

MEMORANDUM

Staff Summary No. 12

Date: March 19, 2025

To: Members of the California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Approval of Resolution #25-08: Amendments to Regulations for the State Charter School Facilities Incentive Grants Program (CDFA #84.282D) and Authorizing the Regular Rulemaking Process

Background: In July 2024, the California School Finance Authority (Authority) applied for a grant award through the federally-funded State Charter School Facilities Incentives Grant Program (Program) (CFDA #84.282D). The Authority was awarded a \$30 million grant award in Fall 2024. Per the Authority's application to the Department of Education, the Authority is proposing three more funding rounds of the Program starting for the 2025-26 school year. The Authority is bringing regulation changes related to new grant requirements related to Build America, Buy America Act (BABAA) and Davis Bacon and Related Acts (DBRA). Additionally, preference criteria have been updated after a review of testing of previously proposed methods as well as additional clarifications and corrections. Upon board approval, the changes will become part of the permanent regulations once approved by the Office of Administrative Law (OAL).

Issue: Per the Authority's agreement with the U.S Department of Education as well as grant specific requirements, certain federal acts need to be added and updated. The Authority is requesting approval of these revisions to ensure federal compliance and the ability to properly administer the Program.

As for the changes to preference criteria, the Board requested CSFA review the proposed criteria approved at the December 2024 meeting. After Staff's analysis, the decision was made to have comparisons in Section 10182 between the school district in which the applicant is located rather than across the state.

Additionally, there was a clarification to the preference categories approved in December 2024.

Timely approval of the regulation changes is necessary to implement the first funding round for the 2025-26 federal fiscal year.

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

1. **Section 10176. Definitions.** (d) NEW – Added BABAA as well as statutory references.

2. **Section 10176. Definitions.** (d-w) ORIGINAL – Subsequently assigned new letters due to addition of new subsection (d).
3. **Section 10176. Definitions.** (k) – Added McNamara-O’Hara Service Contract Act and statutory reference.
- ~~4. **Section 10176. Definitions.** (s) – Added state level non-profit recognition.~~
- ~~5. **Section 10181. Content of Application.** (d) – Replaced “school” with Applicant as referred to Non-Profit as newly defined.~~
6. **Section 10181. Content of Application.** (h) – Replace “title report” with report “a grant deed coupled with a copy of the most recent title insurance policy”.
7. **Section 10181. Content of Application.** (i) – Updated for clarity.
8. **Section 10181. Content of Application.** (j) – Updated for clarity.
9. **Section 10181. Content of Application.** (j)(5) – Updated for clarity on evidence of completion.
10. **Section 10182. Evaluation Criteria.** (a) Updated the total points based on the changes made.
11. **Section 10182. Evaluation Criteria.** (b) – Clarifies the applicant will be considered in the preference determination if they alone meet the criteria. Additionally, clarifies the specific types of ESSA school criteria to be used rather than categories.
12. **Section 10182. Evaluation Criteria.** (c) & (e) – Changes the proposed comparison between the Applicant and the State to the Applicant and the school district in which the Applicant is located.
13. **Section 10182. Evaluation Criteria.** (f) – Add criteria to provide preference points for schools directly affected by natural disasters that are declared states of emergency by the Governor’s office [or a federal agency](#). For schools reimbursing lease or rent costs, they will need to have been displaced from their previous facility. For schools reimbursing new construction/renovation/acquisition costs, they will need to have either been displaced from their previous facility or replacing/repairing facilities directly damaged by the disaster. The points will be awarded as follows:
 - Years since Natural Disaster
 - 0-1 years – 20 points
 - 2-3 years – 15 points
 - 4-5 years – 10 points
14. **Section 10190. Audits and Conflicts of Interest.** (d) – Added BABAA compliance requirement.

Proposed Regulations Key: A draft of the Program’s proposed regulations is included behind this summary in the board packet. Crossed red text (e.g., ~~EXAMPLE~~) are proposed

removals and underlined blue text (e.g., EXAMPLE) are proposed additions. Please note text that is double underlined (e.g., EXAMPLE) are referring to changes approved in December 2024 but have not officially been approved by OAL as of this board meeting.

Recommendation: Authority staff recommends the Board adopt Resolution 25-08 approving proposed amendments to the regulations for the State Charter School Facilities Incentives 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.

TEXT OF REGULATIONS

CALIFORNIA CODE OF REGULATIONS

Title 4, Division 15 California School Finance Authority

Article 2. State Charter School Facilities Incentive Grant Program

§ 10176. Definitions.

