

regarding, the per-pupil facilities aid programs. In carrying out the evaluations, the Secretary may carry out one or more evaluations of State programs assisted under this subsection, which shall, at a minimum, address—

(A) how, and the extent to which, the programs promote educational equity and excellence; and

(B) the extent to which charter schools supported through the programs are—

- (i) held accountable to the public;
- (ii) effective in improving public education; and
- (iii) open and accessible to all students.

(b) Per-pupil facilities aid programs

(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 for 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 made available to carry out this subsection under paragraphs (2) and (3)(B) of section 7221j(b) of this title for any fiscal year, 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 in the second such year;
- (iii) 60 percent in the third such year;
- (iv) 40 percent in the fourth such year; and
- (v) 20 percent in the fifth such year.

(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.

(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 evalua-

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-

¹ So in original. Probably should be “per-pupil”.

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,

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-