

# **CHARTER SCHOOLS PROGRAM GUIDANCE ON THE USE OF FUNDS TO SUPPORT PRESCHOOL EDUCATION**

## **Introduction**

The United States Department of Education's (Department's) Office of Innovation and Improvement issues this nonregulatory guidance to provide Charter Schools Program (CSP) grantees with information regarding the circumstances under which CSP funds may be used "for grants that support preschool education in charter schools," under new authority in the Consolidated Appropriations Act, 2014 (2014 Act). See Division H, Title III of the 2014 Act (Pub. L. No. 113-76, 128 Stat. 5, 393) at <http://www.gpo.gov/fdsys/pkg/PLAW-113publ76/pdf/PLAW-113publ76.pdf>. The CSP is authorized under title V, part B, subpart 1 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7221-7221j).

The Frequently Asked Questions (FAQs) below represent the Department's current thinking on this topic. They do not create or confer any rights for or on any person. This guidance does not impose any requirements beyond those required under applicable law and regulations. For nonregulatory guidance related to the CSP generally, please see <http://www2.ed.gov/programs/charter/nonregulatory-guidance.html>.

If you are interested in commenting on this guidance, please email us your comments at [charterschools@ed.gov](mailto:charterschools@ed.gov) or write to us at the following address: Charter Schools Program, U.S. Department of Education, 400 Maryland Avenue, SW, Room 4W226, Washington, DC 20202-5970.

## **FAQs**

### **1. To which fiscal year CSP funds does the new authority in the 2014 Act, which authorizes the use of CSP funds to support preschool education, apply?**

The language in the 2014 Act authorizing the use of CSP funds to support preschool education applies to CSP funds awarded for fiscal year (FY) 2014 and any carryover funds from prior fiscal years. CSP funds awarded for FY 2015 and subsequent years may be used to support preschool education in charter schools only if Congress authorizes the use of CSP funds for that purpose for those years.

### **2. Under what circumstances may CSP grant or subgrant funds be used to support preschool education in a charter school?**

In a State in which preschool education is part of elementary education under State law, CSP funds may be used to support preschool education in charter schools (as defined in section 5210(1)) that provide elementary or secondary education beyond preschool, as well as in charter schools that provide only preschool education.

In a State in which preschool education is not part of elementary education under State law, CSP

funds may be used to support preschool education so long as the preschool program is offered as part of a school that meets the definition of “charter school” in section 5210(1), including providing a program of elementary or secondary education, or both. In other words, CSP funds may be used to support preschool education only if the school offers at least one elementary or secondary grade during the grant period. In such States, CSP funds may not be used to support preschool education in a charter school that provides **only** preschool education because such a charter school does not meet the ESEA definition of “charter school.”

This nonregulatory guidance distinguishes between States that include preschool education as part of elementary education and States that do not include preschool education as part of elementary education because, under the definition of “charter school” in section 5210(1), a charter school must provide a program of elementary or secondary education, or both. Under section 9101(18) of the ESEA, “elementary school” means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, **as determined under State law**. (20 U.S.C. 7801(18) (*emphasis added*))

As a reminder, only charter schools that meet the definition of “charter school” in section 5210(1) of the ESEA are eligible to receive funds under the CSP. Under section 5210(1) of the ESEA, “charter school” means a public school that, among other things, does not charge tuition; is a school to which parents choose to send their children and admits students by lottery if more students apply for admission than can be accommodated; operates in accordance with State law; and has a written performance contract with an authorized public chartering agency in the State that includes a description of how student performance will be measured. (20 U.S.C. 7221i(1))

### **3. Are there specific requirements a preschool education program must meet in order to receive CSP funds?**

As stated in the Introduction to these FAQs, the 2014 Act authorizes the use of CSP funds to support preschool education in charter schools. Therefore, in order to receive CSP funds, the preschool education program must be part of a charter school (as defined in section 5210(1) of the ESEA). While the 2014 Act does not define “preschool education,” a major purpose of the CSP is to expand the number of high-quality charter schools available to students across the nation. Consistent with this purpose, the Department encourages grantees and subgrantees proposing to use CSP funds to support preschool education in charter schools to review the definition of “high-quality preschool program,” set forth in the Notice Inviting Applications for New Awards for Preschool Development Grants—Expansion Grants (NIA), published in the *Federal Register* on August 18, 2014 (79 FR 48874). See <https://www.federalregister.gov/articles/2014/08/18/2014-19427/applications-for-new-awards-preschool-development-grants-expansion-grants>.

