

Every Student Succeeds Act (ESSA)
 Charter Schools Program – Title IV, part B
 December 14, 2015

Key Provision	Summary
Authorization Level	<p>\$270,000,000 for fiscal year 2017;</p> <p>\$270,000,000 for fiscal year 2018;</p> <p>\$300,000,000 for fiscal year 2019</p> <p>\$300,000,000 for fiscal year 2020.</p>
Allocations	<p>Funds are allocated as follows:</p> <ul style="list-style-type: none"> • 12.5% is reserved for Facilities Financing Assistance (Credit Enhancement and State Facilities Incentive Program). (\$33.75 million for FY 2017) • 22.5 percent is reserved to carry out national activities; (\$60.75 million for FY 2017) • The the remaining amount (65%, or \$175.5 million for FY 2017) after the above reservations is for State Grants to Support High Quality Charter Schools
National Activities sub-allocations to CMO competition and non-state grants.	<p>22.5% is reserved for National Activities. Of this amount:</p> <ul style="list-style-type: none"> • Not not more than 80% is reserved to award grants to CMOs for replication and expansion. (\$48 million for FY 2017) • 9% is for grants to entities in states that aren't awarded a grant (current non-SEA grant program) (\$5.5 million for FY 2017) • The remainder is for for technical assistance, dissemination of best practices, and evaluation (\$6.68 million for FY 2017).
Eligible State Entities	<p>ESSA expands the list of eligible entities for state grants beyond an SEA to <u>also</u> include a:</p> <ol style="list-style-type: none"> 1. State charter school board; 2. Governor 3. Charter school support organization. 4. State charter school board

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State Program and allocations	<p>Authorizes state entities to award subgrants to eligible applicants to use not less than 90 percent of its grant funds to–</p> <ol style="list-style-type: none"> 1. Open and prepare for the operation of new charter schools; 2. Open and prepare for the operation of replicated high-quality charter schools; or; 3. Expanded, high-quality charter schools <p>In addition, it must reserve not less than 7 percent to provide technical assistance to eligible applicants and authorized public chartering agencies in carrying 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.</p> <p>Not more than 3 percent of funds are for administrative costs, which may include technical assistance.</p>
Weighted Lotteries	<p>Nothing under ESSA shall prohibit the Secretary from awarding grants to states that use a weighted lottery to give slightly better chances for admission to all, or a subset of, educationally disadvantaged students if:</p> <ul style="list-style-type: none"> • The use of weighted lotteries is not prohibited by state law; and • Weighted lotteries are not used for the purpose of creating schools exclusively to serve a particular subset of students. • The law clarifies that nothing in the weighted lottery language 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.
Program Periods	<p>A grant awarded to a <u>state entity</u> shall be for a period of not more than 5 years.</p> <ul style="list-style-type: none"> • A <u>subgrant</u> awarded by a state entity 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.
Grant Awards (Distribution of Funds)	<p>For each fiscal year for which funds are appropriated, the Secretary must:</p> <ul style="list-style-type: none"> • Award not less than 3 grants; • Fully obligate the first 2 years of funds appropriated for the purpose of awarding grants under this section in the first

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	<p>fiscal year for which such grants are awarded;</p> <ul style="list-style-type: none"> • 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 – <ul style="list-style-type: none"> ○ review whether the State entity is using the grant funds for the agreed upon uses of funds and whether the full amount of the grant will be needed for the remainder of the grant period; ○ 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 • 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 supplement state grants, national activities, for grants in the following fiscal year, or to award one year of a grant to a state entity.
Grant Limitations	<ul style="list-style-type: none"> • Secretary may not award a grant to a <u>state entity</u> in a case in which such award would result in more than 1 grant being carried out in a state at the same time. • An eligible entity may not receive more than 1 <u>subgrant</u> for each individual charter schools for a 5-year period, unless the entity demonstrates to the state not less than 3 years of improved educational results.
Assurances	<p>State entities must provide the following assurances as part of their application:</p> <ul style="list-style-type: none"> • Each charter school receiving funds under the State entity’s program will have a high degree of autonomy over budget and operations, including autonomy over personnel decisions. • The State entity will support charter schools in meeting the educational needs of their students as described in paragraph (1)(A)(x) [including students with disabilities and English learners]. • 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 in recruiting, enrolling, and meeting the needs of all students, including children with disabilities and English learners. • The State entity will provide adequate technical assistance to eligible applicants to meet the objectives described in clauses (viii) of paragraph (1)(A) [promote inclusion of all students, including eliminating barriers to enrollment for foster and homeless youth and to promote retention through the use of fair disciplinary practice] and subparagraph (B) of this paragraph [meeting the educational needs of all students, including children with disabilities and English Learners].

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	<ul style="list-style-type: none"> • 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 <ul style="list-style-type: none"> ○ Assessing annual performance data of the schools, including, as appropriate, graduation rates, student academic growth, and rates of student attrition; ○ Reviewing the schools’ independent, annual audits of financial statements conducted in accordance with generally accepted accounting principles, and ensuring any such audits are publically reported; and ○ 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; • The State entity will work to ensure that charter schools are included with the traditional public schools in decision-making about the public school system in the State; and • The State entity will ensure that each charter school in the State makes publicly available, consistent with the dissemination requirements of the annual State report card, information to help parents make informed decisions about the education options available to their children, including information for each school on – <ul style="list-style-type: none"> ○ The educational program ○ Student support services ○ Parent contract requirements (as applicable), including any financial obligations or fees; ○ Enrollment criteria (as applicable) ○ Annual performance and enrollment data, disaggregated by the groups of students described in section 1111(c)(2) [ESEA subgroups].
Priority	<p>Authorizes the Secretary to give <u>priority</u> for state grants if the state (or a state-entity located in the state):</p> <ol style="list-style-type: none"> 1. The State entity is located in a State that – <ul style="list-style-type: none"> • 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

