

TEXT OF REGULATIONS

CALIFORNIA CODE OF REGULATIONS Title 4, Division 15, Article 4 California School Finance Authority Project Acceleration Notes and Credit Enhancement Alternatives (PANACEA) Program

Section 10200. Purpose.

This Article implements the California School Finance Authority's (Authority) administration of the Charter School Facilities Credit Enhancement Grant Program (CFDA #84.354A) fund(s) received by the Authority from the U. S. Department of Education. The funds will be disbursed through the Authority's Project Acceleration Notes and Credit Enhancement Alternatives (PANACEA) Program (Program) to provide credit enhancement to facilitate the financing of the purchase, construction, and/or renovation of facilities for California public Charter Schools. Funds awarded under the Program will be used in conjunction with funding provided through the Charter School Facilities Program (CSFP) or the Authority's Conduit Financing Program (Non-CSFP).

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Section 17180, Education Code.

Section 10200.1 Definitions.

The following words and phrases shall have the meaning as described below:

- (a) "Applicant" shall mean the Charter School, school district, or educational management organization applying on behalf of a Charter School for an award under this Article.
- (b) "Authority" shall mean the California School Finance Authority.
- (c) "Awardee" shall mean an Applicant awarded program funds on behalf of a Charter School.
- (d) "Charter School" shall mean a school established pursuant to Education Code section 47600 et seq. and also meets the federal definition of Charter School as defined in section 5210(1) of the Elementary and Secondary Education Act of 1965 (20 USCA section 7221(i)), as amended by the No Child Left Behind Act of 2001.
- (e) "Charter School Facilities Program" (CSFP) shall mean the program established pursuant to Article 12 of Chapter 12.5 of Part 10 of the Education Code and jointly administered by the Authority and the Office of Public School Construction (OPSC).
- (f) "Charter Authorizer" shall mean the governing board of the school district, county board of education, or the State Board of Education, that granted a school's petition to become a Charter School pursuant to Education Code section 47605.
- (g) "Conduit Financing Program" or "Non-CSFP" shall mean the Authority's financing program established through Education Code 17180, et. seq.
- (h) "ESEA" shall mean the Elementary and Secondary Education Act of 1965 (20 USCA section 7221(i)).
- (i) "NCLB" shall mean the No Child Left Behind Act of 2001.
- (j) "PANACEA Program Application" shall mean Form CSFA 07-01 (rev. September 2018), incorporated herein by reference.
- (k) "Program" shall mean the Project Acceleration Notes and Credit Enhancement Alternatives (PANACEA) (CFDA #84.354A).

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Sections 17173, 47600 et seq., 47605, and 47612.5 (e)(1), Education Code.

Section 10200.2 Applicant Eligibility Criteria.

An Applicant shall be eligible to apply for an award of a reservation of funds under this Program if all of the following conditions are met, where applicable:

- (a) In the case of an Application associated with CSFP funding, an Advance or Final Apportionment has been awarded under CSFP.
- (b) An approved charter has been awarded and is in place and current at the time of Application throughout the Application review and approval process and throughout the term of an award.
- (c) The Charter School is in good standing with its Charter Authorizer and is in compliance with the terms of its charter at the time of Application submission. The Authority will rely on information from the Charter Authorizer regarding the Charter School's good standing and compliance with the terms of its charter.
- (d) The Charter School is established pursuant to Education Code section 47600 et seq., and also meets the federal definition of Charter School as defined in section 5210(1) of the ESEA as amended by the NCLB of 2001.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Sections 17180 and 47600 et seq., Education Code.

Section 10200.3 Award Allocation and Eligible Use of Program Funds.

- (a) The Authority may make awards of up to \$1,000,000 per Application for uses listed in subdivision (b) below.
- (b) Program funds may be applied towards funding the primary debt service reserve requirement for: (1) interim financing associated with a CSFP project; or (2) debt associated with the acquisition, renovation, construction and / or refinancing of charter school facilities.
- (c) The grant award shall be held in trust by the Authority or an Authority approved financial institution, solely for authorized purposes and shall not be released to Awardees without the Authority's or trustee's approval. As deemed appropriate by the Authority, conditions for release of the Program funds throughout the term of the financing will be determined by the Authority, in collaboration with all lending parties, prior to closing of the financing.
- (d) Awards of a reservation of funds shall be released and returned to the Authority when the funds are no longer needed for the authorized purposes.
- (e) Awards of a reservation of funds will expire if the Awardee does not use the awarded funds by closing the financing within six months of Authority approval. Exceptions may be granted by the Authority.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Section 17180, Education Code.

Section 10200.4 Application Review and Evaluation Criteria.

- (a) Grants under the Program shall be available and awarded on a rolling first-come, first-served basis to the extent that funding and appropriations are available, and the requirements of the Program are satisfied. The Application review process will remain open only to the extent of available funding.

- (b) Applicants must meet one of the following criteria in order to be eligible for funding. The Authority will evaluate and determine Program awards based on the following, with increasing preference given based on the number of criteria the Applicant meets:
- (1) Applicants located in a school district and/or county where at least 50% of students do not meet the State standard for proficiency in either math or language on the state assessment; or
 - (2) Applicants located in a school district and/or county with 60% or more of the student population eligible for free or reduced-price lunch; or
 - (3) Applicants having more than 50% of current or projected student enrollment who are eligible for free or reduced-price lunch; or
 - (4) Applicants located in a school district and/or county where at least 15% of public schools have been identified for improvement or corrective action or schools identified by the California Department of Education, pursuant to ESEA as amended by the NCLB of 2001, as needing support; or
 - (5) Applicants awarded an Advance or Final apportionment through CSFP.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Section 17180, Education Code.

