DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL CREDIT ENHANCEMENT FUND COMMITTEE

NOTICE OF FINAL RULEMAKING

The District of Columbia Public Charter School Credit Enhancement Fund Committee, pursuant to Section 603 (e) of the Student Loan Marketing Association Reorganization Act of 1966 (Pub. L. 104-208; 110 Stat. 3009-293) and Mayor's Order 2001-90, dated June 22, 2001, hereby gives notice that final rulemaking action was taken to adopt Title 26A DCMR, "Banking and Financial Institutions", "Chapter 26 Credit Enhancement Fund Grants Committee". These rules are necessary to provide assistance to public charter schools in the purchase, renovation and/or construction of public charter school facilities in time for the 2001-2002 school year in order to improve education in the District of Columbia. No comments were received and no changes have been made to the text of the proposed rules, as published with the Notice of Emergency and Proposed Rulemaking in the D.C. Register on August 17, 2001 at 48 DCR 7782. These final rules will be effective upon publication of this notice in the Register.

CHAPTER 26 CREDIT ENHANCEMENT FUND COMMITTEE GRANTS

2600 Applicability

2600.1 These regulations shall govern the Public Charter School Credit Enhancement Fund Grant Program administered by the District of Columbia Public Charter School Credit Enhancement Fund Committee ("Committee").

2601 Program

2601.1 There is hereby established, the District of Columbia Public Charter School Credit Enhancement Fund Committee Grant Program ("Program") to provide credit enhancement to facilitate the purchase, construction and/or renovation of facilities for District of Columbia public charter schools. The credit enhancements will be administered through grants awarded to District of Columbia public charter schools and non-profit organizations to promote innovative credit enhancement initiatives for public charter schools facilities. The Committee will fund the grants through the portion of the District of Columbia Public Charter School Credit Enhancement Fund ("Fund") administered by the Committee.

2601.2 In order to preserve the Fund as a revolving fund, the Program shall be administered, and grants awarded, in a manner that requires grant proceeds, and

any interest or income earned thereon, if available, to be returned to the Fund when the grant proceeds are no longer necessary for credit enhancement.

2602 Rolling Approval Process

2602.1 Grants under the Program shall be available and awarded on a rolling, first-come, first-serve basis to the extent of available funding and appropriations, and satisfaction of the requirements of these rules. The application review process will remain open only to the extent of available funding and appropriations.

2603 Maximum Amount of Grant

2603.1 The maximum grant for each project, as defined in § 2605.1 of these regulations, under the Program shall not exceed five hundred thousand dollars ($500,000).

2603.2 When more than one charter school is located in or benefiting from a project, the amount in § 2603.1 may be increased by an amount up to five hundred thousand dollars ($500,000) for each additional charter school located in or benefiting from the project after the first charter school.

2603.3 The Committee may increase the amounts in this section if the Committee finds the following:

(a) The additional amount is supported by available funding and appropriations;

(b) The project could not be completed without the additional amount; and

(c) The project will provide a significant benefit to public charter schools in the District of Columbia.

2604 Eligible Recipients

2604.1 A public charter school in the District of Columbia is eligible to receive grants under the Program.

2604.2 A non-profit organization is eligible to receive grants under the Program if the organization is:

(a) Engaged in the promotion of innovative credit enhancement initiatives for the development of charter school facilities; and

(b) Authorized by two (2) or more public charter schools to act on their behalf in obtaining financing to cover the cost of an eligible project.

2605 Eligible Projects

2605.1 For purposes of these regulations, the term "project" shall be defined to mean a proposal to:

(a) Obtain financing to acquire interests in real property (including by purchase, lease or donation), including financing to cover planning, development, and other incidental costs;

(b) Obtain financing for construction of facilities or the renovation, repair, or alteration of existing property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other incidental costs; or

(c) Enhance the availability of loans (including mortgages) and bonds.

2605.2 In order to be eligible for a grant under the Program, a project shall have prior approval for financing, or financing contingent on a Qualified Credit Enhancement that does not exceed the maximum grant amount established in § 2603 of these regulations.

2606 Qualified Credit Enhancement

2606.1 Qualified credit enhancements available to eligible recipients to enhance the availability of loans or other financing for charter school facilities may include, but are not limited to, the following:

(a) Guaranteeing, insuring or providing security (including by pledging collateral or taking title to real property) for loans;

(b) Providing downpayment assistance, subsidizing installment payments or otherwise directly facilitating loans;

(c) Facilitating a secondary market for loans; and

(d) Helping to identify potential lending sources, encouraging private lending and other similar activities to promote lending to charter schools.

2606.2 Qualified credit enhancements available to eligible recipients to enhance the availability of bond financing for charter school facilities may include, but are not limited to, the following:

(a) Providing technical and other administrative assistance; and

(b) Providing financial or other assistance necessary to improve the rating or proposed repayment terms of a bond issue, to induce the participation of underwriters, or to otherwise enhance the commercial feasibility of a proposed transaction (including by providing for all or a portion of installment payments on the bond in the event of borrower default or, in the case of a bond issue with a floating rate, a marked increase in the applicable rate, the pledging of reserves or other collateral, or by taking property or other interests).

