

Below are excerpts from Section 4301 of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESS). This document was prepared by the Department of Education for the convenience of the reader. Readers should consult the U.S. statutes for the official text of these provisions.

Title IV, Part C of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act of 2015 (ESSA) (20 U.S.C. 7221-7221j).

Part C – EXPANDING OPPORTUNITY THROUGH QUALITY CHARTER SCHOOLS

SEC. 4301. PURPOSE.

It is the purpose of this part to --

- (1) improve the United States education system and education opportunities for all people in the United States by supporting innovation in public education in public school settings that prepare students to compete and contribute to the global economy and a stronger Nation;
- (2) provide financial assistance for the planning, program design, and initial implementation of charter schools;
- (3) increase the number of high-quality charter schools available to students across the United States; and
- (4) evaluate the impact of charter schools on student achievement, families, and communities, and share best practices between charter schools and other public schools;
- (5) encourage States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount States typically provide for traditional public schools;
- (6) expand opportunities for children with disabilities, English learners, and other traditionally underserved students to attend charter schools and meet the challenging State academic standards;
- (7) support efforts to strengthen the charter school authorizing process to improve performance management, including transparency, oversight and monitoring (including financial audits), and evaluation of such schools; and
- (8) support quality, accountability, and transparency in the operational performance of all authorized public chartering agencies, including State educational agencies, local educational agencies, and other authorizing entities.

SEC. 4302. PROGRAM AUTHORIZED.

(a) IN GENERAL- The Secretary may carry out a charter school program that supports charter schools that serve early childhood, elementary school, or secondary school students by—

- (1) supporting the startup of new charter schools, the replication of high-quality charter schools, and the expansion of high-quality charter schools;

(2) assisting charter schools in accessing credit to acquire and renovate facilities for school use; and

(3) carrying out national activities to support—

(A) the activities described in paragraph (1);

(B) the dissemination of best practices of charter schools for all schools;

(C) the evaluation of the impact of the charter school program under this part on schools participating in such program; and

(D) stronger charter school authorizing practices.

(b) FUNDING ALLOTMENT- From the amount made available under section 4311 for a fiscal year, the Secretary shall—

(1) reserve 12.5 percent to support charter school facilities assistance under section 4304;

(2) reserve 22.5 percent to carry out national activities under section 4305; and

(3) use the remaining amount after the reservations under paragraphs (1) and (2) to carry out section 4303.

(c) PRIOR GRANTS AND SUBGRANTS- The recipient of a grant or subgrant under part B of title V (as such part was in effect on the day before the date of enactment of the Every Student Succeeds Act) shall continue to receive funds in accordance with the terms and conditions of such grant or subgrant.

SEC. 4303. GRANTS TO SUPPORT HIGH-QUALITY CHARTER SCHOOLS.

(a) STATE ENTITY DEFINED.—For purposes of this section, the term “State entity” means—

(1) a State educational agency;

(2) a State charter school board;

(3) a Governor of a State; or

(4) a charter school support organization.

(b) PROGRAM AUTHORIZED.—From the amount available under section 4302(b)(3), the Secretary shall award, on a competitive basis, grants to State entities having applications approved under subsection (f) to enable such entities to—

(1) award subgrants to eligible applicants to enable eligible applicants to—

(A) open and prepare for the operation of new charter schools;

(B) open and prepare for the operation of replicated high-quality charter schools; or

(C) expand high-quality charter schools; and

(2) provide technical assistance to eligible applicants and authorized public chartering agencies in carry out the activities described in paragraph (1), and work with authorized public chartering agencies in the state to improve authorizing quality, including developing capacity for, and conducting, fiscal oversight and auditing of charter schools.

(c) STATE ENTITY USES OF FUNDS.—

(1) IN GENERAL. —A State entity receiving a grant under this section shall—

(A) use not less than 90 percent of the grant funds to award subgrants to eligible applicants, in accordance with the quality charter school program described in the State entity's application pursuant to subsection (f), for the purposes described in subsection (b)(1);

(B) reserve not less than 7 percent of such funds to carry out the activities described in subsection (b)(2); and

(C) reserve not more than 3 percent of such funds for administrative costs, which may include technical assistance.

(2) CONTRACTS AND GRANTS.—A State entity may use a grant received under this section to carry out the activities described in subsection (b)(2) directly or through grants, contracts, or cooperative agreements.