Section 10200.5 Content of Application.

- (a) For Applicants seeking an award related to a CSFP project, the following must be submitted to the Authority and shall include, but not be limited to, all of the following:
- 1) PANACEA Program Application (with the CSFP Financing box checked);
 - 2) Copy of CSFP Award Letter from the Office of Public School Construction (OPSC), if applicable;
 - 3) A detailed description of the project costs to be enhanced with the award;
 - 4) A detailed timeline of the project's relevant milestones;
 - 5) Copy of current charter agreement and verification of the expiration date;
 - 6) Verification the Charter School is in good standing with its Chartering Authorizer and in compliance with the terms of its charter. Such verification must be provided directly from the Chartering Authorizer on Form CSFA 07-03 (rev. September 2018), incorporated herein by reference. Charter Schools may appeal any response by the Chartering Authorizer's staff-directly to the Chartering Authorizer'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(s);
 - 7) A completed legal status questionnaire Form CSFA 07-04 (rev. September 2018), incorporated herein by reference; and
 - 8) Any additional information that the Authority deems necessary to evaluate the Application.
- (b) For Applicants seeking grant funds in connection with non-CSFP financing to be issued by the Authority, the following must be submitted to the Authority and shall include, but not be limited to, all of the following:
- 1) PANACEA Program Application (with the Non-CSFP Financing box checked);
 - 2) A detailed description of the project costs to be enhanced with the award;
 - 3) A detailed timeline of the project's relevant milestones;
 - 4) Copy of current charter agreement and verification of the expiration date;
 - 5) Verification the Charter School is in good standing with its Chartering Authorizer and in compliance with the terms of its charter. Such verification must be provided directly from the Chartering Authorizer on Form CSFA 07-03 (rev. September 2018), incorporated herein by reference. Charter Schools

- may appeal any response by the Chartering Authorizer's staff-directly to the Chartering Authorizer'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(s);
- 6) A completed legal status questionnaire Form CSFA 07-04 (rev. September 2018), incorporated herein by reference; and
 - 7) Any additional information that the Authority deems necessary to evaluate the Application.
 - 8) Evidence that the Charter School operates as, or is operated by, a nonprofit public benefit corporation formed and organized pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with section 5110) of Division 2 of Title 1 of the Corporations Code), or is organized under section 501(c)(3) of the Internal Revenue Code or other evidence, satisfactory to the Authority, that the school operates on a nonprofit basis.
 - 9) Adopted budget for the current year.
 - 10) Projected budgets for the next three years.
 - 11) Audited financial statements for the last three years, if applicable.
 - 12) Three year historical and five year projected enrollment figures including retention rates.
 - 13) Documentation that the Applicant holds title or other interest in the financed facility, including right of access.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Section 17180, Education Code

Section 10200.6 Audits and Conflicts of Interest.

- (a) The State may conduct or require periodic audits to ensure Awardees are using funds consistent with the requirements and the terms of the Program, the related financing program, and this Article as approved. Awardees shall retain all documentation and financial data necessary to substantiate the purposes for which the financing funds were spent for a period of three years after the certification of completion and repayment of the debt or three years after the Program funds are no longer held in reserve, whichever is longer.
- (b) Applicants and Awardees must avoid apparent and actual conflicts of interest when participating in grants from the U.S. Department of Education. U.S. Department of Education regulations at 34 CFR 75.525(a) prohibit a person from participating in an administrative decision regarding a project if (a) the decision is likely to benefit that person or his or her immediate family members; and (b) the person is a public official or has a family or business relationship with the Awardee. 34 CFR 75.525(b) provides further that an Awardee may not permit any person participating in a project to use his or her position for a purpose that is – or gives the appearance of being – motivated by a desire for a private or financial gain for that person or for others.
- (c) When relying on federal funds to enter into a contract, a State or local entity benefiting from a grant must comply with 34 CFR 80.36. These standards require federal grant Awardees to develop written procurement procedures and to conduct all procurement transactions in a manner that provides, to the maximum extent possible, open and free competition. No employee, officer, or agent of the Awardee may participate in the selection, award, or administration of any contract supported by federal funds if a real or apparent conflict of interest exists.

- (d) The Authority reserves the right to conduct site visits to any Charter School facility or project receiving a reservation of funds pursuant to this Article.
- (e) Participants will be required to routinely submit documentation in order to support continued eligibility on at least an annual basis.
- (f) Awardees shall comply with all State and Federal requirements throughout the award period.

Note: Authority cited: Sections 17179 and 17180, Education Code.

Reference: Section 17180, Education Code.

Section 10200.7 Funding Contingency.

- (a) Program funds will be released upon the execution of a performance agreement between the Authority and U.S. Department of Education.
- (b) This Program is contingent upon the receipt and ongoing availability of funds by the U.S. Department of Education.

Note: Authority cited: Sections 17179 and 17180, Education Code.

Reference: Section 17180, Education Code.