While a preschool education program is not required to meet the definition of “high-quality preschool program” in order to receive CSP funds, the definition set forth in the NIA reflects the Department’s current thinking on what constitutes a high-quality preschool education program. For additional information related to Preschool Development Grants and the definition of “high-quality preschool program,” see Guidance and Frequently Asked Questions for Applicants under

the Preschool Development Grants program at <http://www2.ed.gov/programs/preschooldevelopmentgrants/faqrevised10314.pdf> .

**4. How may a current CSP grantee (for example, a State educational agency (SEA), non-SEA eligible applicant, charter management organization (CMO), or other not-for-profit entity) amend its approved grant application to use funds to support preschool education?**

An existing grantee may submit a request to the Department to amend its approved grant application to use CSP funds to support preschool education. Such requests are subject to approval by the Department and must include the following:

- (a) A description of the proposed preschool education program, including the proposed activities to be carried out, the estimated number of preschool students to be served under the program, how the proposed activities will affect the existing approved project, and any proposed changes to the existing approved grant application;
- (b) An explanation of how the proposed preschool education program would promote the purposes of the CSP and is within the scope and objectives of the approved project;
- (c) Evidence that State law defines “elementary education” to include preschool education or that the preschool education program will be carried out in a school that meets the definition of “charter school” in section 5210(1) of the ESEA;
- (d) A description of the SEA’s or charter school’s admissions policy, including when and how a lottery will be used if more students apply for admission than can be accommodated in preschool and in subsequent grades; and
- (e) For all grantees, except SEA grantees, a copy of the approved charter or charter petition authorizing the charter school to provide preschool education.

Please review FAQ #5 below for additional guidance regarding the information an SEA grantee must include when requesting approval from the Department to amend its approved grant application to use CSP funds to support preschool education in charter schools.

**5. What additional information must a current SEA grantee include in its request to the Department to amend its approved grant application to use CSP funds to support preschool education in charter schools?**

In addition to the elements listed in FAQ #4 above, an SEA grantee that submits a request to the Department to amend its approved grant application to use CSP funds to support preschool education in charter schools must include the following information in its request:

- (a) A description of how allowing charter schools in the State to use CSP funds to support preschool education would affect the State’s subgrant application and peer review processes, including descriptions of any proposed modifications of those processes to account for applications proposing to use CSP funds to support preschool education in charter schools;

(b) A description of the SEA’s proposed process for reviewing and approving requests from existing subgrantees to amend their approved applications to allow them to use CSP funds to support preschool education in charter schools; and

(c) A written assurance from the SEA that, prior to permitting any charter school subgrantee to use CSP funds to support preschool education in the charter school, the SEA will ensure that there is an approved charter or charter petition that authorizes the charter school to operate the preschool program.

Please review FAQ #6 below for examples of the types of information an SEA may require its subgrantees to include in any request to amend an approved subgrant application to permit the use of CSP funds to support preschool education in a charter school.

**6. May a current CSP subgrantee submit a request to its SEA to amend its approved subgrant application to use CSP funds to support preschool education in charter schools?**

Yes. An existing subgrantee may submit a request to its SEA to amend its approved subgrant application to enable it to use CSP funds to support preschool education in a charter school. In order to approve such a request, the SEA must have received approval from the Department to amend its approved CSP application to include preschool education. Subgrantees should contact the SEA for guidance regarding the process for submitting an amendment request to the SEA and the specific information that must be included in the request. The following are examples of the types of information an SEA may require its subgrantees to include in a request to amend an approved subgrant application to permit the use of CSP funds to support preschool education in a charter school:

(a) A description of the proposed preschool education program, including the proposed activities to be carried out, the estimated number of preschool students to be served under the program, how the proposed activities will affect the existing approved project, and any proposed changes to the existing approved subgrant application;

(b) An explanation of how the proposed preschool education program would promote the purposes of the CSP and is within the scope and objectives of the approved project;

(c) A description of the school’s admissions policies, including when and how a lottery will be used if more students apply for admission than can be accommodated in preschool and in subsequent grades; and

(d) A copy of the approved or pending (that is, submitted to an authorized public chartering agency) charter authorizing the charter school to provide preschool education.

