Purposes of Federal Funding

- The purpose of federal funding is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments.
- The funds are supplemental to state funds and are used to support high-quality academic assessments, accountability systems, teacher preparation and training, curriculum, and instructional materials that are aligned with challenging state academic standards so that students, teachers, parents, and administrators can measure progress against common expectations for student academic achievement.
- Certain federal funds are used to help meet the educational needs of low-achieving children in high-poverty schools; to support language acquisition for limited-English proficient children; and to support education needs of migratory children and children with disabilities, Native American students, neglected and delinquent children, and young children in need of reading assistance.
- Other funds may be used for teacher and administrator professional learning, to support the needs of homeless students, and to support after-/before-school enrichment programs.
- With requirements particular to certain funding sources, public charter schools may find that they will be eligible to tap into certain additional funding sources.

History of ESEA

The *Elementary and Secondary Education Act* (ESEA) was signed into law in 1965 by President Lyndon Baines Johnson, who believed that "full educational opportunity" should be "our first national goal." ESEA offered new grants to districts serving low-income students and federal grants for text and library books, created special education centers, and created scholarships for low-income college students. Additionally, the law provided federal grants to state educational agencies to improve the quality of elementary and secondary education.

NCLB and Accountability

In 2002, with bipartisan support, Congress reauthorized ESEA and President George W. Bush signed the law, giving it a new name: The *No Child Left Behind (NCLB) Act*. While NCLB put in place measures that exposed achievement gaps among traditionally underserved and vulnerable students and their peers and started an important national dialogue on educational improvement, the law is overdue for reauthorization. Many parents, educators, and elected officials have recognized that a strong, updated law is necessary to expand opportunity for all students in America; to support schools, teachers, and principals; and to strengthen our educational system and economy.

In 2012, the United States Department of Education began offering flexibility to states regarding specific requirements of NCLB in exchange for rigorous and comprehensive state-developed plans designed to close achievement gaps, increase equity, improve the quality of instruction, and increase outcomes for all students. Thus far, Alabama and 41 other states, the District of Columbia, and Puerto Rico have received flexibility from NCLB.
Private Schools are not Eligible to Convert to Public Charter Status

In Section B-8, Title V, Part B, Charter School Program: Non-Regulatory Guidance, July 2004, the statute defines a charter school as a newly created public school or one adapted from an existing public school. There is no provision or mechanism in the law that recognizes conversions of private schools into public charter schools. On the other hand, the statute does not prevent a newly created public school from using resources previously used by a closed private school or from involving the parents and teachers who may have been involved in the closed private school.

It should be noted, however, that any newly created public school must be just that—it cannot be a continuation of a private school under a different guise. The public charter school must be separate and apart from any private school. It must be established as a public school and comply with applicable state and federal laws regarding public schools. In its creation, development, and operation, the charter school must not have any affiliation "with a sectarian school or religious institution" (§5210(1)(E) of ESEA).

Because a newly created public school would not have any "previously enrolled" students, all students would need to apply for admission and would have to be selected by lottery if there are more applicants than spaces available. Similarly, the charter school must inform the community of its public school status and have a fair and open admissions process. (Title V, Part B, Charter School Program: Non-Regulatory Guidance, Section B-9; July 2004)

NOTE: Act 2015-3, Section 2(c), specifically prohibits a private or nonpublic school from establishing a public charter school in Alabama.

Eligibility and the Allocation of Federal Funds for Support of Public Charter Schools

If a charter school is authorized by an entity other than a traditional Local Education Agency (LEA), the State Education Agency (SEA) will be responsible for allocating Title I funds directly to the charter school as a “local education agency” or LEA, pursuant to federal and state laws. In allocating these funds, SEAs will still comply with Section 5206 of Elementary and Secondary Education Act and ensure that funds are allocated in a timely and efficient manner for new and expanding charter schools. If a charter school is, under state law, part of an LEA, the LEA will allocate federal funds to the charter school on the same basis as it provides funds to its other schools. (The Impact of the New Title I Requirements on Charter Schools: Non-Regulatory Guidance; Section A-8; July, 2004)

