

INITIAL STATEMENT OF REASONS

Title 4, Division 15, Article 2,

CALIFORNIA CODE OF REGULATIONS

State Charter School Facilities Incentive Grants Program

INTRODUCTION

The California School Finance Authority (Authority) is organized and operated pursuant to the California School Finance Authority Act under sections 17170 through 17199.5 of the Education Code.

In 2004, 2009, 2014, and 2024 the United States Department of Education approved grant awards to the Authority pursuant to the State Charter School Incentive Grant (Grant), authorized under Title V, Part B, Subpart 1 of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001. The Grant provided for \$49,250,000 in 2004, \$46,132,749 in 2009, \$50,000,000 in 2014, and \$30,000,000 to be awarded over three to five-year periods for the purposes of funding per-pupil facilities aid programs for California charter schools. Grant funds are applied toward a charter school's annual costs of rent, lease, mortgage, debt service, or Proposition 39 pro-rata payments for facilities, or towards the costs of purchase, design, construction, and/or renovation of a new or existing facility.

PROBLEM STATEMENT

Sections 17179 and 17180 of the Education Code endow the Authority with the general power to adopt regulations, as a power reasonably necessary to carry out the powers and responsibilities expressly granted or imposed under Chapter 18, as well as the specific power to adopt guidelines for grants, bonds, and other evidence of indebtedness. Without these amended regulations, the Authority would not have uniform standards and guidelines to administer the Program and ensure that Applications are evaluated in a consistent and fair manner, and Applicants do not have guidelines to direct them through the Application process and post-award compliance.

ANTICIPATED BENEFITS

The proposed regulations provide specificity and guidance for applicant charter schools to permit an informed decision concerning Program participation. By setting forth Program requirements and expectations, the proposed regulations reduce the potential for confusion or misinterpretation or misapplication of the rules and increase the likelihood of Program success. Additionally, by setting out clear program goals and requirements, these regulations provide transparency concerning the administration of a government program.

SPECIFIC PURPOSE OF, AND RATIONALE FOR, EACH PROPOSED AMENDMENT

1. **Section 10175. Purpose.** "ALN" replaces "CFDA" as "ALN" is the new program acronym used by USDOE and stands for Assistance Listing Number.



2. **Section 10176. Definitions.** (a): change “educational management organization” “charter management organization” as typically used term for management organizations.
3. **Section 10176. Definitions.** (b): “ALN” replaces “CFDA” as “ALN” is the new acronym used by USDOE
4. **Section 10176. Definitions.** Remove ADA definition as it is no longer relevant to the Program.
5. **Section 10176. Definitions.** (c): added BABAA definition as accordance with Build America, Buy America Act is a requirement per USDOE.
6. **Section 10176. Definitions.** (d): added California Department of Education definition.
7. **Section 10176. Definitions.** (e): removed CALPADS definition as reports are defined within 10182.
8. **Section 10176. Definitions.** (f): removed CBEDS Report definition as reports are defined within 10182.
9. **Section 10176. Definitions.** (g): removed “or the State board of Education” from definition as they are no longer authorize charter schools.
10. **Section 10176. Definitions.** (l): removed “Enrollment” definition as unnecessary as a specific definition outside it’s generally accept meaning for the Program.
11. **Section 10176. Definitions.** (m): removed “FRPM” definition as it is only mentioned in defined within 10182.
12. **Section 10176. Definitions.** (k): updated definition of “Locale Code” to reflect its use in the Program.
13. **Section 10176. Definitions.** (p): removed “Low Income” definition as repetitive with FRPM which is defined in 10182.
14. **Section 10176. Definitions.** (q): removed “NCES” definition as it is only mentioned in a definition for Locale Code.
15. **Section 10176. Definitions.** (r): removed “New Construction Eligibility” definition as eligibility is defined in 10177 and 10178.
16. **Section 10176. Definitions.** (m): “ALN” replaces “CFDA” as “ALN” is the new acronym used by USDOE.
17. **Section 10176. Definitions.** (m): added “as administered by the US Department of Education” to clarify.
18. **Section 10176. Definitions.** (v): removed “Smarter Balanced Assessment System” definition as references to academic measures will be more general and defined in 10182.
19. **Section 10177. Eligible Applicant.** (a): added “petition” to “approved charter petition” for clarity.
20. **Section 10177. Eligible Applicant.** (b): changes to good standing to Authorizer Certification including addition of subsections and subparagraphs. Introduces Charter Authorizer Certification - Form CSFA 05-26 (Attached as 8C). This is process is similar