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

- (a) "Applicant" shall mean the charter school or educational management organization applying on behalf of a charter school for a grant under this article.
- (b) "Application" shall mean a completed State Charter School Facilities Incentive Grants Program (CFDA #84.282D) online application (Form CSFA 05-01, rev. 3/2025), incorporated herein by reference, as defined and developed by the Authority and available on its website, and all other documents required to be submitted to the Authority.
- (c) "Average Daily Attendance" (ADA) shall mean the unit of attendance as reported by the California Department of Education (CDE) for the second period of the school year.
- (d) "Build American, Buy America Act" or "BABAA" shall mean the federal requirements as established in 2 CFR 184.1 through 2 CFR 184.8.
- (e) "CALPADS" shall mean the enrollment information provided through the California Longitudinal Pupil Achievement Data System (CALPADS) to the CDE.
- (f) "CBEDS Report" shall mean the enrollment information provided through the California Basic Educational Data System (CBEDS) to the CDE.
- (g) "Charter School" shall mean a school meeting the definition of a charter school in Education Code section 47600, et seq. and also meeting the federal definition of charter school as defined in section 4310(2) of the Elementary and Secondary Education Act of 1965 (20 USC Chapter 70), -as amended by the Every Student Succeeds Act (ESSA) of 2015.
- (h) "Charter School Facility Grant Program" or "SB 740 Program" shall mean the state-funded per-pupil facility grant program established pursuant to Education Code section 47614.5.
- (i) "Chartering Authority" 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.
- (j) "Classroom-Based Instruction" shall have the meaning set forth in Education Code section 47612.5(e)(1).
- (k) "Davis-Bacon and Related Acts" shall mean the following federal acts: Davis-Bacon Act -- 40 U.S.C. § 3141, et seq.; Fair Labor Standards Act -- 29 U.S.C. § 201, et seq; Contract Work Hours and Safety Standards Act -- 40 U.S.C. § 3701, et seq.; ~~and~~ Copeland "Anti-Kickback" Act -- 40 U.S.C. § 3145 and 18 U.S.C. § 874; McNamara-O'Hara Service Contracts Act – 41 U.S.C § 351, et seq.
- (l) "Enrollment" shall mean the number of pupils enrolled in a school as collected and reported by the CDE for grades K-12.
- (m) "Free and Reduced-Price Meals" (FRPM) shall mean the Free/Reduced Percentage as collected by the CDE, and reported by the CDE for grades K-12.
- (n) "Grantee" shall mean the California School Finance Authority (Authority), which will serve as the administrator of the grant and will make final award and disbursement decisions.
- (o) "Locale Code" shall mean a categorical code that the U.S. Department of Education has designated to identify the population density associated with a school's physical location. Locale codes are derived by matching a school's physical location represented by an

address with U.S. Census Bureau data.

- (p) "Low-income" shall refer to the percentage of pupils deemed to be eligible for free/reduced price meals as identified in the FRPM data for the school on file at the CDE and as identified in this section.
- (q) "National Center of Education Statistics (NCES)" shall mean the primary entity within the U.S. Department of Education responsible for collecting and analyzing data related to education.
- (r) "New Construction Eligibility" shall mean the result of the calculation determined in Education Code sections 17071.75 and 17071.76.
- (s) "Nonprofit Entity" shall mean an entity that is organized and operated for an exempt purpose as set forth in Internal Revenue Code section 501(c)(3) and whose net earnings may not inure to the benefit of any private shareholder or individual, or is organized and operated by a nonprofit public benefit corporation, pursuant to State Corporations Code, Title 1, Division 2, Part 2, section 5110, et seq.
- (t) "Program" shall mean the State Charter School Facilities Incentive Grants Program (CFDA #84.282D).
- (u) "Proposition 39 pro-rata payment" shall mean the pro-rata share payment that a charter school makes for use of a district-held property pursuant to Education Code section 47614(b)(1)
- (v) "Smarter Balanced Assessment System" shall mean the testing criteria required under the Common Core State Standards (CCSS) for English Language Arts/Literacy (ELA) and Mathematics as reported by the CDE.
- (w) "Subgrantee" shall mean an Applicant awarded Program funds on behalf of a charter school. Note: Authority cited: Sections 17179 and 17180, Education Code. Reference: Sections 17180, 47605 and 47612.5, Education Code.

§ 10181. Content of Application.

Applications and all supporting documentation shall be submitted to the Authority via the online application system and shall include, but not be limited to the items listed in (a)-(j) below. Applications may not be submitted by email or facsimile.