Significant Federal Statutory and Regulatory Authorities That Apply to Any Charter School Program Accepting Federal Funds

Recipients of funds under these programs should be aware of the following significant statutory requirements in addition to those in Title V, Part B, Subpart 1 (formerly Title X, Part C) of the ESEA:
(a) The definitions set out in Title IX of ESEA, which establish general provisions for all programs authorized under ESEA;
(b) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin;
(c) Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex;
(d) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability;
(e) The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age;
(f) Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability by public entities, including public charter schools and public school districts, regardless of whether they receive federal financial assistance; and
Qualifications for Teachers in Charter Schools Receiving Federal Funds

Current federal law provides that a teacher who teaches core academic subjects in a charter school utilizing federal funds meets the certification requirement if he or she meets the requirements set forth in a State’s charter school law regarding certification or licensure [Section 9101(23)(A)(i)]. Thus, a teacher in a charter school does not have to be licensed or certified by the State if the State’s charter law does not require such licensure or certification. All other elements of the “highly qualified teacher” requirement apply to charter school teachers in the same way, and on the same timeline, that they apply to teachers in traditional public schools. (The Impact of the New Title I Requirements on Charter Schools: Non-Regulatory Guidance; Section E-2; July, 2004)

Sections 1119(a) and 9101(23) of ESEA, as reauthorized by NCLB, establish requirements for the qualifications of teachers who teach a “core academic subject.” In general, in order to be considered “highly qualified,” a teacher must:

- Have obtained full State certification as a teacher or passed the State teacher licensing examination and hold a license to teach in the State, and may not have had certification or licensure requirements waived on an emergency, temporary, or provisional basis;
- Hold a bachelor’s degree; and
- Have demonstrated subject matter competency in each of the academic subjects in which the teacher teaches, in a manner determined by the State.

Under the law, all teachers hired after the first day of the 2002-2003 school year to teach core academic subjects in a program supported with Title I, Part A, funds must be highly qualified. In addition, as a condition of receiving Title I, Part A, funds, each State must ensure that all elementary and secondary school teachers of core academic subjects in the public schools of the State are highly qualified by the end of the 2005-2006 school year.

For more information on these requirements:

- See Section C of the U.S. Department’s non-regulatory guidance on the Improving Teacher Quality State Grants program (Title II, Part A), available at http://www.ed.gov/programs/teacherqual/guidance.doc; and
- Information on additional flexibility available to schools and local educational agencies in meeting these provisions, which is available at http://www.ed.gov/nclb/methods/teachers/hqtflexibility.html. (Section E-1; The Impact of the New Title I Requirements on Charter Schools: Non-Regulatory Guidance; July, 2004).

Accountability and Public Charter Schools Using Federal Funds

Section 1111(b)(2)(K) of ESEA requires that responsibility for charter school accountability be determined by individual state charter laws. This generally means that the charter authorizer (an entity authorized under this act to review applications, approve or reject applications, enter into charter contracts with applications, oversee public charter schools, and decide whether to renew, not renew, or revoke charter contracts) bears the responsibility for holding charter schools accountable for Title I, Part A, provisions (including the teacher quality requirements) unless State law specifically gives the SEA direct responsibility for charter school accountability. It is not expected that the LEA in which the charter school is located to be this entity unless it

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1 The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

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is also the charter authorizer. (The Impact of the New Title I Requirements on Charter Schools: Non-Regulatory Guidance; Section E-7; July, 2004)

Qualifications for Paraprofessionals in Public Charter Schools Using Federal Funds

Paraprofessional aides hired to work in programs supported with Title I, Part A, funds must have a high school diploma or its recognized equivalent. Except for paraprofessionals who act as translators or conduct parent involvement activities, they must also have completed at least two years of study at an institution of higher education, possess at least an associate’s degree, or demonstrate subject-matter competence through a formal State or local assessment [Section 1119(c)-(e)]. Note this requirement applies only to paid paraprofessionals and not to parents or other volunteers.