to the Good Standing Certification it is replacing as a method for Authorizers to confirm the operation standing of the school and is better in line with Program's needs.

21. **Section 10177. Eligible Applicant.** (c): removed "CDS Code" from requirement as an applicant's CDS code could change due to State Board no longer authorizing charter schools. The intention of the original language was to prohibit schools that had a change due to negative reasons such as a revocation or closure.
22. **Section 10177. Eligible Applicant.** (f): removed the 80% of instructional time is classroom based and changed to "provides "Classroom Based Instruction" as per definitions. This requires the determination to be made by CDE, not CSFA.
23. **Section 10177. Eligible Applicant.** (j): replaced "educational management organization" with "charter management organization" and "EMO" with "CMO" as typically used term for management organizations.
24. **Section 10178. Eligible Costs.** (a)(1): replace "base rent" with "rent or lease costs" for clarity.
25. **Section 10178. Eligible Costs.** (a)(1)(A): deleted due to new subsection (b).
26. **Section 10178. Eligible Costs.** (a)(2): added "within grant period." for clarity.
27. **Section 10178. Eligible Costs.** (a)(2)(A): deleted due to new subsection (b).
28. **Section 10178. Eligible Costs.** New (b): added new language regarding not being eligible if using 740 funds for same school site or address to better prevent duplicated reimbursements.
29. **Section 10178. Eligible Costs.** Original (b)-(f) re-lettered.
30. **Section 10179. Maximum Grant.** (a)(1): changed language on enrollment to "most recent" and certified by CDE for clarity.
31. **Section 10179. Eligible Costs.** (b)(1): changed language on enrollment to "most recent" and certified by CDE for clarity.
32. **Section 10179. Eligible Costs.** (c): removed "at its sole discretion" regarding the reduction in grant awards to reflect changes in subgrantee circumstances.
33. **Section 10180. Application Submission.** (a): removed hard copy requirement for application as there is only an online application.
34. **Section 10180. Application Submission.** (b): added not to exceed time (14 days) for cleaning up applications to better align with funding timelines.
35. **Section 10180. Application Submission.** (b): added the words "for grant funds" for clarity.
36. **Section 10180. Application Submission.** (c): changed date for application period to be announced by May 31st of each year to align with data availability.
37. **Section 10180. Application Submission.** (c): changed earliest deadline to first week of September to align with data availability.
38. **Section 10180. Application Submission.** (c): changed time frame for grant award determinations from August 31st to "upon approval of the CSFA Board." to better align with funding timelines.



