

August 6, 2012

The Honorable Tom Torlakson
Superintendent of Public Instruction
California Department of Education
1430 N Street
Sacramento, CA 95814

Re: Charter School Facility Grant Program (SB 740)

Dear Superintendent Torlakson:

I am writing in follow-up to our discussions over the last several months about the ongoing issues with the Charter School Facility Grant Program (Program). We recognize and greatly appreciate the recent effort and progress that the California Department of Education (Department) has made disbursing most of the funds for the 2010-11 fiscal year. We also understand that the Department has initiated the final reimbursement process for the 2011-12 cycle. While these steps are encouraging and certainly in the right direction, the lack of timely facilities funding for these charter schools that serve low-income students places them in a particularly precarious financial position. It is critically important to deliver these funds to charter schools that (1) serve low-income students; (2) do not have access to school district facilities; and (3) must pay lease costs from general operating funds, and, as a result, divert funds from instruction at a time when fewer funds are available and delayed.

While we acknowledge the progress that the Department has made concerning the 2010-11 school year, we are keenly aware that this latest effort to disburse these funds occurred over 18 months *after* the annual October 1 allocation deadline set forth by the Legislature. Therefore, I write now to encourage the Department to continue and expand upon its recent efforts, and (a) complete the 2010-11 and 2011-12 disbursements in an expeditious manner, and (b) immediately initiate a streamlined application for the 2012-13 cycle in order to disburse *all* funds to eligible applicants by October 1, 2012.

As we discussed, some charter school organizations are owed over a million dollars in cumulative SB 740 funds. Based upon our own compilation and analysis of CDE data, we know that approximately \$4 million remains outstanding from 2010-11 approved grants, and we estimate that up to \$40 million remains outstanding from 2011-12 eligible approved grants. The Legislature has appropriated sufficient funds for the Program, thus, the repeated delays in disbursing these funds continues to frustrate us and our member charter schools who have faced significant fiscal challenges over the last two school years.

We have been informed by applicant schools that the Department has subjected them to a number of actions and requirements that are above and beyond what the law requires, including: pre-grant investigations; demands for unrelated supporting documentation; unjustified decisions that applications/claims are invalid or incomplete; uninformed questions regarding the validity of leases executed between separate legal entities such as the charter school operator and the charter school's support foundation; and approval for only partial funding in multiple distributions throughout the year. From our perspective, each of these Department actions contributes to unnecessary delay in providing critical funds for eligible charter schools.

We have been informed by the Department that the slow rate of payment is attributable to a lack of staff available for application review, the number of applications that are denied or delayed to obtain additional documentation, and the inability of the Department to obtain accurate attendance, income, and cost data until late in the fiscal year. As explained below, it is our position that these justifications by the Department in implementing the Program in this manner do not provide a valid legal justification for the delays, especially where the Legislature established a narrow, three-month window (July 1 – October 1) by which the Department must disburse the funds. The cumulative effect from the delay in Program funding, in combination with the State's current deferral process, disproportionately affects the students who are economically disadvantaged and intended to benefit from the Program.

This negative impact is in direct contravention of the intent of the Program. In 2001, the legislature adopted SB 740 with the intent of providing “*immediate* facility assistance to charter schools in our state's lowest income areas, while ensuring the long-term strength of the charter school movement.” (Senate Floor Analysis of SB 740, dated Sept. 26, 2001.) To ensure that the funds are provided appropriately, the Legislature in SB 740, and by amendment in 2009, proscribed few and limited responsibilities for the Department and/or the State Superintendent of Public Instruction, as follows:

1. Inform charter schools of the Program (Educ. Code § 47614.5(c)(1).)
2. Determine the eligibility of an applicant charter school based on (1) the geographic location of the charter school within the boundaries of a public elementary school with at least 70 percent of its students eligible for the free and reduced price lunch program; (2) whether the charter school gave admission preference to students from that elementary school and to students residing within that school's boundaries; and (3) whether 70 percent of the students enrolled in the charter school were eligible for the free and reduced price lunch program. (Educ. Code § 47614.5(c)(2).)
3. Inform charter schools of their grant eligibility. (Educ. Code § 47614.5(c)(3).)
4. Allocate funding to charter schools in a *timely* manner (Educ. Code § 47614.5(c)(4).)
5. Annually report to the State Board on how schools used their grant funds (Educ. Code § 47614.5(g).)
6. Annually allocate the grants to eligible charter schools no later than October 1 of each fiscal year for the current school year rent and lease costs, after first using funding appropriate for the prior school year. (Educ. Code § 47614.5(i).)

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Consistent with the legislative intent and to expedite payment to charter schools, we suggest that rather than implementing practices that prevent charter schools from receiving their total funding at the start of the school year for which it is intended, the Department should adopt an evaluation process that can be accomplished within existing constraints by the annual statutory payment deadline of October 1.

With this in mind, we encourage you to consider changes to the Program beginning with the 2012-13 fiscal year. We are aware of Julie Russell's July 25, 2012 letter to charter schools stating that the 2012-13 application and required forms are forthcoming, and, thus, we are available immediately to assist her in the completion and development of a new application process consistent with solutions we've made in the past. Continuation of the policies and practices utilized in prior fiscal years simply is not in accordance with the legislative intent of the Program, or the governing legal mandates.

I appreciate the time you have dedicated to meeting with us in an effort to resolve this and other critical funding issues. As always, I look forward to working with and supporting you and the Department in these efforts. Should you have questions regarding anything contained in the letter, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink that reads "Jed Wallace". The signature is written in a cursive style with a large, stylized initial "J".

Jed Wallace
President & CEO
California Charter Schools Association

cc: Deborah Sigman, Deputy Superintendent, California Department of Education
Julie Russell, Director, Charter Schools Division, California Department of Education