In addition, the federal regulations clarify that the term “paraprofessional” applies only to individual who provide instructional support and not to school staff who have only non-instructional duties (e.g., providing technical support for computers, providing personal care services to students, carrying out clerical functions) [34 C.F.R. Section 200.58(a)(2)] (The Impact of the New Title I Requirements on Charter Schools: Non-Regulatory Guidance; Section E-3; July, 2004). Paraprofessionals in Title I-supported charter schools must meet these requirements by January 8, 2006. (http://ed.gov/policy/elsec/guid/paraguidance.doc)

Paraprofessionals in Public Charter Schools Not Using Federal Funds

These requirements are applicable only to paraprofessionals working in Title I programs in charter schools. (The Impact of the New Title I Requirements on Charter Schools: Non-Regulatory Guidance; Section E-5; July, 2004)

Professional Development in Public Charter School LEAs Using Federal Funds

If charter school LEAs accept Title I funds, they do not have to reserve a portion for professional development if they currently meet the “highly qualified” requirements for charter school teachers and the new requirements for paraprofessionals. Section 1119(1) of ESEA requires all LEAs, including charter school LEAs, to spend between 5 and 10 percent of their Title I allocations on professional development to help all teachers meet the requirements (originally by the end of 2005-2006 school year). If all teachers and paraprofessionals in a charter school LEA have met these requirements, the funds do not need to be reserved for professional development. (The Impact of the New Title I Requirements on Charter Schools: Non-Regulatory Guidance; Section E-6; July, 2004)

Determining Title II, Part A, Funding for Professional Development if Public Charter School LEAs or Other Types of Special LEAs Without Geographic Boundaries are Created

The Census Bureau does not collect poverty data for charter school LEAs or other types of LEAs without geographic boundaries (e.g., a regional vocational/technical school with LEA status). As in the case of LEAs with geographic boundaries (see Section D-5 in The Improving Teacher Quality State Grants: Non-Regulatory Guidance ESEA Title II, Part A Revised; October 5, 2006), for each of these “special LEAs” the SEA obtains a best estimate of the numbers of children ages 5-17 and children ages 5-17 from families with incomes below the poverty line for the special LEA and subtracts these counts from each sending LEA.

With respect to charter schools, Section 76.791(b) of EDGAR, which derives from the Charter School Expansion Act of 1998, Pub. Law 105-278, specifically provides that “[f]or the year the charter school LEA opens or significantly expands its enrollment, the [SEA's] eligibility determination may not be based on enrollment or...
eligibility data from a prior year, even if the SEA makes eligibility determinations for other LEAs under the program based on such data.” Because Census poverty data are not available for special LEAs, the SEA must derive an estimate of Census poverty children for each special LEA and determine from which LEAs these children came. (The Improving Teacher Quality State Grants: Non-Regulatory Guidance ESEA Title II, Part A Revised; Section D-6; October 2006)

**Applying for Title II, Part A, Funds**

Eligibility for funding depends on whether charter schools that are LEAs can apply to their SEA in the same manner as other LEAs. However, those charter schools that are not LEAs cannot apply to the SEA for these funds. They are treated like the other schools within their particular LEA, and teachers and other school staff may participate in program activities on the same basis as personnel in any other school. (The Improving Teacher Quality State Grants: Non-Regulatory Guidance ESEA Title II, Part A Revised; Section D-7; October 2006)

**Public Charter Schools May Participate in the 21st Century Community Learning Center (CCLC) Program**

Under State law, a public charter school is generally either an LEA or a public charter school within an LEA. As such, public charter schools are eligible to be considered for support on the same basis as other schools or LEAs in the State. Regardless of a charter school’s status as an LEA or a public school, it is eligible to apply for a grant because any public or private entity may apply. Even if a charter school does not apply for or receive a grant, its students may participate in 21st CCLC programs established through an application submitted by other organizations (21st Century Community Learning Centers: Non-Regulatory Guidance; Section F-20; February 2003).

**Public Charter Schools May Participate in Subgrants Under Title III: Language Instruction for Limited English Proficient and Immigrant Student (Public Law 107-110)**

A public charter school that (1) is an LEA by state law, (2) meets the definition of LEA in Section 9101(6) of NCLB, and (3) meets the requirements of Subpart 1 of Part A of Title III of NCLB could receive a subgrant. For subgrants awarded under Section 3114(a), that would include eligibility under the formula for a subgrant of at least $10,000, and for subgrants under 3114(d), a subgrant of sufficient size and scope to support an effective program.