39. **Section 10181. Content of Application.** (a): Updated to add certification form and title Application Agreement and Certification.
40. **Section 10181. Content of Application.** (f): Updated to include LSQ form number.
41. **Section 10181. Content of Application.** (h): Added “calendar” for day type reference.
42. **Section 10182 Evaluation Criteria.** Edited for clarity.
43. **Section 10182 Evaluation Criteria.** (a): Edited for clarity.
44. **Section 10182 Evaluation Criteria.** (b): Edited for clarity.
45. **Section 10182 Evaluation Criteria.** (c): Edited for clarity and to state the source used.
46. **Section 10182 Evaluation Criteria.** (d): Edited for clarity.
47. **Section 10182 Evaluation Criteria.** (e): Amended to update the measure to remove the scale and make the measure a “pass/fail” criterion and edited for clarity.
48. **Section 10182 Evaluation Criteria.** (f): Added Disaster section.
49. **Section 10183 Award Methodology.** (a): Amended to diversify the awarding process and allow an awardee in all locale codes.
50. **Section 10183 Award Methodology.** (b): Amended to clarify and update the tie-breaking process.
51. **Section 10184 Approval of Grant and Notification of Subgrantee.** Change to notification timeline after board approval to better align with funding timelines.
52. **Section 10185 Obligation and Expenditure of Grant Funds.** (a): Added calendar for day type reference.
53. **Section 10185 Obligation and Expenditure of Grant Funds.** (f): Change timeline for subgrantee response and level of action for outstanding issues to better align with funding timelines.
54. **Section 10185 Obligation and Expenditure of Grant Funds.** (g): removed to eliminate ability to increase awards beyond approved amounts.
55. **Section 10187. Grant Agreements.** (g): Removed as it is located in 10188.
56. **Section 10187. Grant Agreements.** (h): Added calendar for day type reference.
57. **Section 10187. Grant Agreements.** (i): Removed as enrollment is from CDE and should be taken on by the Authority to ensure accuracy.
58. **Section 10187. Grant Agreements.** (h): Added timeframe and calendar for day type reference to better align with funding timelines.
59. **Section 10188. Release of Funds.** (b): New section made of requirements provided in the subsections of original (b), new (c).
60. **Section 10188. Release of Funds.** (c): Subsections making up new (b) were removed.
61. **Section 10188. Release of Funds.** (c)(3) and (c)(3)(A)(1): Added more specific requirements for schools purchasing a facility(s) or land with grant funds.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS,



OR DOCUMENTS

The Authority did not rely on any technical, theoretical, and/or empirical studies, reports, or Page 3 of 4 Charter School Facilities Credit Enhancement Grant Program documents in proposing the regulations.

ECONOMIC IMPACT ASSESSMENT

The proposed regulations are unlikely to have an impact on the creation or elimination of jobs within the State of California. In addition, the Authority is unaware of any reason enhancing conduit financings would result in the elimination of jobs. Furthermore, the proposed regulations are unlikely to have an impact on the creation of new businesses or the elimination of existing businesses within the State of California.

The proposed regulations could likely impact the expansion of businesses currently doing business within the State of California. This program will provide grant funding for charter school facilities. These facilities are often an expansion of the associated charter school organizations to serve more students.

Lastly, the proposed regulations will have no benefit to worker safety or the state's environment as a result of this rulemaking. The purpose of the program and proposed regulations is to set forth administrative criteria and requirements for administering this grant program. As the intent of the program is to provide grant funding related to charter school facilities, the Program and its proposed regulations have the potential to directly benefit the welfare of students and their related communities.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Authority has determined the proposed regulations do not impose a mandate on local agencies or school districts.

REASONABLE ALTERNATIVES AND THE AUTHORITY'S REASONS FOR REJECTING THOSE ALTERNATIVES

No alternative considered by CSFA would be more effective in carrying out the purpose for which the regulations are proposed, would be as effective and less burdensome to affected private persons than the adopted regulations, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

The proposed regulatory action does not contain any regulations that are identical to or in conflict with any corresponding federal regulation.

REGULATIONS MANDATED BY FEDERAL LAW



Program applicants are expected to comply with federal regulations related to conflicts of interest. These regulations are stated in proposed regulations Section 10198. Specifically, applicants must comply with the following federal regulatory code as required by the United States Department of Education as well as general conflict of interest compliance for federal grants.:

34 CFR 75.525(a) which prohibit a person from participating in an administrative decision regarding a project if (a) the decision is likely to benefit that person or their 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) which provides further that an Awardee may not permit any person participating in a project to use their 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.

2 CFR 200.318 through 2 CFR 200.327. 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.

The full text of the federal regulations referenced above are found in the Code of Federal Regulations, which is available online at <https://www.ecfr.gov/> .