(3) RULE OF CONSTRUCTION. —

(A) USE OF LOTTERY. —Nothing in this Act shall prohibit the Secretary from awarding grants to State entities, or prohibit State entities from awarding subgrants to eligible applicants, that use a weighted lottery to give slightly better chances for admission to all, or a subset of, educationally disadvantaged students if—

(i) the use of weighted lotteries in favor of such students is not prohibited by State law, and such State law is consistent with laws described in section 4310(2)(G); and

(ii) such weighted lotteries are not used for the purpose of creating schools exclusively to serve a particular subset of students.

(B) STUDENTS WITH SPECIAL NEEDS. — Nothing in this paragraph shall be construed to prohibit schools from specializing in providing specific services for students with a demonstrated need for such services, such as students who need specialized instruction in reading, spelling, or writing.

(d) PROGRAM PERIODS; PEER REVIEW; DISTRIBUTION OF SUBGRANTS; WAIVERS. —

(1) PROGRAM PERIODS. —;

(A) GRANTS. —A grant awarded by the Secretary to a State entity under this section shall be for a period of not more than 5 years.

(B) SUBGRANTS. —A subgrant awarded by a State entity under this section shall be for a period of not more than 5 years, of which an eligible applicant may use not more than 18 months for planning and program design.

(2) PEER REVIEW The Secretary, and each State entity awarding subgrants under this section, shall use a peer-review process to review applications for assistance under this section.

(3) GRANT AWARDS. —

(A) IN GENERAL. —The Secretary—

(i) shall for each fiscal year for which funds are appropriated under section 4311—

(I) award not less than 3 grants under this section; and

(II) fully obligate the first 2 years of funds appropriated for the purpose of awarding grants under this section in the first fiscal year for which such grants are awarded; and

(ii) prior to the start of the third year of the grant period and each succeeding year of each grant awarded under this section to a state entity—

(I) shall review—

(aa) whether the State entity is using the grant funds for the agreed upon uses of funds; and

(bb) whether the full amount of the grant will be needed for the remainder of the grant period; and

(II) may, as determined necessary based on that review, terminate or reduce the amount of the grant and reallocate the remaining grant funds to other state entities—

(aa) by using such funds to award grants under this section to other State entities; or

(bb) in a fiscal year in which the amount of such remaining funds is insufficient to award grants under item (aa), in accordance with subparagraph (B).

(B) REMAINING FUNDING —For a fiscal year for which there are remaining grant funds under this paragraph, but the amount of such funds is insufficient to award a grant to a State entity under this section, the Secretary shall use such remaining grants funds—

(i) to supplement funding for grants under section 4305(A0(2)), but not to supplant—

(I) The funds reserved under section 4305(a)(2); and

(II) funds otherwise reserved under section 4302(b)(2) to carry out national activities under section 4305;

(ii) to award grants to State entities to carry out the activities described in subsection (b)(1) for the next fiscal year; or

(iii) to award one year of a grant under subsection (b)(1) to a high-scoring State entity, in an amount at or above the minimum amount the State entity needs to be successful for such year.

(4) DIVERSITY OF PROJECTS. —Each State entity awarding subgrants under this section shall award subgrants in a manner that, to the extent practicable and applicable, ensures that such subgrants—

(A) are distributed throughout different areas, including urban, suburban, and rural areas; and

(B) will assist charter schools representing a variety of educational approaches.

(5) WAIVERS. —The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority, except any such requirement relating to the elements of a charter school described in section 4310(2), if—

- (A) the waiver is requested in an approved application under this section; and
- (b) the Secretary determines that granting such waiver will promote the purpose of this part.

(e) LIMITATIONS. —

(1) GRANTS. —No State entity may receive a grant under this section for use in a State in which a State entity is currently using a grant received under this section.

(2) SUBGRANTS. —An eligible applicant may not receive more than 1 subgrant under this section for each individual charter school for a 5-year period, unless the eligible applicant demonstrates to the State entity that such individual charter school has at least 3 years of improved educational results for students enrolled in such charter school with respect to the elements described in subparagraphs (A) and (D) of section 4310(8).

(f) APPLICATIONS. —A State entity desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The application shall include the following:

(1) DESCRIPTION OF PROGRAM. —A description of the State entity's objectives in running a quality charter school program under this section and how the objectives of the program will be carried out, include—

(A) a description of how the State entity will—

(i) support the opening of charter schools through the startup of new charter schools and, if applicable, the replication of high-quality charter schools, and the expansion of high-quality charter schools (including the proposed number of new charter schools to be opened, high-quality charter schools to be opened as a result of the replication of a high-quality charter school, or high-quality charter schools to be expanded under the State entity's program);

(ii) inform eligible charter schools, developers, and authorized public chartering agencies of the availability of funds under the program;