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	<ul style="list-style-type: none"> • 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. <ol style="list-style-type: none"> 2. Ensures equitable financing, as compared to traditional public schools, for charter schools and students in a prompt manner. 3. The State entity is located in a State that provides charter schools one or more of the following: <ul style="list-style-type: none"> • Funding for facilities. • Assistance with facilities acquisition. • Access to public facilities. • The ability to share in bonds or mill levies. • The right of first refusal to purchase public school buildings. • Low- or no-cost leasing privileges. 4. Uses charter schools and best practices from charter schools to help improve struggling school sand LEAs. 5. Supports charter schools that support at-risk students through activities such as dropout prevention, dropout recovery, or comprehensive career counseling practices. 6. Has taken steps to ensure that all authorizing public chartering agencies implement best practices for charter school authorizing.
<p>Local uses of funds</p>	<p>An eligible applicant receiving a subgrant under this section shall use such funds to support :</p> <ul style="list-style-type: none"> • Preparing teachers, school leaders, and specialized instructional support personnel, including through paying the costs associated with – <ul style="list-style-type: none"> ○ providing professional development; and ○ 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:

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	<ul style="list-style-type: none"> ▪ Teachers. ▪ School leaders. ▪ Specialized instructional support personnel. <ul style="list-style-type: none"> • Acquiring supplies, training, equipment (including technology), and educational materials (including developing and acquiring instructional materials). • Carrying out necessary renovations to ensure that a new school building complies with applicable statutes and regulations, and minor facilities repairs (excluding construction). • Providing one-time, startup costs associated with providing transportation to students to and from the charter school. • Carrying out community engagement activities, which may include paying the cost of student and staff recruitment. • Providing for other appropriate, non-sustained costs related to the above activities described when such costs cannot be met from other sources.
Facilities Financing Assistance	<ul style="list-style-type: none"> • ESSA clarifies that funds from the Credit Enhancement program can be used for pre-development costs such as soil-testing, lead paint or asbestos screening that are necessary to commence or continue the operation of a charter school. • Requires no less than 50% of the funds used for facilities to support Credit Enhancement activities.
Title I allocations	<p>ESSA codifies current ED guidance that requires new and expanding charter schools to receive a Title I allocation in accordance with hold harmless requirements, despite having a smaller (or no) student count on which to base the hold harmless calculation.</p> <ul style="list-style-type: none"> • 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.”
Definition of a Charter School	<p>Under ESSA, feeder patterns are now permitted, pre-K students may be served. In addition, under current law, both State and Federal audit requirements could be waived. ESSA would require audit requirements to be explicitly waived by the State, and eliminates references to waiving federal audit requirements. Bold language is new.</p>

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	<p>(1) CHARTER SCHOOL. – The term ‘charter school’ means a public school that –</p> <p>(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 definition;</p> <p>(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;</p> <p>(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;</p> <p>(D) provides a program of elementary or secondary education, or both;</p> <p>(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;</p> <p>(F) does not charge tuition;</p> <p>(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, part B of the Individuals with Disabilities Education Act, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and section 444 of the General Education Provisions Act (20 U.S.C. 1232(g)) (commonly known as the ‘Family Education Rights and Privacy Act of 1974’);</p> <p>(H) is a school to which parents choose to send their children, and admits students on the basis of a lottery if more students apply for admission than can be accommodated, except that in cases in which students who are enrolled in a charter school affiliated (such as by sharing a network) with another charter school, those students may be automatically enrolled in the next grade level at such other charter school, so long as a lottery is used to fill seats created through regular attrition in student enrollment;</p> <p>(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;</p> <p>(J) meets all applicable Federal, State, and local health and safety requirements;</p>

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	<p>(K) operates in accordance with State law;</p> <p>(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</p> <p>(M) may serve prekindergarten or postsecondary students.</p>
<p>New Definitions: CMO, CSO and High Quality Charter School</p>	<p>(2) CHARTER MANAGEMENT ORGANIZATION. – The term ‘charter management organization’ means a non-profit organization that operates or manages a network of charter schools linked by centralized support, operations, and oversight.</p> <p>(3) CHARTER SCHOOL SUPPORT ORGANIZATION. – The term ‘charter school support organization’ means a nonprofit, nongovernmental entity that is not an authorized public chartering agency, which provides on a statewide basis –</p> <p>(A) assistance to developers during the planning, program design, and initial implementation of a charter school; and</p> <p>(B) technical assistance to operating charter schools.</p> <p>(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.</p> <p>(6) HIGH-QUALITY CHARTER SCHOOL. – The term ‘high-quality charter school’ means a charter school that –</p> <p>(A) shows evidence of strong academic results, which may include strong academic growth as determined by a State;</p> <p>(B) has no significant issues in the areas of student safety, operational and financial management, or statutory or regulatory compliance;</p> <p>(C) has demonstrated success in significantly increasing student academic achievement, including graduation rates where applicable, for all students served by the charter school; and</p> <p>(D) has demonstrated success in increasing student academic achievement, including graduation rates where applicable, for the groups of students described in section 1111(c)(2), except that such demonstration is not required in a case in</p>

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	<p>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.</p> <p>(8) 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.”</p>