2606.3 Costs associated with making an application under the Program shall not be reimbursed with proceeds from the Fund.

2607 Application Procedure

2607.1 In order to be eligible for a grant under the Program, an applicant shall file an application, with two (2) additional copies of the application, with the Committee for a grant under the Program.

2607.2 The application shall consist of the following information:

(a) A description of the grant requested from the Program, including the amount of credit enhancement being requested, a description of the structure or form of the credit enhancement being requested (i.e. collateral), and a description of the proposed use of the grant proceeds;

(b) The name of the applicant, including officers and key employees;

(c) Certification that the applicant is authorized by two or more public charter schools to act on their behalf in obtaining financing to cover the cost of an eligible project;

(d) The location of the project, including a description of the project's compliance with the zoning regulations of the District;

(e) Whether the project is located in a Neighborhood Target area as established by the Office of Planning;

(f) A description of the project (the description shall indicate whether the project constitutes the purchase, construction or renovation of school facilities, or a combination of some or all of these three (3) categories);

(g) The type of charter school(s) to be located in the project;

(h) The type of charter school(s) that will benefit as a result of the project;

(i) The following information for each charter school to be located in, or that will benefit as a result of, the project:

(1) The curriculum;

(2) The age and grade level of students to be served;

(3) The number of students to be served; and

(4) Special programs or activities that will be provided by the charter school(s) to be located in, or that will benefit as a result of, the project;

(j) A description of the financing of the project;

(k) The name of the financial institution(s) that has approved the project's financing as required by § 2605.2 of these regulations;

(l) A pro forma projection of the revenues and expenses of the project;

(m) A description of the timing and phasing of the project;

(n) An analysis demonstrating that the project cannot be financed without the requested grant; and

(o) Any other information required by the Committee.

2608 Application Review

2608.1 Not later than sixty (60) days after the receipt of an application which meets the criteria set forth in § 2605.2 and 2607 of these regulations, the Committee, or a subcommittee designated by the Committee, shall approve, in whole or in part, or disapprove, in whole or in part, the grant sought by the applicant.

2608.2 The Committee, or a subcommittee designated by the Committee, will consider the following factors in determining whether to approve an application:

(a) The number of charter schools and/or number of the students to be served by the charter school(s) located in, and/ or benefiting from, the project;

(b) Whether the project will benefit a high-risk population;

(c) Whether the project is located in a Neighborhood Target area as established by the Office of Planning;

(d) Whether the grant will improve public education in the District of Columbia; and

(e) Whether there is a reasonable probability that the project will not be achieved, or the success of the charter school(s) benefiting from the project, will not be achieved without the grant.

(f) The extent to which the grant requested will deplete the Fund or the extent to which the grant is structured to return proceeds to the Fund once the grant proceeds are no longer necessary for credit enhancement for the applicant.

2608.3 The Committee may approve the grant in whole or in part based on one or more of the factors listed in § 2608.2.

2609 Appeals

2609.1 An applicant may appeal the disapproval in whole or in part of its application to the Mayor, or his designee.

2609.2 Within forty-five (45) days after receiving the appeal, the Mayor, or his designee, shall take the following action:

(a) The Mayor, or his designee, shall reverse a disapproval of the Committee upon a finding that the Committee abused its discretion in disapproving the application in whole or in part; or

(b) The Mayor, or his designee, shall affirm the decision of the Committee upon a finding that the Committee did not abuse its discretion in disapproving the application in whole or in part.

2609.3 The applicant shall have no further right to appeal the disapproval in whole or in part of its application upon a finding by the Mayor, or his designee, that Committee did not abuse its discretion in disapproving the application in whole or in part.

2610 Grant Award Agreement

2610.1 Prior to, and as a condition of, a grant award, a potential recipient shall execute an agreement with Committee that shall ensure that the grant being awarded will be used for purposes consistent these regulations and the application upon which the grant was awarded.

2610.2 The grant agreement shall include, but not be limited to, the following:

(a) A covenant that provides for the recapture of grant funds upon a violation of the agreement;

(b) A covenant that provides for the return of any grant funds that are no longer used for a Qualified Credit Enhancement as provided in § 2606 of these regulations approved by the Superintendent; and

(c) Terms and conditions the Committee finds necessary to further the purposes of the District of Columbia Public Charter School Credit Enhancement Fund and for the benefit of public education in the District of Columbia.

2611 Reports

2611.1 A recipient of a grant under the Program shall provide a monthly report to the Committee beginning on the first day of the first full month after the date of the award of the grant. Subsequent monthly reports shall be filed on the first day of each month thereafter until the second month after the opening of the charter school(s) located in, or benefiting from, the project. The monthly report shall contain all information requested by the Committee, including but not limited to, the status of the project and the project financing.

2611.2 In addition to the report required pursuant to § 2611.1 of these regulations, a recipient of a grant under the Program shall file any other report required by the Committee, including, any information needed by the Committee to file its quarterly reports to the United States Congress.