(iii) work with eligible applicants to ensure that the eligible applicants access all Federal funds that such applicants are eligible to receive, and help the charter schools supported by the applicants and the students attending those charter schools—

(I) participate in the Federal programs in which the schools and students are eligible to participate;

(II) receive the commensurate share of Federal funds the schools and students are eligible to receive under such programs; and

(III) meet the needs of students served under such programs, including students with disabilities and English learners;

(iv) ensure that authorized public chartering agencies, in collaboration with surrounding local educational agencies where applicable, establish clear plans and procedures to assist students enrolled in a charter school that closes or loses its charter to attend other high-quality schools;

(v) in the case of a State entity that is not a State educational agency—

(I) work with the State educational agency and charter schools in the State to maximize charter school participation in Federal and State programs for which charter schools are eligible; and

(II) work with the State educational agency to operate the State entity's program under this section, if applicable;

(vi) ensure that each eligible applicant that receives a subgrant under the State entity's program—

(I) is using funds provided under this section for one of the activities described in subsection (b)(1); and

(II) is prepared to continue to operate charter schools funded under this section in a manner consistent with the eligible applicant's application for such subgrant once the subgrant funds under this section are no longer available;

(vii) support—

(I) charter schools in local educational agencies with a significant number of schools identified by the State for comprehensive support and improvement under section 1111(c)(4)(D)(i); and

(II) the use of charter schools to improve struggling schools, or to turn around struggling schools;

(viii) work with charter schools on—

(I) recruitment and enrollment practices to promote inclusion of all students, including by eliminating any barriers to enrollment for educationally disadvantaged students (who include foster youth and unaccompanied homeless youth); and

(II) supporting all students once they are enrolled to promote retention, including by reducing the overuse of discipline practices that remove students from the classroom;

(ix) share best and promising practices between charter schools and other public schools;

(x) ensure that charter schools receiving funds under the State entity's program meet the educational needs of their students, including children with disabilities and English learners;

(xi) support efforts to increase charter school quality initiatives, including meeting the quality authorizing elements described in paragraph (2)(D);

(xii)(I) in the case of a State entity not described in subclause (II), a description of how the State entity will provide oversight of authorizing activity, including how the State will help ensure better authorizing, such as by establishing authorizing standards that may include approving, monitoring, and re-approving or revoking the authority of an authorized public chartering agency based on the performance of the charter schools authorized by such agency in the areas of student achievement, student safety, financial and operational management, and compliance with all applicable statutes and regulations; and

(II) in the case of a State entity described in subsection (a)(4), a description of how the State entity will work with the State to support the State's system of technical assistance and oversight, as described in subclause (I), of the authorizing activity of authorized public chartering agencies; and

(xiii) work with eligible applicants receiving a subgrant under the State entity's program to support the opening of new charter schools or charter school models described in clause (i) that are high schools;

(B) a description of the extent to which the State entity—

(i) is able to meet and carry out the priorities described in subsection (g)(2);

(ii) is working to develop or strengthen a cohesive statewide system to support the opening of new charter schools and, if applicable, the replication of high-quality charter schools, and the expansion of high-quality charter schools; and

(iii) is working to develop or strengthen a cohesive strategy to encourage collaboration between charter schools and local educational agencies on the sharing of best practices;

(C) a description of how the State entity will award subgrants, on a competitive basis, including—

(i) a description of the application each eligible applicant desiring to receive a subgrant will be required to submit, which application shall include—

(I) a description of the roles and responsibilities of eligible applicants, partner organizations, and charter management organizations, including the administrative and contractual roles and responsibilities of such partners;

(II) a description of the quality controls agreed to between the eligible applicant and the authorized public chartering agency involved, such as a contract or performance agreement, how a school's performance in the State's accountability system and impact on student achievement (which may include student academic growth) will be one of the most important factors for

renewal or revocation of the school's charter, and how the State entity and the authorized public chartering agency involved will reserve the right to revoke or not renew a school's charter based on financial, structural, or operational factors involving the management of the school;

(III) a description of how the autonomy and flexibility granted to a charter school is consistent with the definition of a charter school in section 4310;

(IV) a description of how the eligible applicant will solicit and consider input from parents and other members of the community on the implementation and operation of each charter school that will receive funds under the State entity's program;

(V) a description of the eligible applicant's planned activities and expenditures of subgrant funds to support the activities described in subsection (b)(1), and how the eligible applicant will maintain financial sustainability after the end of the subgrant period; and

(VI) a description of how the eligible applicant will support the use of effective parent, family, and community engagement strategies to operate each charter school that will receive funds under the State entity's program; and

(ii) a description of how the State entity will review applications from eligible applicants;

(D) in the case of a State entity that partners with an outside organization to carry out the State entity's quality charter school program, in whole or in part, a description of the roles and responsibilities of the partner;

(E) a description of how the State entity will ensure that each charter school receiving funds under the State entity's program has considered and planned for the transportation needs of the school's students;

(F) a description of how the State in which the State entity is located addresses charter schools in the State's open meetings and open records laws; and

(G) a description of how the State entity will support diverse charter school models, including models that serve rural communities.