- (a) Online application (CSFA Form 05-01, revised 3/2025).
- (b) Description of how an award of grant funds for facilities will be used.
- (c) Copy of a current, valid charter agreement, and verification of the expiration date.
- (d) Evidence that the school is organized under section 501(c)(3) of the Internal Revenue Code, or is a nonprofit public benefit corporation pursuant to California Corporations Code section 5110, et seq., if applicable.
- (e) Copy of a current, valid, fully executed lease contract, rental agreement or other documentation verifying required payments and evidence that the term matches or exceeds the anticipated grant term.
- (f) A completed Legal Status Questionnaire (LSQ) submitted in the form set forth in CSFA 07-04.
- (g) For construction/renovation or purchase projects only, a detailed description of the project, including a six-month timeline which demonstrates project readiness, anticipated costs, bids, and other funding sources.
- (h) For construction/renovation or purchase projects only, proof of site control for a minimum of the grant period. Such proof may consist of (1) a current ~~title report~~ [a grant deed coupled](#)

with a copy of the most recent title insurance policy issued no more than 90 days prior to application showing ownership of the site; or (2) a valid, current, and enforceable ~~contingent~~ purchase and sale agreement or option agreement between the Applicant and the owner of the subject property, including evidence that all extensions are in place to keep the agreement current through the grant award date.

- (i) For construction/renovation or purchase projects only, evidence the applicant has obtained all necessary of the applicable discretionary use permits and approvals from any applicable governmental federal, state, or local planning agencies for the construction and development of the proposed project.
- (j) ~~Agreement and Certification.~~ The applicant shall warrant, represent, agree, and certify ~~under penalty of perjury to the following terms and conditions that each of the foregoing are true and correct prior to the receipt of~~ as a requirement of receiving any grant funds. The ~~agreement~~ and certification shall be executed by the ~~charter school~~ Applicant's executive director, principal, chair of the board, or another authorized individual and shall be included in the application.
 - (1) Applicant may be required to return all or a portion of the grant funds including any investment earnings if the applicant fails to use the funds as approved. In cases where the grant will fund architectural, design, or engineering fees, or land acquisition costs as part of a construction project, the applicant may be required to return all grant funds and any investment earnings if the Authority cannot determine the associated larger construction project has been completed based on timelines provided within the application. Grant funds shall only be used by the subgrantee in the manner described in the application, unless the Authority approves a change in writing pursuant to section 10186.
 - (2) Applicant agrees that any contractors or subcontractors on the project(s) assisted with these federal funds must be in compliance with Davis-Bacon and Related Acts and BABAA. This section applies to the entire project, even when this grant funding is used to only fund a portion of the project and the other portions are paid for with other funding sources.
 - (3) The applicant's project and financial records are subject to audit and inspection by the Authority and the California State Auditor.
 - (4) Applicant has either disclosed all legal information as required in the LSQ, or has no legal information to disclose.
 - (5) Applicant will notify the Authority in writing at the time of project completion and will include evidence of project completion to the satisfaction of the Authority, including, but not limited to a certificate of occupancy issued by the appropriate governmental entity, or a temporary certificate of occupancy issued by the appropriate governmental entity of sufficient duration to span the entire grant period.
 - (6) Applicant will provide all documents and information required by law and meets all necessary requirements prior to the release of any funds.
 - (7) Applicant will immediately notify the Authority of any material change to the charter school's location, enrollment, student performance, charter status, or financial condition.
 - (8) For all construction, renovation, or purchase projects, a copy of the executed construction contracts and all required permits must be submitted to the Authority no later than one year from the award date and prior to any disbursements. Failure to comply shall result in the subgrantee being declared ineligible under the Program and the forfeited funds will immediately revert back to the Authority.

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

Education Code.

§ 10182. Evaluation Criteria.

Preference points will be calculated for all eligible applications. An application shall receive preference points based on the total of (a), (b), (c), (d), (e), and (f), up to a maximum of ~~150~~ 130 points, as follows:

- (a) Low Income: Up to 60 points based on the percentage of pupils at the charter school eligible for FRPM. Preference points assigned shall be based on data collected and reported by the CDE for grades K-12. The following sliding scale will be used to determine the number of preference points:

