



# UNITED STATES DEPARTMENT OF EDUCATION

## OFFICE OF INNOVATION AND IMPROVEMENT

*Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.*

November 15, 2017

Dear CSP Project Director:

The purpose of this letter is to inform you that the U.S. Department of Education (Department) is offering new flexibility to current Charter Schools Program (CSP) grant recipients that received awards<sup>1</sup> in fiscal year (FY) 2016 and earlier years under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB) (*i.e.*, prior to enactment of the Every Student Succeeds Act (ESSA)). This flexibility applies to grantees with CSP Grants for State Educational Agencies (SEA grants); CSP Grants for the Replication and Expansion of High-Quality Charter Schools (Replication and Expansion, Charter Management Organization (CMO), or CMO grants); and CSP Grants for Non-SEA Eligible Applicants (Non-SEA grants). The Department is providing this flexibility under the “orderly transition” authority in section 4(b) of the ESSA, which reauthorized the CSP as part of the broader reauthorization of the ESEA and applies to CSP grants awarded in FY 2017.

Among other things, the new CSP provisions under the ESSA: (1) allow State entities to make subgrants to eligible entities for the replication and expansion of high-quality charter schools; (2) permit charter schools receiving CSP funds to enroll students in the immediate prior grade level of an “affiliated charter school” automatically without requiring the charter schools to admit such students through a lottery; and (3) allow charter schools to use CSP funds for minor facility repairs and one-time startup costs associated with providing transportation for students to and from the charter school. This letter addresses how CSP grantees with active grants awarded under the previous authorization of the ESEA may amend their grant applications to implement one or more of these new provisions in FY 2018 and later years.

### **Overview of Flexibility, Consistent with the ESSA**

To support the continued growth of high-quality charter schools and to provide for the orderly transition to, and implementation of, the CSP under the reauthorized law, the Department is providing this opportunity for current grantees that received their CSP grants in FY 2016 and

---

<sup>1</sup> Per 34 CFR 75.261 (c), the Secretary will not consider requests to amend approved grant applications for grant projects that are operating under no-cost extensions.

earlier years under the previous authorization of the ESEA to request approval to amend their approved applications to pursue one or more of the following:

### **1. Subgrants for the Replication and Expansion of High-Quality Charter Schools**

Section 4303(b)(1) of the ESEA, as amended by the ESSA, authorizes State entities receiving CSP grants to award subgrants to charter school developers for the opening of new charter schools, the replication of “high-quality charter schools” (as defined under section 4310(8) of the ESEA, as amended by the ESSA), and the expansion of high-quality charter schools. SEAs that received CSP grants under the previous authorization of the ESEA may award subgrants to charter school developers for planning and initial implementation of a charter school, which includes “open[ing] and prepar[ing] for the operation of new charter schools.”<sup>2</sup> The prior law does not specifically authorize SEAs to award subgrants to developers for the replication or expansion of high-quality charter schools.

Through this letter, we are inviting SEAs to request approval to amend their approved CSP grant applications to include awarding subgrants to charter school developers for these additional purposes, consistent with the requirements of the ESEA, as amended by the ESSA (see Appendix to this letter).

### **2. Automatic Enrollment of Students from Affiliated Charter Schools**

Section 4310(2) of the ESEA, as amended by the ESSA, defines “charter school,” in pertinent part, as a public school that, among other things, admits students on the basis of a lottery if more students apply for admission than can be accommodated, except that the school may automatically enroll students who, in the prior school year, were enrolled in the immediate prior grade level of an “affiliated charter school” (such as a school that is part of the same network of charter schools). The previous authorization of the ESEA did not provide an exception to the lottery-based admissions requirement for students from affiliated, or “feeder,” charter schools. As a result, CSP grantees have been unable to use CSP funds to support charter schools that automatically enroll students from affiliated, or “feeder,” charter schools.

Through this letter, we are inviting pre-ESSA CSP grantees to request approval to amend their approved CSP grant applications to apply the ESSA definition of “charter school” when determining eligibility for CSP funds, which means that a CSP grantee may use CSP funds to support a charter school that admits students enrolled in the immediate prior grade of an affiliated charter school automatically and without requiring the students to participate in a

---

<sup>2</sup> Under the ESEA, as amended by NCLB, SEAs also may award subgrants to successful charter schools to enable them to carry out dissemination activities.

lottery. In such cases, CSP funds may be used to support the opening of a new charter school, replication of a high-quality charter school, or expansion of a high-quality charter school, as applicable.

### **3. Use of CSP Funds for New Allowable Activities**

Section 4303(h) of the ESEA, as amended by the ESSA, specifically authorizes several new categories of activities, including the following:

- Carrying out necessary renovations to ensure that a new school building complies with applicable statutes and regulations, and minor facilities repairs (excluding construction); and
- Providing one-time, startup costs associated with providing transportation to students to and from the charter school (*e.g.*, purchase of a school bus).

We invite SEA, CMO, and Non-SEA grantees to request approval to amend their grant applications to allocate CSP grant funds for these activities, subject to the general regulatory requirements and limitations on project budget modifications in 34 CFR 75.264 and 2 CFR 200.308(c)(1).

#### **Next Actions**

To facilitate the Department's review and approval of requests from CSP grantees to amend their approved CSP grant applications to implement one or more of the flexibilities described in this letter, we ask that grantees submit the following to the Department:

- 1) A written notification of the grantee's intent to request one or more of these flexibilities by **Monday, November 27, 2017, 4:30 PM Eastern time** (this notification will facilitate planning by the Department's Office of Innovation and Improvement); and
- 2) A written request to amend the approved CSP grant application (see Appendix to this letter for suggestions regarding the format and content of that request).