(2) ASSURANCES.—Assurances that—

(A) each charter school receiving funds through the State entity's program will have a high degree of autonomy over budget and operations, including autonomy over personnel decisions;

(B) the State entity will support charter schools in meeting the educational needs of their students, as described in paragraph (1)(A)(x);

(C) the State entity will ensure that the authorized public chartering agency of any charter school that receives funds under the State entity's program adequately monitors each charter school under the authority of such agency in

recruiting, enrolling, retaining, and meeting the needs of all students, including children with disabilities and English learners;

(D) the State entity will provide adequate technical assistance to eligible applicants to meet the objectives described in clause (viii) of paragraph (1)(A) and subparagraph (B) of this paragraph;

(E) the State entity will promote quality authorizing, consistent with State law, such as through providing technical assistance to support each authorized public chartering agency in the State to improve such agency's ability to monitor the charter schools authorized by the agency, including by—

(i) assessing annual performance data of the schools, including, as appropriate, graduation rates, student academic growth, and rates of student attrition;

(ii) reviewing the schools' independent, annual audits of financial statements prepared in accordance with generally accepted accounting principles, and ensuring that any such audits are publically reported; and

(iii) holding charter schools accountable to the academic, financial, and operational quality controls agreed to between the charter school and the authorized public chartering agency involved, such as through renewal, non-renewal, or revocation of the school's charter;

(F) the State entity will work to ensure that charter schools are included with the traditional public schools in decisionmaking about the public school system in the State; and

(G) the State entity will ensure that each charter school receiving funds under the State entity's program makes publicly available, consistent with the dissemination requirements of the annual State report card under section 1111(h), including on the website of the school, information to help parents make informed decisions about the education options available to their children, including—

(i) information on the educational program;

(ii) student support services;

(iii) parent contract requirements (as applicable), including any financial obligations or fees;

(iv) enrollment criteria (as applicable); and

(v) annual performance and enrollment data for each of the subgroups of students, as defined in section 1111(c)(2), except that such disaggregation of performance and enrollment data shall not be required in a case in which the number of students in a group is insufficient to yield statically reliable information or the results would reveal personally identifiable information about an individual student.

(3) REQUESTS FOR Information about waivers, including—

(A) a request and justification for waivers of any Federal statutory or regulatory provisions that the State entity believes are necessary for the successful operation of the charter schools that will receive funds under the State entity's program under this section or, in the case of a State entity defined in subsection (a)(4), a description of how the State entity will work with the State to request such necessary waivers, where applicable; and

(B) a description of any State or local rules, generally applicable to public schools, that will be waived, or otherwise not apply to such schools.

(g) SELECTION CRITERIA; PRIORITY.—

(1) SELECTION CRITERIA.—The Secretary shall award grants to State entities under this section on the basis of the quality of the applications submitted under subsection (f), after taking into consideration—

(A) the degree of flexibility afforded by the State's charter school law and how the State entity will work to maximize the flexibility provided to charter schools under such law;

(B) the ambitiousness of the State entity's objectives for the quality charter school program carried out under this section;

(C) the likelihood that the eligible applicants receiving subgrants under the program will meet those objectives and improve educational results for students;

(D) the State entity's plan to—

(i) adequately monitor the eligible applicants receiving subgrants under the State entity's program;

(ii) work with the authorized public chartering agencies involved to avoid duplication of work for the charter schools and authorized public chartering agencies; and

(iii) provide technical assistance and support for—

(I) the eligible applicants receiving subgrants under the State entity's program; and

(II) quality authorizing efforts in the State; and

(E) the State entity's plan to solicit and consider input from parents and other members of the community on the implementation and operation of charter schools in the State.

(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a State entity to the extent that the entity meets the following criteria:

(A) The State entity is located in a State that—

(i) allows at least one entity that is not a local educational agency to be an authorized public chartering agency for developers seeking to open a charter school in the State; or

(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, the State has an appeals process for the denial of an application for a charter school.

(B) The State entity is located in a State that ensures equitable financing, as compared to traditional public schools, for charter schools and students in a prompt manner.

(C) The State entity is located in a State that provides charter schools one or more of the following:

(i) Funding for facilities.

