

Charter Schools

Preamble Comments and Discussion

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Charter School (§ 300.7)

Comment: Several commenters suggested that we include in the regulations the definitions of terms that are defined in other statutes. For example, one commenter requested including the definition of *charter school* in the regulations.

Discussion: Including the actual definitions of terms that are defined in statutes other than the Act is problematic because these definitions may change over time (*i.e.*, through changes to statutes that establish the definitions). In order for these regulations to retain their accuracy over time, the U.S. Department of Education (Department) would need to amend the regulations each time an included definition that is defined in another statute changes. The Department believes that this could result in significant confusion. However, we are including the current definition of *charter school* in section 5210(1) of the ESEA here for reference.

The term *charter school* means a public school that:

1. 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 [the paragraph that sets forth the Federal definition];
2. 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;
3. 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;
4. Provides a program of elementary or secondary education, or both;
5. Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
6. Does not charge tuition;
7. 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, and Part B of the Individuals with Disabilities Education Act;
8. 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;
9. 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 [the Public Charter School Program];
10. Meets all applicable Federal, State, and local health and safety requirements;
11. Operates in accordance with State law; and
12. 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.

Changes: None.