**7. Must a charter school’s approved charter authorize the charter school to operate a preschool education program in order for CSP funds to be used to support preschool education in the charter school?**

Yes. A charter school that receives CSP grant or subgrant funds directly from the Department or indirectly through an eligible entity, such as a CMO or other not-for-profit entity, may not use such funds to support preschool education unless the charter school's approved charter authorizes the charter school to operate a preschool education program. If the charter school's current approved charter does not authorize the school to operate a preschool education program, the charter school must amend its existing charter in order to use CSP funds to support preschool education in the charter school. While a charter school may apply to amend its approved CSP grant or subgrant application to include preschool education pending approval of a request to amend its charter, CSP grantees and subgrantees may not use CSP funds for the purpose of supporting preschool education until after the charter amendment has taken effect.

**8. Under what circumstances may a grantee under the CSP Grants for Replication and Expansion of High-Quality Charter Schools (Replication and Expansion) program (CFDA 84.282M) amend its approved application to use CSP funds to “substantially expand” an existing charter school by offering preschool education?**

Existing grantees under the CSP Replication and Expansion program must follow the same procedures and meet the same general requirements as other grantees when applying to the Department for approval to amend their approved grant applications in order to use CSP funds to support preschool education in the charter schools that they manage (see FAQ #4 above). When seeking to “substantially expand” an existing charter school by adding a preschool education program, the grantee must ensure that the proposed expansion meets the standard set forth in the Final Priorities, Requirements, and Selection Criteria for the Replication and Expansion program published in the *Federal Register* on July 12, 2011 (July 12, 2011 Final Priorities), which can be found at <https://www.federalregister.gov/articles/2011/07/12/2011-17491/final-priorities-requirements-and-selection-criteria-charter-schools-program-csp-grants-for>. Under the July 12, 2011, Final Priorities, “*substantially expand* means to increase the student count of an existing charter school by more than 50 percent or to add at least two grades to an existing charter school over the course of the grant.” For purposes of these FAQs, adding separate 3-year-old and 4-year-old preschool cohorts to an existing charter school qualifies as adding two grades.

**9. Must a charter school that receives CSP funds to support preschool education admit preschool students by lottery if more students apply for admission than can be accommodated?**

Yes. As with any charter school that receives CSP funds, a charter school that receives funds to support preschool education must meet the definition of “charter school” in section 5210(1) of the ESEA, including the requirement to admit students by lottery if more students apply for admission than can be accommodated. This requirement applies to any charter school that receives CSP funds to support preschool education, regardless of whether the charter school is located in a State in which preschool education is part of “elementary education” under State law.

In addition, while a charter school that receives CSP funds must employ an open admissions policy and use a lottery if it is oversubscribed, a charter school may use a weighted lottery in limited circumstances, such as to give “educationally disadvantaged students” slightly better

chances for admission, as discussed in the CSP Nonregulatory Guidance issued by the Department in January 2014. For information on the circumstances under which charter schools receiving CSP funds may use weighted lotteries, including the categories of students that are considered to be “educationally disadvantaged,” please see the CSP Nonregulatory Guidance at <http://www2.ed.gov/programs/charter/nonregulatory-guidance.html>.

**10. May CSP funds be used to support a tuition-based or other private preschool program that is affiliated with a public charter school?**

No. As stated elsewhere in these FAQs, CSP funds may be used to support preschool education only in a charter school that meets the definition of “charter school” in section 5210(1) of the ESEA. Under section 5210(1)(F), a charter school that receives CSP funds must be a “public school” that, among other things, does not charge tuition.