(ii) Assistance with facilities acquisition.

(iii) Access to public facilities.

(iv) The ability to share in bonds or mill levies.

(v) The right of first refusal to purchase public school buildings.

(vi) Low- or no-cost leasing privileges.

(D) The State entity is located in a State that uses best practices from charter schools to help improve struggling schools and local educational agencies.

(E) The State entity supports charter schools that serve at-risk students through activities such as dropout prevention, dropout recovery, or comprehensive career counseling services.

(F) The State entity has taken steps to ensure that all authorizing public chartering agencies implement best practices for charter school authorizing.

(h) LOCAL USES OF FUNDS.—An eligible applicant receiving a subgrant under this section shall use such funds to support the activities described in subsection (b)(1), which shall include one or more of the following activities:

(1) Preparing teachers, school leaders, and specialized instructional support personnel, including through paying the costs associated with—

(A) providing professional development; and

(B) hiring and compensating, during the eligible applicant's planning period specified in the application for subgrant funds that is required under this section, one or more of the following:

(i) Teachers.

(ii) School leaders.

(iii) Specialized instructional support personnel.

(2) Acquiring supplies, training, equipment (including technology), and educational materials (including developing and acquiring instructional materials).

(3) Carrying out necessary renovations to ensure that a new school building complies with applicable statutes and regulations, and minor facilities repairs (excluding construction).

(4) Providing one-time, startup costs associated with providing transportation to students to and from the charter school.

(5) Carrying out community engagement activities, which may include paying the cost of student and staff recruitment.

(6) Providing for other appropriate, non-sustained costs related to the activities described in subsection (b)(1) when such costs cannot be met from other sources.

(i) REPORTING REQUIREMENTS.—Each State entity receiving a grant under this section shall submit to the Secretary, at the end of the third year of the 5-year grant period (or at the end of the second year of the grant period if the grant is less than 5 years), and at the end of such grant period, a report that includes the following:

(1) The number of students served by each subgrant awarded under this section and, if applicable, the number of new students served during each year of the period of the subgrant.

(2) A description of how the State entity met the objectives of the quality charter school program described in the State entity's application under subsection (f), including—

(A) how the State entity met the objective of sharing best and promising practices described in subsection (f)(1)(A)(ix) in areas such as instruction, professional development, curricula development, and operations between charter schools and other public schools; and

(B) if known, the extent to which such practices were adopted and implemented by such other public schools.

(3) The number and amount of subgrants awarded under this section to carry out activities described in each of subparagraphs (A) through (C) of subsection (b)(1).

(4) A description of—

(A) how the State entity complied with, and ensured that eligible applicants complied with, the assurances included in the State entity's application; and

(B) how the State entity worked with authorized public chartering agencies, and how the agencies worked with the management company or leadership of the schools that received subgrant funds under this section, if applicable.

SEC. 4304. FACILITIES FINANCING ASSISTANCE.

(a) GRANTS TO ELIGIBLE ENTITIES.—

(1) IN GENERAL.—From the amount reserved under section 4302(b)(1), the Secretary shall use not less than 50 percent to award, on a competitive basis, not less than 3 grants to eligible entities that have the highest-quality applications approved under subsection (d), after considering the diversity of such applications, to demonstrate innovative methods of helping charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

(2) ELIGIBLE ENTITY DEFINED.—For the purposes of this section, the term “eligible entity” means—

(A) a public entity, such as a State or local governmental entity;

(B) a private nonprofit entity; or

(C) a consortium of entities described in subparagraphs (A) and (B).

(b) GRANTEE SELECTION.—The Secretary shall evaluate each application submitted under subsection (d), and shall determine whether the application is sufficient to merit approval.

(c) GRANT CHARACTERISTICS.—Grants under subsection (a) shall be of sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

(d) APPLICATIONS.—

(1) IN GENERAL.—An eligible entity desiring to receive a grant under this section shall submit an application to the Secretary in such form as the Secretary may reasonably require.

(2) CONTENTS.—An application submitted under paragraph (1) shall contain—

(A) a statement identifying the activities that the eligible entity proposes to carry out with funds received under subsection (a), including how the eligible entity will determine which charter schools will receive assistance, and how much and what types of assistance charter schools will receive;

(B) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

(C) a description of the eligible entity's expertise in capital market financing;

(D) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools, including how the eligible entity will offer a combination of rates and terms more favorable than the rates and terms that a charter school could receive without assistance from the eligible entity under this section;

(E) a description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought; and

(F) in the case of an application submitted by a State governmental entity, a description of the actions that the eligible entity has taken, or will take, to ensure that charter schools within the State receive the funding that charter schools need to have adequate facilities.

