



ESEA, TITLE X, PART C--PUBLIC CHARTER SCHOOLS, as amended by the Charter Schools Expansion Act of 1998

SEC. 10301. FINDINGS AND PURPOSE.

(a) Findings.--The Congress finds that--

- (1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;
- (2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;
- (3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State content standards and challenging State student performance standards for all students;
- (4) charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;
- (5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, which reduction can have a significant effect on student achievement;
- (6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and
- (7) there is a strong documented need for cash-flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

(b) Purpose.--It is the purpose of this part to increase national understanding of the charter schools model by--

(1) providing financial assistance for the planning, program design and initial implementation of charter schools;

(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents; and

(3) expanding the number of high-quality charter schools available to students across the Nation.

SEC. 10302. PROGRAM AUTHORIZED.

(a) In General.--The Secretary may award grants to State educational agencies having applications approved pursuant to section 10303 to enable such agencies to conduct a charter school grant program in accordance with this part.

(b) Special Rule.--If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 10303, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 10303(c).

(c) Program Periods.--

(1) Grants to states.--Grants awarded to State educational agencies under this part shall be awarded for a period of not more than 3 years.

(2) Grants to eligible applicants.--Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this part shall be awarded for a period of not more than 3 years, of which the eligible applicant may use--

(A) not more than 18 months for planning and program design;

(B) not more than 2 years for the initial implementation of a charter school; and

(C) not more than two years to carry out dissemination activities described in section 10304(f)(6)(B).

(d) Limitation.-- A charter school may not receive --

(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

(2) more than one grant for activities under subparagraph (C) of subsection (c)(2).

(e) Priority Treatment.--

(1) In General.--

(A) Fiscal Years 1999,2000, and 2001.-- In awarding grants under this part for any of the fiscal years 1999, 2000, and 2001 from funds appropriated under section 10311 that are in excess of \$51,000,000 for the fiscal year, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3). Succeeding Fiscal Years.-- In awarding grants under this part for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 10311 the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

(2) Review and Evaluation Priority Criteria.-- The criteria referred to in paragraph (1) is that the State provides for periodic review of each charter school, at least once every five years unless required more frequently by State law, to determine whether the charter school is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

(3) Priority Criteria.-- The criteria referred to in paragraph (1) are the following:

(A) The State has demonstrated progress, in increasing the number of high quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this part.

(B) The State--

(i) provides for one authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such a State law; or

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

(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

(f) Amount Criteria.-- In determining the amount of a grant to be awarded under this part to a State educational agency, the Secretary shall take into consideration the number of

charter schools that are operating, or are approved to open, in the State.

SEC. 10303. APPLICATIONS.

(a) Applications From State Agencies.--Each State educational agency desiring a grant from the Secretary under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(b) Contents of a State Educational Agency Application.--Each application submitted pursuant to subsection (a) shall--

(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program;

(2) describe how the State educational agency--

(A) will inform each charter school in the State regarding--

(i) Federal funds that the charter school is eligible to receive; and

(ii) Federal programs in which the charter school may participate;

(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

(3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing--

(A) a description of the educational program to be implemented by the proposed charter school, including--

(i) how the program will enable all students to meet challenging State student performance standards;

(ii) the grade levels or ages of children to be served; and

(iii) the curriculum and instructional practices to be used;

(B) a description of how the charter school will be managed;

(C) a description of--

(i) the objectives of the charter school; and

(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

(E) a description of how parents and other members of the community will be involved in the planning, program design and implementation of the charter school;

(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

(I) a description of how students in the community will be--

(i) informed about the charter school; and

(ii) given an equal opportunity to attend the charter school;

(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part;

(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities

Education Act;

(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 10302(c)(2)(C), a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and

(N) such other information and assurances as the Secretary and the State educational agency may require.

(c) Contents of Eligible Applicant Application.--Each eligible applicant desiring a grant pursuant to section 10302(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

(d) Contents of Application.--Each application submitted pursuant to subsection (c) shall contain--

(1) the information and assurances described in subparagraphs (A) through (N) of subsection (b)(3), except that for purposes of this subsection subparagraphs (J), (K), and (N) of such subsection shall be applied by striking `and the State educational agency' each place such term appears; and

SEC. 10304. ADMINISTRATION.