The Department has established a deadline of **Monday, December 11, 2017, 4:30 PM Eastern time**, for grant application amendment request submissions. For all requests received by the deadline, the Department is committed to conducting an expedited review and to providing grantees with a response by no later than **Friday, January 19, 2018**. For amendment requests submitted after the deadline, the Department will review each request and provide a response as soon as possible. Please submit both the written notification and the written request electronically to your respective CSP program officer, with a copy to [charter.schools@ed.gov](mailto:charter.schools@ed.gov).

I encourage you to contact your CSP program officer if you have any questions regarding the flexibilities described in this letter. The Department has scheduled a webinar presentation on this topic for **Friday, November 17<sup>th</sup> at 2:00 PM Eastern Time**. The CSP team will send more information about the webinar directly to grantees shortly.

We are excited by the opportunity created by the ESSA to expand Federal support for increasing the number of charter schools providing high-quality options for American students and families, and look forward to working with you to maximize the positive impact of the new law. Thank you for everything you do to serve students.

Sincerely,

*/s/*

Margo Anderson  
Acting Assistant Deputy Secretary  
for Innovation and Improvement

**Appendix: Overview of the ESSA Flexibilities and CSP Application Amendment Request**

**1: Under which provisions of the ESSA may a grantee request expedited approval of an amendment request?**

The Department invites current CSP grantees that received CSP grants in FY 2016 and earlier years to request amendments to their approved CSP grant applications for the purpose of implementing the following provisions of the ESSA:

ESSA Citation	Description of the ESSA Provision	SEA	CMO	Non-SEA
SEC. 4303(b)(1)(B) and (C)	State Entities may award subgrants to eligible entities for the purposes of opening and preparing for the operation of new charter schools, opening and preparing for the operation of replicated high-quality charter schools, or expanding high-quality charter schools (subject to the limitation in the ESSA, described below).	✓	N/A	N/A
SEC. 4310(2)(H)(ii)	Charter schools that automatically enroll students who, in the prior school year, were enrolled in the immediate prior grade level of an affiliated charter school are eligible to receive CSP funding to support the opening of a new charter school, the replication of an existing high-quality charter school, or the expansion of a high-quality charter school.	✓	✓	✓
Sec. 4303 (h)(3) and (4)	<p>Charter schools may use CSP grant funds for the following activities:</p> <ul style="list-style-type: none"> <li>• <i>Carrying out necessary renovations to ensure that a new school building complies with applicable statutes and regulations, and minor facilities repairs (excluding construction); and</i></li> <li>• <i>Providing one-time, startup costs associated with providing transportation to students to and from the charter school.</i></li> </ul>	✓	✓	✓

**2: In what form should a grantee submit an application amendment request, and what information should be included in the request?**

An existing CSP grantee that wishes to submit an application amendment request should first notify its CSP grant program officer of its intent to do so, to enable the Department to provide relevant technical assistance. A grantee should then submit to its CSP program officer a grant amendment request that includes the following:

- A brief description of the approved project;
- A brief description of the proposed amendment to the approved project (*e.g.*, to include replication and expansion as allowable activities for subgrants or to allow expenditures associated with student transportation);
- An explanation of why the amendment is within the scope and objectives of the approved project; and
- A revised budget and timeline for activities, if applicable (please note that the Department is not making any additional funding available to grantees as part of this request).

**3: Are there any additional definitions or limitations associated with this flexibility?**

Yes. Given that the Department is offering these flexibilities to facilitate an orderly transition to the ESSA, the following definitions and limitation from the ESSA apply:

- **Expand:** The term “*Expand*,” when used with respect to a high-quality charter school, means to significantly increase enrollment or add one or more grades to the high-quality charter school.

*[Section 4310(7) of the ESEA, as amended by the ESSA]*

- **High-Quality Charter School:** The term “*High-quality charter school*” means a charter school that—
  - (A) Shows evidence of strong academic results, which may include strong student academic growth, as determined by a State;
  - (B) Has no significant issues in the areas of student safety, financial and operational management, or statutory or regulatory compliance;
  - (C) Has demonstrated success in significantly increasing student academic achievement, including graduation rates where applicable, for all students served by the charter school; and

(D) Has demonstrated success in increasing student academic achievement, including graduation rates where applicable, for each of the subgroups of students, as defined in section 1111(c)(2) of the ESEA, except that such demonstration is not required in a case in which the number of students in a group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.

*[Section 4310(8) of the ESEA, as amended by the ESSA]*

- **Replicate** The term “*Replicate*,” when used with respect to a high-quality charter school, means to open a new charter school, or a new campus of a high-quality charter school, based on the educational model of an existing high-quality charter school, under an existing charter or an additional charter, if permitted or required by State law.

*[Section 4310(9) of the ESEA, as amended by the ESSA]*

- **Limitation:** An eligible applicant may not receive more than one subgrant under the CSP for each individual charter school for a five-year period, unless the eligible applicant demonstrates to the State entity that such individual charter school has at least three years of improved educational results for students enrolled in such charter school with respect to the elements described in subparagraphs (A) and (D) of the definition of a *high-quality charter school*.

*[Section 4303(e)(2) of ESEA, as amended by the ESSA]*