(e) CHARTER SCHOOL OBJECTIVES.—An eligible entity receiving a grant under subsection (a) shall use the funds deposited in the reserve account established under subsection (f) to assist one or more charter schools to access private-sector capital to accomplish one or more of the following objectives:

(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

(3) The predevelopment costs required to assess sites for purposes of paragraph (1) or (2) and that are necessary to commence or continue the operation of a charter school.

(f) RESERVE ACCOUNT.—

(1) USE OF FUNDS.—To assist charter schools in accomplishing the objectives described in subsection (e), an eligible entity receiving a grant under subsection (a) shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under subsection (a) (other than funds used for administrative costs in accordance with subsection (g)) in a reserve account established and maintained by the eligible entity for this purpose. Amounts deposited in such account shall be used by the eligible entity for one or more of the following purposes:

(A) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in subsection (e).

(B) Guaranteeing and insuring leases of personal and real property for an objective described in subsection (e).

(C) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

(D) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

(2) INVESTMENT.—Funds received under subsection (a) and deposited in the reserve account established under paragraph (1) shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

(3) REINVESTMENT OF EARNINGS.—Any earnings on funds received under subsection (a) shall be deposited in the reserve account established under paragraph (1) and used in accordance with this subsection.

(g) LIMITATION ON ADMINISTRATIVE COSTS.—An eligible entity may use not more than 2.5 percent of the funds received under subsection (a) for the administrative costs of carrying out its responsibilities under this section (excluding subsection (k)).

(h) AUDITS AND REPORTS.—

(1) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under subsection (a) shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

(2) REPORTS.—

(A) GRANTEE ANNUAL REPORTS.—Each eligible entity receiving a grant under subsection (a) shall submit to the Secretary an annual report of the entity's operations and activities under this section (excluding subsection (k)).

(B) CONTENTS.—Each annual report submitted under subparagraph (A) shall include—

(i) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;

(ii) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under paragraph (1) during the reporting period;

(iii) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under subsection (a) in leveraging private funds;

(iv) a listing and description of the charter schools served during the reporting period, including the amount of funds used by each school, the type of project facilitated by the grant, and the type of assistance provided to the charter schools;

(v) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in subsection (e); and

(vi) a description of the characteristics of lenders and other financial institutions participating in the activities carried out by the eligible entity under this section (excluding subsection (k)) during the reporting period.

(C) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under subparagraph (A) and shall provide a comprehensive annual report to Congress on the activities conducted under this section (excluding subsection (k)).

(i) NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATION.—No financial obligation of an eligible entity entered into pursuant to this section (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds that may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this section.

(j) RECOVERY OF FUNDS.—

(1) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—(A) all of the funds in a reserve account established by an eligible entity under subsection (f)(1) if the Secretary determines, not earlier than 2 years after the date on which the eligible entity first received funds under subsection (a), that the

eligible entity has failed to make substantial progress in carrying out the purposes described in subsection (f)(1); or (B) all or a portion of the funds in a reserve account established by an eligible entity under subsection (f)(1) if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in subsection (f)(1).

(2) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in paragraph (1) to collect from any eligible entity any funds that are being properly used to achieve one or more of the purposes described in subsection (f)(1).

(3) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act shall apply to the recovery of funds under paragraph (1).

(4) CONSTRUCTION.—This subsection shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.).

(k) PER-PUPIL FACILITIES AID PROGRAM.—

(1) DEFINITION OF PER-PUPIL FACILITIES AID PROGRAM.—In this subsection, the term “per-pupil facilities aid program” means a program in which a State makes payments, on a per-pupil basis, to charter schools to provide the schools with financing—

(A) that is dedicated solely to funding charter school facilities; or

(B) a portion of which is dedicated for funding charter school facilities.

(2) GRANTS.—

(A) IN GENERAL.—From the amount reserved under section 4302(b)(1) and remaining after the Secretary makes grants under subsection (a), the Secretary shall make grants, on a competitive basis, to States to pay for the Federal share of the cost of establishing or enhancing, and administering, per-pupil facilities aid programs.

(B) PERIOD.—The Secretary shall award grants under this subsection for periods of not more than 5 years.

(C) FEDERAL SHARE.—The Federal share of the cost described in subparagraph

(A) for a per-pupil facilities aid program shall be not more than—

(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection;

(ii) 80 percent for the second such year;

(iii) 60 percent for the third such year;

(iv) 40 percent for the fourth such year; and

(v) 20 percent for the fifth such year.

