



**Dr. John D. Barge, State School Superintendent**  
*"Making Education Work for All Georgians"*

## **Frequently Asked Questions Regarding the New Federal Charter Schools Program Non-Regulatory Guidance (2011)**

### **1. Who is an eligible applicant for the federal CSP grant?**

- a.** All CSP applicants must certify that the applicant meets all 12 components of the federal definition of a charter school. Charter school is defined as a public school that:
  - i.** 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 requirements in paragraphs 1 through 12 of this definition;
  - ii.** 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;
  - iii.** 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;
  - iv.** Provides a program of elementary or secondary education, or both;
  - v.** Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
  - vi.** Does not charge tuition;
  - vii.** 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, title II of the Americans with Disabilities Act of 1990, as amended, and part B of the Individuals with Disabilities Education Act;
  - viii.** 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;
  - ix.** 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;
  - x.** Meets all applicable Federal, State, and local health and safety requirements;
  - xi.** Operates in accordance with State law; and
  - xii.** 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. 20 U.S.C. 7221i(1)
- b.** Additionally, charter schools are only eligible to receive one federal planning and implementation grant. Applicants must apply for the grant within their first year of operation.



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**2. What are the allowable expenses of the Federal CSP grant?**

- a. The new non-regulatory guidance clarifies allowable and unallowable expenses for subgrantees. Subgrantees may use CSP start-up grant or subgrant funds only for post-award planning and design of the educational program, and initial implementation of a charter school. Initial implementation activities may include (a) informing the community about the school; (b) acquiring necessary equipment and educational materials and supplies; (c) acquiring or developing curriculum materials; and (d) other initial operating costs that cannot be met from State or local sources.
- b. Costs associated with creating and implementing office functions, such as accounting systems, attendance and registration systems, and human resources policies;
- c. Costs associated with the installation of computers, data systems, networks, and telephones;
- d. Personnel expenses incurred either before or after the school's opening, provided that these expenses are associated with initial implementation activities (i.e., as opposed to ongoing operations), such as program and curriculum development and integration, and teacher and staff recruiting. (\*Note: If personnel split their time between ongoing operational activities and initial implementation activities, only that portion of the time associated with initial implementation of the charter school is allowable as an initial operational cost. The charter school must maintain accurate time and effort records to document the amount of time each employee works on tasks related to the initial implementation of the charter school.); and
- e. Rental or occupancy costs for the school facility for a reasonable period of time in preparation for the school's opening.

**3. What are some of the unallowable expenses of the Federal CSP grant?**

- a. CSP funds may not be used for construction or large-scale renovation. CSP funds may be used for necessary maintenance, repair or upkeep of buildings and equipment that neither add to the permanent value of the property nor appreciably prolong its life, but merely keep it in an efficient operating condition.
- b. Other items that the Georgia Department of Education deems as unnecessary or reasonable for the proper and efficient performance and administration of the grant.

**4. What groups of students can a charter school exempt from the lottery and still be eligible to receive federal CSP grant funds?**

- a. The Federal CSP Grant allows charter schools to have the following enrollment preferences (new preferences are bolded):
  - i. Students who are enrolled in a public school at the time it is converted into a public charter school;
  - ii. **Students who are eligible to attend, and are living in the attendance area of, a public school at the time it is converted into a public charter school;** (Not allowable under Georgia law)



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- iii. Siblings of students already admitted to or attending the same charter school;
  - iv. Children of a charter school's founders, teachers, and **staff** (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment); and
  - v. Children of employees in a work-site charter school (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment). (Not allowable under Georgia Law).
- b. Georgia law allows for additional preferences that are not allowable if a charter school will be receiving the federal CSP grant. All Georgian CSP applicants must certify that their enrollment preferences and lotteries conform with the federal non-regulatory guidance.

