



# CHARTER SCHOOLS PROGRAM ESSA TRANSITION FLEXIBILITIES

**November 17, 2017**

**Stefan Huh, Director**

*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.*

# AGENDA

- I. Purpose of Dear Colleague Letter
- II. Overview of Flexibilities Offered
  - Subgrants for the Replication and Expansion of High-Quality Charter Schools
  - Automatic Enrollment of Students from Affiliated Charter Schools
  - Use of CSP Funds for New Allowable Activities
  - ESSA Definitions and Limitation
- III. CSP Application Amendment Request Process
- IV. Key Dates
- V. Questions



# PURPOSE OF THE DCL

- The Every Student Succeeds Act (ESSA) reauthorized the CSP as part of the broader reauthorization of the ESEA and applies to CSP grants awarded in FY 2017. ESSA includes new provisions, including those which are the subject of this webinar.
- The 11-15-17 Dear Colleague Letter (DCL) discusses the new flexibilities offered under the transition to ESSA, which 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 these flexibilities under the “orderly transition” authority in section 4(b) of the ESSA.



# WHERE TO FIND THE DCL

## CSP Website Links:

- <https://innovation.ed.gov/resources/>
- <https://innovation.ed.gov/what-we-do/charter-schools/charter-school-program-state-educational-agencies-sea/funding-and-legislation/>
- <https://innovation.ed.gov/what-we-do/charter-schools/charter-schools-program-non-state-educational-agencies-non-sea-planning-program-design-and-initial-implementation-grant/funding-and-legislation/>
- <https://innovation.ed.gov/what-we-do/charter-schools/charter-schools-program-grants-for-replications-and-expansion-of-high-quality-charter-schools/funding-and-legislation/>



# DCL SNAPSHOT



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF INNOVATION AND IMPROVEMENT

Page 4 – Charter Schools Program

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

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

<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.

# **OVERVIEW OF THE ESSA FLEXIBILITIES**

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**The Department is inviting grantees to request application amendments to:**

- A.** Allow CSP State educational agency grantees to make subgrants to eligible entities for the replication and expansion of high-quality charter schools;
- B.** 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,
- C.** 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.



# **A. SUBGRANTS FOR THE REPLICATION AND EXPANSION OF HIGH-QUALITY CHARTER SCHOOLS**

# A. SUBGRANTS FOR THE REPLICATION AND EXPANSION OF HIGH-QUALITY CHARTER SCHOOLS

## Background:

- 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.”
- 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**.



## A. SUBGRANTS FOR THE REPLICATION AND EXPANSION OF HIGH-QUALITY CHARTER SCHOOLS

*We are inviting SEA grantees to request approval to amend their CSP grant applications to include awarding subgrants to charter school developers for the replication and the expansion of a high-quality charter school, consistent with the requirements of the ESEA, as amended by the ESSA.*



# KEY DEFINITIONS & LIMITATION

- **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]

- **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]



# KEY DEFINITIONS & LIMITATION

- **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]*



# KEY DEFINITIONS & LIMITATION

**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]*



## **B. AUTOMATIC ENROLLMENT OF STUDENTS FROM AFFILIATED CHARTER SCHOOLS**

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### **Background:**

- 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.
- 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).



## **B. AUTOMATIC ENROLLMENT OF STUDENTS FROM AFFILIATED CHARTER SCHOOLS**

*We are inviting pre-ESSA CSP grantees to request approval to amend their 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 lottery.*



## **C. USE OF CSP FUNDS FOR NEW ALLOWABLE ACTIVITIES**



## C. 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.



## C. USE OF CSP FUNDS FOR NEW ALLOWABLE ACTIVITIES (CONT.)

*We invite SEA, CMO, and Non-SEA grantees to request approval to amend their grant applications to allocate CSP grant funds for these new activities (e.g. necessary renovations, minor facilities repairs, one-time student transportation costs), subject to the general regulatory requirements and limitations on project budget modifications in 34 CFR 75.264 and 2 CFR 200.308(c)(1).*



# RELEVANT REGULATORY CITATIONS

## **34 CFR 75.264: Transfers among budget categories.**

A grantee may make transfers as specified in 2 CFR 200.308 unless -

- (a) ED regulations other than those in 2 CFR part 200 or a statute prohibit these transfers; or
- (b) The conditions of the grant prohibit these transfers.

(Authority 20 U.S.C. 1221 e-3, 3474, 22 CFR part 200)  
[ 79 FR 76092, Dec. 19, 2014]



# RELEVANT REGULATORY CITATIONS

## 2 CFR 200.308 Revision of budget and program plans.

(b) Recipients are required to report deviations from budget or project scope or objective, and **request prior approvals** from Federal awarding agencies for budget and program plan revisions, in accordance with this section.

(c) (1) For non-construction Federal awards, recipients must request prior approvals from Federal awarding agencies for one or more of the following program or budget-related reasons:

(i) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).



# **OVERVIEW OF THE CSP APPLICATION AMENDMENT REQUEST PROCESS**

# KEY STEPS

**Step 1: By November 27, 2017** : Notify your assigned CSP grant program officer of your intent to request an application amendment to adopt one or more of these flexibilities (ex. send an email stating “XX organization intends to submit an amendment request for A,B, and C”).

Please cc: [charterschools@ed.gov](mailto:charterschools@ed.gov), and [Catherine.Shade@ed.gov](mailto:Catherine.Shade@ed.gov).

**Step 2: By December 11, 2017 \***: Submit a complete application amendment request to your assigned CSP Program Officer.

Please cc: [charterschools@ed.gov](mailto:charterschools@ed.gov), and [Catherine.Shade@ed.gov](mailto:Catherine.Shade@ed.gov).

*\* We are committed to prioritizing and conducting an expedited review for all requests received by the deadline. For requests submitted after the deadline date, the Department will provide a response as soon as possible after first reviewing requests received by the deadline.*



# APPLICATION AMENDMENT REQUESTS, FORM AND CONTENT

- 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).



# APPLICATION AMENDMENT REQUESTS, FORM AND CONTENT

**“An explanation of why the amendment is within the scope and objectives of the approved project”**

- Describe how the proposed amendments are within the scope and objectives for the approved project, and will assist with attainment of the intended project outcomes. This should include specific citations from the application as well as a clear explanation of the changes proposed.
- Describe the impact of the proposed project on the project plan and budget. Provide enough detail to address the impact of the amendment on project activities; the target communities; the affected charter schools; and current and prospective charter school students.



# KEY DATES

- **November 27, 2017**: Grantee submits a written notification of the grantee's intent to request one or more of these flexibilities.
- **December 11, 2017 \***: Grantee submits a written request to amend the approved CSP grant application (see Appendix to the letter for suggestions regarding the format and content of that request).
- **January 19, 2018**: ED provides grantees with a response to their amendment requests.

*\* We are prioritizing for expedited review those requests received by 12/11/2017. For requests received after the due date, the Department will review each request and provide a response to grantees as soon as possible, after we complete the expedited review process.*





**Questions?**