(D) STATE SHARE.—A State receiving a grant under this subsection may partner with 1 or more organizations, and such organizations may provide not more than 50 percent of the State share of the cost of establishing or enhancing, and administering, the per-pupil facilities aid program.

(E) MULTIPLE GRANTS.—A State may receive more than 1 grant under this subsection, so long as the amount of total funds provided to charter schools increases with each successive grant.

(3) USE OF FUNDS.—

(A) IN GENERAL.—A State that receives a grant under this subsection shall use the funds made available through the grant to establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State of the applicant.

(B) EVALUATIONS; TECHNICAL ASSISTANCE; DISSEMINATION.—

From the amount made available to a State through a grant under this subsection for a fiscal year, the

State may reserve not more than 5 percent to carry out evaluations, to provide technical assistance, and to disseminate information.

(C) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this subsection shall be used to supplement, and not supplant, State and local public funds expended to provide per-pupil facilities aid programs, operations financing programs, or other programs, for charter schools.

(4) REQUIREMENTS.—

(A) VOLUNTARY PARTICIPATION.—No State may be required to participate in a program carried out under this subsection.

(B) STATE LAW.—

(i) IN GENERAL.—To be eligible to receive a grant under this subsection, a State shall establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State, that—

(I) is specified in State law; and

(II) provides annual financing, on a per-pupil basis, for charter school facilities.

(ii) SPECIAL RULE.—A State that is required under State law to provide its charter schools with access to adequate facility space, but that does not have a per-pupil facilities aid program for charter schools specified in State law, is eligible to receive a grant under this subsection if the State agrees to use the funds to develop a per-pupil facilities aid program consistent with the requirements of this subsection.

(5) APPLICATIONS.—To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

SEC. 4305. NATIONAL ACTIVITIES.

(a) IN GENERAL.—From the amount reserved under section 4302(b)(2), the Secretary shall—

(1) use not more than 80 percent of such funds to award grants in accordance with subsection (b);

(2) use not more than 9 percent of such funds to award grants, on a competitive basis, to eligible applicants for the purpose of carrying out the activities described in section 4303(h) in a State that did not receive a grant under section 4303; and

(3) after the uses described in paragraphs (1) and (2), use the remainder of such funds to—

(A) disseminate technical assistance to—

(i) State entities in awarding subgrants under section 4303(b)(1); and

(ii) eligible entities and States receiving grants under section 4304;

(B) disseminate best practices regarding charter schools; and

(C) evaluate the impact of the charter school program carried out under this part, including the impact on student achievement.

(b) GRANTS FOR THE REPLICATION AND EXPANSION OF HIGHQUALITY

CHARTER SCHOOLS.—

(1) **IN GENERAL.**—The Secretary shall make grants, on a competitive basis, to eligible entities having applications approved under paragraph (3) to enable such entities to open and prepare for the operation of one or more replicated high-quality charter schools or to expand one or more high-quality charter schools.

(2) **DEFINITION OF ELIGIBLE ENTITY.**—For purposes of this subsection, the term “eligible entity” means a charter management organization.

(3) **APPLICATION REQUIREMENTS.**—An eligible entity desiring to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The application shall include the following:

(A) **EXISTING CHARTER SCHOOL DATA.**—For each charter school currently operated or managed by the eligible entity—

(i) student assessment results for all students and for each subgroup of students described in section 1111(c)(2);

(ii) attendance and student retention rates for the most recently completed school year and, if applicable, the most recent available 4-year adjusted cohort graduation rates and extended-year adjusted cohort graduation rates; and

(iii) information on any significant compliance and management issues encountered within the last 3 school years by any school operated or managed by the eligible entity, including in the areas of student safety and finance.

(B) **DESCRIPTIONS.**—A description of—

(i) the eligible entity’s objectives for implementing a high-quality charter school program with funding under this subsection, including a description of the proposed number of high-quality charter schools the eligible entity proposes to open as a result of the replication of a high-quality charter school or to expand with funding under this subsection;

(ii) the educational program that the eligible entity will implement in such charter schools, including—

(I) information on how the program will enable all students to meet the challenging State academic standards;

(II) the grade levels or ages of students who will be served; and

(III) the instructional practices that will be used;

(iii) how the operation of such charter schools will be sustained after the grant under this subsection has ended, which shall include a multi-year financial and operating model for the eligible entity;

(iv) how the eligible entity will ensure that such charter schools will recruit and enroll students, including children with disabilities, English learners, and other educationally disadvantaged students; and

(v) any request and justification for any waivers of Federal statutory or regulatory requirements that the eligible entity believes are necessary for the successful operation of such charter schools.

