

Date: May 27, 2025

To: Members of the California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Amendments to Regulations for the Charter School Facility Grant Program and Authorizing the Emergency Rulemaking Process

Background: The Charter School Facility Grant Program or SB740 Program (Program) provides annual assistance with facilities rent and lease costs for pupils in California's charter schools. Since 2013-14, the California School Finance Authority (CSFA or Authority) has made changes to the regulations that guide this Program. In 2022, the Program was subject to a State Audit per direction of the Joint Legislative Audit Committee. The Audit (2022-110R) found that CSFA administered the Program with fidelity to the law however, the Audit included six recommendations – three to be implemented by the Legislature and three to be carried out by the Authority at the programmatic level.

Of the three Authority level recommendations, one has been implemented, one has been resolved, and the third will be implemented once the regulations are in place and our reviews commence. The third recommendation relates to vetting program applicants for conflicts of interest (COI). CSFA's COI vetting process was developed in 2014 when the Authority first developed Program regulations. At that time, charter schools were subject to different COI standards. With the passage of SB 126 in 2018, conflict of interest standards for charter schools and their operators aligned with public schools including being subject to Government Code 1090 and the Political Reform Act of 1974.

The State Auditor directed the Authority to confer with the Fair Political Practices Commission (FPPC) regarding our COI reviews. After several conversations with the FPPC and State Treasurer's Office counsel working to implement the Auditor's recommendation, the Auditor concurred with the recommendation to focus on Program Applicant's Statement of Economic Interests filings (Form 700).

If adopted and the regulatory change is effective, CSFA will require Form 700 submissions with all new facility agreements to confirm school officials do not have a financial interest in either leased property or company and/or any services provided related to the Program. Changes to Program Regulations Sections 10170.2, 10170.6, and 10170.14 are related to this new process. There is also an additional change to remove a 2018 prohibition on late applications and submission appealing related determinations or receiving funding.

A summary of the revisions from each section within the proposed regulations is highlighted below:

1. **Section 10170.2. Definitions.** (a) Amend "Applicant" to clarify governing entity and organizational structure.

2. **Section 10170.2. Definitions.** (t) Amend “New Facility Agreement” to better reflect the scenarios in which the Authority would need an appraisal to set a rent and lease cap as required by Program Statute as well as a Form 700 to vet for conflicts of interest.
3. **Section 10170.2. Definitions.** (v) Add “School Official” to indicate which individuals will be required to submit a Form 700.
4. **Section 10170.5. Application Submission.** (a)(3) Remove subsection to allow for exceptions or flexibility in undersubscribed rounds.
5. **Section 10170.6. Content of Application.** (c) and (d) Amend and create to provide requirements for Applicants with New Facility Agreements, including appraisals and Form 700.
6. **Section 10170.14. Conflict of Interest.** (a) Remove the entire subsection as School Official is defined in Section 10170.2.
7. **Section 10170.14. Conflict of Interest.** (b) Changed into new subsection (a).
8. **Section 10170.14. Conflict of Interest.** (c) Amended into new subsection (b) to establish a prohibition on agreements/contracts between School Officials and entities listed in the associated Form 700s. Prior remedial steps in subsection original (c)(1)-(5).
9. **Section 10170.14. Conflict of Interest.** (d) Changed into new subsection (c) with spelling correction.

Proposed Regulations Key: A draft of the Program’s proposed regulations is included exhibit B. Crossed red text (e.g., ~~EXAMPLE~~) are proposed removals and underlined blue text (e.g., EXAMPLE) are proposed additions.

Recommendation: Staff recommends the Board adopt Resolution 25-13 approving proposed amendments to the regulations for the State Charter School Facility Grant Program. If approved, the Executive Director will include the Resolution demonstrating the Board approval with the rulemaking file to the Office of Administrative Law.