

tions, 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 pupil¹ 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

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.

(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.

(6) Priorities

In making grants under this subsection, the Secretary shall give priority to States that meet the criteria described in paragraph (2), and subparagraphs (A), (B), and (C) of paragraph (3), of section 7221a(e) of this title.

(c) Rule of construction

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

(Pub. L. 89–10, title V, §5205, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1795.)

PRIOR PROVISIONS

A prior section 5205 of Pub. L. 89–10 was classified to section 7235 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221e. 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 subchapter I of this chapter, 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 ac-

tually 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) of this section 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) of this section for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

(Pub. L. 89–10, title V, §5206, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1797.)

PRIOR PROVISIONS

A prior section 5206 of Pub. L. 89–10 was classified to section 7236 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221f. 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 subchapter I of this chapter, 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.

(Pub. L. 89–10, title V, §5207, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1798.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in text, is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 5207 of Pub. L. 89–10 was classified to section 7237 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221g. Records transfer

State educational agencies and local educational agencies, to the extent practicable,

¹ So in original. Probably should be "per-pupil".

shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 1401 of this title, 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.

(Pub. L. 89-10, title V, § 5208, as added Pub. L. 107-110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798; amended Pub. L. 108-446, title III, § 305(g)(2), Dec. 3, 2004, 118 Stat. 2805.)

PRIOR PROVISIONS

A prior section 5208 of Pub. L. 89-10 was classified to section 7238 of this title, prior to the general amendment of this subchapter by Pub. L. 107-110.

AMENDMENTS

2004—Pub. L. 108-446 substituted “section 1401” for “section 1401(11)”.

§ 7221h. 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.

(Pub. L. 89-10, title V, § 5209, as added Pub. L. 107-110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798.)

§ 7221i. Definitions

In this subpart:

(1) 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 [42 U.S.C. 6101 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.];

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

dents 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 schools 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) 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.

(3) 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 under section 7221b(d)(3) of this title.

(4) 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.

(Pub. L. 89-10, title V, § 5210, as added Pub. L. 107-110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798.)

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in par. (1)(G), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in par. (1)(G), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in par. (1)(G), is Pub. L. 92-318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.