

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 6332(c) and 6337(g)(3)<sup>1</sup> of this title 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.

(Pub. L. 89–10, title IV, § 4306, formerly title V, § 5206, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1797; renumbered title IV, § 4306, and amended Pub. L. 114–95, title IV, §§ 4001(b)(2)(A), (B), (D)(iii), 4301(2), Dec. 10, 2015, 129 Stat. 1967, 2011.)

REFERENCES IN TEXT

Section 6337(g)(3) of this title, referred to in subsec. (c), was redesignated section 6337(f)(3) of this title by Pub. L. 114–95, title I, § 1017(7), Dec. 10, 2015, 129 Stat. 1879.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114–95, § 4301(2), added subsec. (c).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

**§ 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 im-

plement 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, 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 IV, § 4307, formerly title V, § 5207, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798; renumbered title IV, § 4307, Pub. L. 114–95, title IV, § 4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967.)

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.

**§ 7221g. 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 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 IV, § 4308, formerly 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; renumbered title IV, § 4308, and amended Pub. L. 114–95, title IV, §§ 4001(b)(2)(A), (B), (D)(iii), 4301(3), Dec. 10, 2015, 129 Stat. 1967, 2012.)

AMENDMENTS

2015—Pub. L. 114–95, § 4301(3), inserted “as quickly as possible and” before “to the extent practicable”.

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

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

**§ 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 IV, § 4309, formerly title V, § 5209, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798; renumbered title IV, § 4309, Pub. L. 114–95, title IV, § 4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967.)

**§ 7221i. Definitions**

In this part:

<sup>1</sup> See References in Text note below.

**(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 [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], the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), section 1232g of this title (commonly referred to as the “Family Educational Rights and Privacy Act of 1974”), 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—

(i) admits students on the basis of a lottery, consistent with section 7221b(c)(3)(A) of this title, 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 6311(c)(2) of this title, 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.

(Pub. L. 89–10, title IV, §4310, formerly title V, §5210, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1798; renumbered title IV, §4310, and amended Pub. L. 114–95, title IV, §§4001(b)(2)(A), (B), (D)(iii), 4301(4), Dec. 10, 2015, 129 Stat. 1967, 2012.)

#### REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in par. (2)(G), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, 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. (2)(G), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. 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. (2)(G), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235. 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.

The Americans with Disabilities Act of 1990, referred to in par. (2)(G), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 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 12101 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in par. (2)(G), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

#### AMENDMENTS

2015—Pub. L. 114–95, §4301(4)(A), substituted “part” for “subpart” in introductory provisions.

Par. (1). Pub. L. 114–95, §4301(4)(C), redesignated par. (4) as (1). Former par. (1) redesignated (2).

Par. (2). Pub. L. 114–95, §4301(4)(B), redesignated par. (1) as (2). Former par. (2) redesignated (5).

Par. (2)(G). Pub. L. 114–95, §4301(4)(D)(i), substituted “, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), section 1232g of this title (commonly referred to as the ‘Family Educational Rights

and Privacy Act of 1974’), and part B” for “, and part B”.

Par. (2)(H). Pub. L. 114–95, §4301(4)(D)(ii), added subpar. (H) and struck out former subpar. (H) which read as follows: “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;”.

Par. (2)(I). Pub. L. 114–95, §4301(4)(D)(iii), added subpar. (I) and struck out former subpar. (I) which read as follows: “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;”.

Par. (2)(M). Pub. L. 114–95, §4301(4)(D)(iv)–(vi), added subpar. (M).

Pars. (3), (4). Pub. L. 114–95, §4301(4)(E), added pars. (3) and (4). Former pars. (3) and (4) redesignated (6) and (1), respectively.

Par. (5). Pub. L. 114–95, §4301(4)(B), redesignated par. (2) as (5).

Par. (6). Pub. L. 114–95, §4301(4)(B), redesignated par. (3) as (6).

Par. (6)(B). Pub. L. 114–95, §4301(4)(F), struck out “under section 7221b(d)(3) of this title” before period at end.

Pars. (7) to (9). Pub. L. 114–95, §4301(4)(G), added pars. (7) to (9).

#### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

### § 7221j. Authorization of appropriations

There are authorized to be appropriated to carry out this part—

- (1) \$270,000,000 for fiscal year 2017;
- (2) \$270,000,000 for fiscal year 2018;
- (3) \$300,000,000 for fiscal year 2019; and
- (4) \$300,000,000 for fiscal year 2020.

(Pub. L. 89–10, title IV, §4311, as added Pub. L. 114–95, title IV, §4301(5), Dec. 10, 2015, 129 Stat. 2013.)

#### PRIOR PROVISIONS

A prior section 7221j, Pub. L. 89–10, title IV, §4311, formerly title V, §5211, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1799; renumbered title IV, §4311, Pub. L. 114–95, title IV, §4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967, authorized appropriations for fiscal year 2002 and the 5 succeeding fiscal years, prior to repeal by Pub. L. 114–95, §5, title IV, §4301(5), Dec. 10, 2015, 129 Stat. 1806, 2013, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 4311 of Pub. L. 89–10 was classified to section 3091 of this title, prior to general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Prior sections 7223 to 7223j and 7225 to 7225g were repealed by Pub. L. 114–95, §5, title IV, §4001(b)(1)(B), Dec. 10, 2015, 129 Stat. 1806, 1967, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 7223, Pub. L. 89–10, title V, §5221, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1800, stated purpose of subpart 2 of part B of former subchapter V of this chapter, related to credit enhancement initiatives to assist charter school facility acquisition, construction, and renovation.

Section 7223a, Pub. L. 89–10, title V, §5222, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1800, related to grants to eligible entities.

Section 7223b, Pub. L. 89–10, title V, §5223, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1800, related to applications for grants.