(C) ASSURANCE An assurance that the eligible entity has sufficient procedures in effect to ensure timely closure of low-performing or financially mismanaged charter schools and clear plans and procedures in effect for the students in such schools to attend other high-quality schools.

(4) SELECTION CRITERIA.—The Secretary shall select eligible entities to receive grants under this subsection, on the basis of the quality of the applications submitted under paragraph (3), after taking into consideration such factors as—

(A) the degree to which the eligible entity has demonstrated success in increasing academic achievement for all students and for each of the subgroups of students described in section 1111(c)(2) attending the charter schools the eligible entity operates or manages;

(B) a determination that the eligible entity has not operated or managed a significant proportion of charter schools that—

(i) have been closed;

(ii) have had the school's charter revoked due to problems with statutory or regulatory compliance; or

(iii) have had the school's affiliation with the eligible entity revoked or terminated, including through voluntary disaffiliation; and

(C) a determination that the eligible entity has not experienced significant problems with statutory or regulatory compliance that could lead to the revocation of a school's charter.

(5) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities that—

(A) plan to operate or manage high-quality charter schools with racially and socioeconomically diverse student bodies;

(B) demonstrate success in working with schools identified by the State for comprehensive support and improvement under section 1111(c)(4)(D)(i);

(C) propose to use funds—

(i) to expand high-quality charter schools to serve high school students;
or

(ii) to replicate high-quality charter schools to serve high school students; or

(D) propose to operate or manage high-quality charter schools that focus on dropout recovery and academic reentry.

(c) TERMS AND CONDITIONS.—Except as otherwise provided, grants awarded under paragraphs (1) and (2) of subsection (a) shall have the same terms and conditions as grants awarded to State entities under section 4303.

SEC. 4306. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AN FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

(a) IN GENERAL.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

(b) ADJUSTMENT AND LATE OPENINGS.—

(1) IN GENERAL.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

(2) RULE.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

(c) NEW OR SIGNIFICANTLY EXPANDING CHARTER SCHOOLS.— For purposes of implementing the hold harmless protections in sections 1122(c) and 1125A(g)(3) for a newly opened or significantly expanded charter school under this part, a State educational agency shall calculate a hold-harmless base for the prior year that, as applicable, reflects the new or significantly expanded enrollment of the charter school.

SEC. 4307. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this subpart, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act, or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

SEC. 4308. RECORDS TRANSFER.

State educational agencies and local educational agencies, as quickly as possible and to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602 of the Individuals with Disabilities Education Act, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

SEC. 4309. PAPERWORK REDUCTION.

To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this subpart results in a minimum of paperwork for any eligible applicant or charter school.

SEC. 4310. DEFINITIONS.

In this part:

- (1) **AUTHORIZED PUBLIC CHARTERING AGENCY.**—The term “authorized public chartering agency” means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.
- (2) **CHARTER SCHOOL.**—The term “charter school” means a public school that—
 - (A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;
 - (B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;
 - (C) operates in pursuit of a specific set of educational objectives determined by the school’s developer and agreed to by the authorized public chartering agency;
 - (D) provides a program of elementary or secondary education, or both;
 - (E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
 - (F) does not charge tuition;

(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (commonly referred to as the “Family Educational Rights and Privacy Act of 1974”), and part B of the Individuals with Disabilities Education Act;

(H) is a school to which parents choose to send their children, and that—

(i) admits students on the basis of a lottery, consistent with section 4303(c)(3)(A), if more students apply for admission than can be accommodated; or

(ii) in the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in clause (i);

(I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such State audit requirements are waived by the State;

(J) meets all applicable Federal, State, and local health and safety requirements;

(K) operates in accordance with State law;

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school; and (M) may serve students in early childhood education programs or postsecondary students.

(3) CHARTER MANAGEMENT ORGANIZATION.—The term “charter management organization” means a nonprofit organization that operates or manages a network of charter schools linked by centralized support, operations, and oversight.

(4) CHARTER SCHOOL SUPPORT ORGANIZATION.—The term “charter school support organization” means a nonprofit, nongovernmental entity that is not an authorized public chartering agency and provides, on a statewide basis— (A) assistance to developers during the planning, program design, and initial implementation of a charter school; and (B) technical assistance to operating charter schools.

(5) DEVELOPER.—The term “developer” means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

(6) ELIGIBLE APPLICANT.—The term “eligible applicant” means a developer that has—

(A) applied to an authorized public chartering authority to operate a charter school; and

(B) provided adequate and timely notice to that authority.

(7) 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.

(8) 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), 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.

(9) 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.