit / amount owed will be added to the next scheduled apportionment offset in the same fiscal year.**
- (1) If the total of insufficient funds is not offset by the end of the fiscal year, then the deficit / amount owed will be invoiced to the Charter School and will be repaid within 60 days.**
- (2) If a Charter School closes or fails to open within the next fiscal year after receiving their loan disbursement, the Charter School will be invoiced for the full loan amount and must be repaid within 60 days, unless granted an extension.**
- (f) The Authority shall set up accounts receivable for any Charter School that is past due on loan repayment or that has defaulted on repayment of a Loan.**
- (g) In the event the Charter School is unable to repay the loan and the Charter School is operated by an Affiliated Organization or Chartering Authority in the case of a dependent charter, the Authority shall require the Affiliated Organization or Chartering Authority to make annual payments or repay the total outstanding loan amount on behalf of the Charter School.**
- (h) In the event the Charter School is unable to repay the loan and the Charter School is operated by an Affiliated Organization or Chartering Authority in the case of a dependent charter, and the corresponding Affiliated Organization**

**or Charter Authority is an awardee under one of the Authority's other programs, the Authority may offset unrestricted funds from the relevant program in order to ensure repayment of the loan.**

- (i) In the event of default, the Authority shall give written notice to the Loan Recipient and whether an option to cure is possible.

**Note: Authority cited: Section 41365, Education Code.**

**Reference: Sections 41365 and 41366.5, Education Code.**

#### **Section 10170.23. Internal Controls, Audits and Conflicts of Interest.**

(a) The State may conduct or require periodic audits to ensure Loan Recipients are using funds consistent with the requirements and the terms of the Program, the related financing Program, if applicable, and this Article as approved. Loan Recipients shall retain all documentation and financial data necessary to substantiate the purposes for which the financing funds were spent for a period of five years after repayment of the loan.

(b) Loan Recipients may be required to routinely verify continued eligibility.

(c) The Authority reserves the right to conduct site visits to any Charter School facility or project applying for or receiving a loan pursuant to this Article.

Note: Authority cited: Section 41365, Education Code.

Reference: Sections 41365 and 41366.5, Education Code.

#### **Section 10170.24. Funding Contingency.**

**(a) Funding for this Program is contingent upon the availability of funds in the Charter School Revolving Loan Fund.**

**Note: Authority cited: Section 41365, Education Code.**

**Reference: Sections 41365 and 41366.5, Education Code.**