A public charter school that is not an LEA would not be eligible to receive a subgrant, but the charter school may be included in its LEA’s application on the same basis as other public schools in the district. (Implementation of Title III State Formula Grant Program: Non-Regulatory Guidance; Section E-3; 2007)

**Requirements Related to the McKinney-Vento Homeless Education Assistance Improvement Act of 2001**

Charter schools that are LEAs or public charter schools within LEAs must implement the requirements of the McKinney-Vento Act just as any other LEA or school to ensure that homeless students have access to a free, appropriate public education and to remove barriers to homeless students’ access to attendance and success. Services include those both for students who become homeless while attending a charter school as well as for homeless students who wish to enroll in a charter school (Subtitle VII-B of the McKinney-Vento Homeless Assistance Act, Title X, Part C of the NCLB; [42 U.S.C. §11432]; www.ed.gov). The McKinney-Vento Act includes a number of requirements for LEAs (which may contain public charter schools), and which also apply to charter schools that are LEAs. These requirements include the following [42 U.S.C. §11432(g)(3)]:
LEAs must:
- Continue a homeless child’s education in the school of origin or enroll a homeless child in any public school that a non-homeless student who lives in the attendance area where the family is temporarily staying can attend, according to the child’s best interest;
- Provide written note to parents or guardians related to the appeal process when the LEA sends the child to a school other than the one that the parents request;
- Enroll a homeless child or youth immediately in school without required records;
- Provide services to homeless students that are comparable to those offered to other student, including transportation if necessary;
- Coordinate with local service agencies or programs that provide services to homeless children and youth;
- Appoint a “local liaison” to ensure services are provided and coordinated; and
- Review and revise policies that may act as barriers to the enrollment of homeless children and youth.

All LEAs, and by extension charter school LEAs or public charter schools, are required to collect data on homeless students enrolled in their schools [42 U.S.C. §11432(h)(1)] on an annual basis and submit the data to the Alabama State Department of Education (ALSDE) for the Consolidated State Performance Report (CSPR) due to the U.S. Department of Education each fall. (Information was summarized from a brief prepared by the National Center for Homeless Education: Supporting the Education of Children and Youth Experiencing Homelessness at SERVE; [http://www.serve.org/nche; Fall 2013])

**Eligibility for Participating in the Title VI Rural Education Achievement Program (REAP), the Small Rural School Achievement Program (SRSA), and the Rural and Low-Income School Program (RLIS)**

A charter school’s eligibility for the SRSA program (e.g., REAP-Flex and the SRSA grant program) depends upon whether the charter school is an LEA or a school within an LEA.
- If a charter school is an LEA, it is eligible to participate in REAP-Flex and receive an allocation under the SRSA grant program so long as it meets the LEA eligibility criteria.
- A charter school that is a public school but not an LEA may participate in the program through its LEA, provided the LEA meets the SRSA eligibility criteria ([Guidance on the Rural Education Achievement Program](http://www.serve.org/nche); Appendix A, Question 8; June 2003).

A charter school’s eligibility to participate in the RLIS program depends upon whether the charter school is an LEA or a school within an LEA. If a charter school is an LEA, it is eligible to receive an allocation under the RLIS program so long as it meets the LEA eligibility criteria. A charter school that is not an LEA may participate in the program through its LEA, provided the LEA meets the RLIS eligibility criteria ([Guidance on the Rural Education Achievement Program](http://www.serve.org/nche); Appendix E, Question 4; June 2003).

**NOTE:** This working document “highlights” some key federal program components in the Alabama School Choice and Student Opportunity Act (Act 2015-3). It does not attempt to address all content specific to federal programs’ state and/or federal laws, rules, and regulations. The preliminary guidance provided in this working document will be updated as the Alabama State Department of Education develops specific guidance regarding Alabama public charter schools. Please send questions to pcs@alsde.edu.