(a) Selection Criteria for State Educational Agencies.--The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 10303(b), after taking into consideration such factors as--

(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State's education improvement plan;

(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

(3) the ambitiousness of the objectives for the State charter school grant program;

(4) the quality of the strategy for assessing achievement of those objectives;

(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;

(6) the number of high quality charter schools created under this part in the State; and

(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

(b) Selection Criteria for Eligible Applicants.--The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 10303(c), after taking into consideration such factors as--

(1) the quality of the proposed curriculum and instructional practices;

(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

(3) the extent of community support for the application;

(4) the ambitiousness of the objectives for the charter school;

(5) the quality of the strategy for assessing achievement of those objectives;

(6) the likelihood that the charter school will meet those objectives and improve educational results for students; and

(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

(c) Peer Review.--The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.

(d) Diversity of Projects.--The Secretary and each State educational agency receiving a grant under this part, shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants--

(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

(e) 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 10310(1), if--

(1) the waiver is requested in an approved application under this part; and

(2) the Secretary determines that granting such a waiver will promote the purpose of this part.

(f) Use of Funds.--

(1) State educational agencies.--Each State educational agency receiving a grant under this part shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this part, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6).

(2) Eligible applicants.--Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school, or to disseminate information about the charter school and successful practices in the charter school, in accordance with this part.

(3) Allowable activities.--An eligible applicant receiving a grant or subgrant under this part may use the grant or subgrant funds only for--

(A) post-award planning and design of the educational program, which may include--

(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

(ii) professional development of teachers and other staff who will work in the charter school; and

(B) initial implementation of the charter school, which may include--

(i) informing the community about the school;

(ii) acquiring necessary equipment and educational materials and supplies;

(iii) acquiring or developing curriculum materials; and

(iv) other initial operational costs that cannot be met from State or local sources.

(4) Administrative expenses.--Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part.

(5) Revolving loan funds.--Each State educational agency receiving a grant pursuant to this part may reserve not more than 10 percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that

have received a subgrant under this part, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

(6) Dissemination.--

(A) In General.-- A charter school may apply for funds under this part, whether or not the charter school has applied for or received funds under this part for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including--

(i) substantial progress in improving student achievement;

(ii) high levels of parent satisfaction; and

(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

(B) Activities.-- A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as--

(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

(ii) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

(g) Tribally Controlled Schools.-- Each State that receives a grant under this part and designates a tribally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining--

- (1) the eligibility of the school to receive any other Federal, State or local aid; or
- (2) the amount of such aid.

SEC. 10305. NATIONAL ACTIVITIES.

(a) In General.-- The Secretary shall reserve for each fiscal year the greater of 5 percent or \$5,000,000 of the amount appropriated to carry out this part, except that in no fiscal year shall the total amount so reserved exceed \$8,000,000, to carry out the following activities:

(1) To provide charter schools, either directly or through State educational agencies, with--

(A) information regarding--

(i) Federal funds that charter schools are eligible to receive; and

(ii) other Federal programs in which the charter schools may participate; and

(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

(2) To provide for the completion of the 4-year national study (which began in 1995) of charter schools.

(3) To provide for other evaluations or studies that include the impact of charter schools on student achievement, including information regarding--

(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

(4) To provide--

(A) information to applicants for assistance under this part;

(B) assistance to applicants for assistance under this part with the preparation of applications under section 10303;

(C) assistance in the planning and startup of charter schools;

(B) training and technical assistance to existing charter schools; and

(E) for the dissemination to other public schools of best or promising practices in charter schools.

(5) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capitol, and to widely disseminate to charter schools any such relevant information and model description of successful programs.

(b) Construction.-- Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).

SEC. 10306. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND 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 not later than 6 months after the date of the Charter School Expansion Act of 1998 as are necessary to ensure that every charter school receives the Federal funds 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 the 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.

SEC. 10307. 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 part, 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 (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

SEC. 10308. RECORDS TRANSFER.

State educational agencies and local educational agencies, 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(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), 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. 10309. PAPERWORK REDUCTION.

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

SEC. 10310. DEFINITIONS.

As used in this part:

- (1) 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 exempted 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, and part B of the Individuals with Disabilities Education Act;

(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

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

(K) operates in accordance with State law; and

(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.

(2) 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.

(3) The term `eligible applicant' means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this part.

(4) 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.

SEC. 10311. AUTHORIZATION OF APPROPRIATIONS.

For the purposes of carrying out this part, there are authorized to be appropriated \$100,000,000 for fiscal year 1999 and such sums as may be necessary for each of the four succeeding fiscal years.