<i>Percentage Eligible for Free and Reduced-Price Meals</i>	<i>Preference Points Assigned</i>
NA or unestablished	0
1-15%	2
16-25%	4
26-30%	8
31-35%	10
36-40%	14
41-45%	18
46-50%	22
51-55%	26
56-60%	28
61-65%	30
66-70%	34
71-75%	38
76-80%	42
81-85%	46
86-87%	50
88-89%	54
90%	55
91%	55.5
92%	56
93%	56.5
94%	57
95%	57.5
96%	58
97%	58.5
98%	59
99%	59.5
100%	60

- (b) Nearby Every Student Succeeds Act Assistance School Site – 10 points

Applicant is located within the driving distance in the table below of any public school as designated by California Department of Education for which said public school or Applicant is eligible for either 1) the Comprehensive Support and Improvement – Low Performance, 2) the Targeted Support and Improvement, or 3) the Targeted/Additional Targeted Support and Improvement:

Locale Code	Maximum Driving Distance in Miles
City/Urban	3
Suburban	10
Town/Rural	15

(c) Other Equity Demographics – 10 points

A charter school who serves a larger percentage of the groups listed below than the percentage served by the Chartering Authority ~~State as a whole~~ as listed in the total student population as provided by CDE, will receive 2.5 points for each group. Charter schools that serve the same percentage will receive 1 point. Charter schools who serve less will receive 0 points. These figures will be based on the State's most recent CALPADS or CBEDS report.

- English Learners
- Foster Youth
- Homeless/Unhoused
- Students with Disabilities.

(d) Student Performance: The associated preference points are based on the charter school's Smarter Balanced Assessment -- English Language Arts/Literacy and Mathematics achievement levels for the most recent year and progress made from the prior year, to the extent data is available. Preference points will be based on data provided by the CDE and calculated using the following:-

Level

- Very High – 5 points
- High – 3 points
- Medium – 1 point
- Low/Very Low – 0 points

Progress

- Increase Significantly – 5 points
- Increased – 3 points
- Maintained – 1 point
- Declined/ Increase Significantly – 0 points

(e) School Choice: If the charter school is providing a school choice option, it may receive up to 20 points through the following two options to the extent data is available from CDE for all grades. The associated d points are based on the percentage difference between the charter school's distance from standard as determined by CDE through the Smarter Balanced Assessment compared to the Chartering Authority ~~State~~'s distance from standard regarding

- (1) Smarter Balanced Assessment -- English Language Arts / Literacy (10 points)
- (2) Smarter Balanced Assessment – Mathematics (10 Points)

<u>Percentage Difference in Distance from Standard</u>	<u>Points Assigned</u>
<u>Less than 0%</u>	<u>0</u>
<u>1-25%</u>	<u>2</u>
<u>26-50%</u>	<u>4</u>
<u>51-75%</u>	<u>8</u>
<u>Greater than 76%</u>	<u>10</u>

- (f) Disaster: If a charter school is directly affected by disasters that are declared states of emergency by the Governor's office or a federal agency, the school is eligible for up to 20 additional points. For schools reimbursing lease or rent costs, they will need to have been displaced from their previous facility. For schools reimbursing new construction/renovation/acquisition costs, they will need to have either been displaced from their previous facility or replacing/repairing facilities directly damaged by the disaster. The points will be determined using the following:

<u>Years since States of Emergency</u>	<u>Points Assigned</u>
<u>0-1 years</u>	<u>20</u>
<u>2-3 years</u>	<u>15</u>
<u>4-5 years</u>	<u>10</u>

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

§ 10190. Audits and Conflicts of Interest.

- (a) The Authority and/or the Bureau of State Audits may conduct or require periodic audits to ensure subgrantees are using grant funds consistent with the requirements and the terms of the Program, the State Charter School Facilities Incentive Grant, and this article as approved. Subgrantees shall retain all documentation and financial data necessary to substantiate the purposes for which the grant funds were spent for a period of three years after the certification of completion of the project has been submitted or three years after the end of the funding period, whichever is longer.
- (b) Subgrantees must avoid apparent and actual conflicts of interest when administering grants from the U.S. Department of Education. Department 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 subgrantee. Section 75.525(b) provides further that a subgrantee 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 using federal funds to enter into a contract, a State or local entity receiving a grant must comply with 2 CFR 200.318 through 2 CFR 200.327. These standards require federal grant subgrantees 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 subgrantee 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) When these funds are used for construction-related activities, such as constructing a school building, renovating an existing owned school facility, or making leasehold

improvements, contractors or subcontractors on the projects assisted with these federal funds must be in compliance with Davis-Bacon and Related Acts [and BABAA](#).

- (e) The Authority reserves the right to conduct site visits to any charter school facility or project receiving a grant pursuant to this Article.

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