



Board of Early Education and Care Motion 2021-02

Approval of Draft Amended Early Education and Out of School Time (EEOST) Capital Fund Regulations and Authorization to File Amended Regulations with the Secretary of the Commonwealth for Public Comment

Pursuant to Massachusetts General Laws Chapter 15D, Section 3, the Board of Early Education and Care (Board) shall set policies and establish regulations related to early education and care programs and services. Section 2 of Chapter 99 of the Acts of 2018 (budget line item 3000-0410) provides for up to \$45 million, over a five-year period, in bond funding for the continuation of the Early Education and Out of School Time (EEOST) Capital Fund in order for the Department of Early Education and Care (EEC) to "develop facilities for early education and out of school time programs."

Section 2 of Chapter 99 of the Acts of 2018 requires that EEC's determination of "eligibility [for EEOST Capital Fund grants] shall be established by regulations promulgated by the department [EEC] pursuant to Chapter 30A of the General Laws for the implementation, administration and enforcement" of the funding. The EEOST Grant program was formed in 2013 and EEC promulgated regulations controlling the EEOST Grant Program in 2014 and amended these regulations in 2019 and 2020. *See* 606 CMR 15.00 *et. Seq.* Historically, the EEOST Grant Program has provided large grants up to \$1,000,000 for major capital renovation and new construction projects to EEC licensed programs to increase the availability of quality early education and out of school time facilities to the children of the Commonwealth. For the FY21 Grant Round, EEC made EEOST grant awards ranging from \$100,00-\$250,000 in order to allow more programs to receive the EEOST grants, with a specific focus on renovations to licensed programs' facilities to ensure safety of children, families, and staff as related to COVID-19. These renovations, while not as expensive as a major capital project as originally envisioned by EEOST, are often expensive and beyond the reach of many programs' financial means. Therefore, EEC, in consultation with the Community Economic Assistance Development Corporation (CEDAC) and the Children's Investment Fund (CIF)¹, developed and drafted amendments to portions of 606 CMR 15.00 that allowed EEC licensed early education and out of school time programs to finance such capital improvements to their safety around health issues regarding COVID-19. The amendments were adopted by the Board in October 2020 to cover the FY21 EEOST Grant Round. For the FY21 EEOST Grant Round, EEC awarded 36 such grants. Given the continuation of the need for programs to perform such COVID-19 related capital projects, EEC is seeking to the extend the amended regulations to the FY22 EEOST Grant Round. The proposed amendments to 606 CMR 15.00 do the following:

¹ CEDAC was specifically named in Section 2 of Chapter 99 of the Acts of 2018 and G.L. c. 15D, §18 as an entity authorized to contract with EEC to administer the EEOST Capital Fund grant program. EEC has worked with CEDAC and CEDAC's affiliate, the Children's Investment Fund (CIF), since the inception of the EEOST Grant program in 2013.

- Continue to allow the EEC Commissioner to shorten the length of time of an EEOST grant in order to be less burdensome for the smaller grant awards.
- Continue to allow the EEC Commissioner to adjust grant recapture terms to reflect the shorter length of the grants.
- Continue to allow the EEC Commissioner to waive the requirements for a recorded Mortgage and Land Use Restriction against the property on which the capital improvements are being made.

To become effective, these draft amended regulations will be filed with the Secretary of the Commonwealth and a Notice of Public Comment will be published in the *Massachusetts Register*. Once the Public Comment period has ended, the proposed final regulations will be presented to the Board of Early Education and Care for adoption. Therefore, the Department recommends that the Board authorize the Commissioner of Early Education and Care to file the amended regulations governing the Early Education and Out of School Time Capital Fund grant program with the Secretary of the Commonwealth for publication of Notice of Public Comment in the *Massachusetts Register* as 606 CMR 15.00. After the public is provided with an opportunity to comment on the proposed regulations, in accordance with the requirements of the Administrative Procedure Act, G.L. c. 30A, the final regulations will be presented to the Board for adoption. Therefore, the Department seeks the Board's authorization to also solicit public comment on the provisions set forth in the Early Education and Out of School Time Regulations, consistent with the Department's proposed policy directions and subject to the approval of the final regulations by the Board.

MOVED: that the Board, in accordance with G.L. c. 15D, §§ 3 and 18, hereby approves the draft amended regulations governing the Early Education and Out of School Time Capital Fund Grant Program and authorizes the Commissioner of Early Education and Care to file the amended regulations with the Secretary of the Commonwealth for publication of a Notice of Public Comment in the *Massachusetts Register* consistent with the Department's proposed policy directions and subject to the approval of the final regulations, after a Public Comment period, by the Board.