**5. How can the Georgia Department of Education Determine if a charter school's governing board is independent from a management organization?**

- a. Although a charter school may enter into a contract with a for-profit entity to manage the day-to-day operations of the charter school, Federal regulations require the charter school grant recipient to "directly administer or supervise the administration of [the grant]." When administering or supervising the administration of the grant, the charter school that contracts with a CMO or EMO should ensure that it and its governing board are independent of the for-profit CMO or EMO. In determining whether a charter school grant recipient is independent from the for-profit CMO or EMO hired to manage the day-to-day operations of the charter school, the Georgia Department of Education will consider a number of factors, including, but not necessarily limited to, the following:
- i. Whether the charter school's governing board is selected by, or includes members who are employees of, the for-profit CMO or EMO;
  - ii. Whether the charter school has an independent attorney, accountant, and audit firm that works for the charter school and not the for-profit CMO or EMO;
  - iii. Whether the contract between the charter school and the for-profit CMO or EMO was negotiated at "arms length," clearly describes each party's rights and responsibilities, and specifies reasonable and feasible terms under which either party may terminate the contract. (e.g. the charter school does not lose the right to use facilities);
  - iv. Whether the fee paid by the charter school to the for-profit CMO or EMO is reasonable for the type of management services provided; and
  - v. Whether any other agreements (e.g., loans, leases, etc.) between the charter school and for-profit CMO or EMO are fair and reasonable, documented appropriately, align with market rates, and include terms that will not change if the management contract is terminated.
  - vi. As a general matter, grantees must avoid apparent and actual conflicts of interest when administering grants.



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- b. All charter schools that contract with a for-profit company must provide assurances that the non-profit governing board will manage the federal CSP grant. If the Georgia Department of Education determines that a charter school’s governing board is not autonomous from its EMO, the school will risk corrective action or reversion of the federal funds.
- 6. Can the Georgia Department of Education award federal CSP funds to multiple charter schools established under a single charter?**
- a. Section 5202(d)(1) of the ESEA provides that “[a] charter school may not receive... more than one grant for [planning and implementation activities].” For purposes of the CSP, a “charter school” is defined as, among other criteria, “a public school that... is created by a developer as a public school...; operates in accordance with State law...; and has a written performance contract with the authorized public chartering agency in the State...” Thus, the question of whether the Georgia Department of Education may award CSP start-up subgrants to multiple charter schools established under a single charter depends on: (a) whether the charter school at issue meets the definition of a charter school as set forth in section 5210(1) of the ESEA; and (b) whether the charter school has received a CSP start-up grant or subgrant previously.
  - b. The Georgia Department of Education may not award CSP start-up subgrants to multiple charter schools established under a single charter where the charter schools are merely extensions of each other (i.e., one charter school with multiple campuses). This is also true for charter schools established under separate charters if, in fact, they are operated as one charter school. However, the Georgia Department of Education may award CSP start-up subgrants to multiple charter schools established under a single charter if each of the charter schools meets the CSP definition of “charter school” and the schools truly are separate and distinct from each other.
- 7. What are the factors that the Georgia Department of Education will consider when determining if multiple charter schools created under a single charter are separate and eligible grant applicants?**
- a. There are several key factors the Georgia Department of Education will consider when determining whether multiple charter schools created under a single charter are separate schools or parts of the same charter school:
    - i. The terms of the charter;
    - ii. Whether the charter schools were established and are recognized as separate schools under the State’s charter school law;
    - iii. Whether the charter schools have separate performance agreements with their authorized public chartering agency(ies);



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- iv. Whether each school separately reports its academic performance for ESEA reporting purposes;
  - v. Whether the schools have separate facilities;
  - vi. Whether the charter schools have separate staffs; and
  - vii. Whether the charter schools' day-to-day operations are carried out by different administrators.
- b. The existence or non-existence of any one of these factors, by itself, does not determine whether a particular charter school is a separate school or part of a larger school. The existence or non-existence of several factors, however, may inform the Georgia Department of Education's determination of whether multiple charter schools created under a single charter are distinct entities or, for all practical purposes, are operating as a single charter school. Consistent with the requirement that each school meet the definition of a charter school in section 5210(1) of the ESEA, in all cases each separate school must conduct an open enrollment process. Therefore, all students need to apply for admission to the charter school and must be selected by lottery if there are more applicants than spaces available. No preference may be given to students from an affiliated school. The charter school also must widely inform the community of its public school status and have a fair and open admissions process. 20 U.S.C. 7221a(d) and 7221i(1).