



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

June 8, 2020

Richard Corcoran
Commissioner
Florida Department of Education
325 W Gaines Street, Ste. 1514
Tallahassee, FL 32399

Re: Expanding Opportunity Through Quality Charter Schools Program (CSP); Request for Waivers and Application Amendments for Grant Award No. U282A160012

Dear Commissioner Corcoran:

We are in receipt of the Florida Department of Education's (Florida's) waiver request, which Florida originally submitted to the United States Department of Education (Department) on March 20, 2020, and subsequently revised and re-submitted on April 7, 2020. The submission requested waivers of specific statutory and regulatory requirements applicable to Florida's grant under the CSP – Grants to State Educational Agencies (CSP SEA) program to enable Florida to award remote learning subgrants to new and established charter schools in the State that do not currently have CSP startup subgrants, so that Florida can meet the immediate educational needs of students impacted by the COVID-19 crisis. Specifically, Florida requests approval of “an amendment to award CSP sub-grants to new and established [charter school] operators to provide them funds to purchase the hardware and software necessary to enable all of their students to access curriculum and lessons from home.” The specific provisions for which Florida has requested waivers are 34 CFR § 75.261(c)(3) (limitations on extensions of the project period); sections 5202(c)(2)(B) (subgrants to eligible applicants for initial implementation of a charter school), 5202(d)(1) (limitation on the number of subgrants a charter school may receive), 5203(b)(3) (contents of a State entity application and assurances for subgrants), and 5204(c) (administration of the competition through a peer review) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA) (20 U.S.C. §§ 7221-7221j); and 2 CFR § 200.308(d)(1) (pre-award costs). While Florida has not specifically requested a waiver of section 5204(f)(3)(B) of the ESEA (use of funds only for initial implementation of the charter school), the Department has interpreted Florida's waiver request to include a request to waive this requirement, since such a waiver is necessary for Florida to implement its proposal.

After a careful analysis of Florida's submission and consideration of the weight and impact of the COVID-19 national emergency on charter schools in Florida, the Department grants Florida's waiver request, subject to a few exceptions and the specific conditions described below. Although Florida has requested approval to provide pre-award costs to subgrant recipients for up to 90 days from March 9, 2020 (i.e., the date the Governor declared a state-of-emergency in Florida), the Department approves such costs for up to 90 days from **March 13,**

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2020 (i.e., the date a national emergency was declared). Further, approval of these waivers is contingent upon Florida ensuring that charter schools receiving remote learning subgrants meet the CSP definition of “charter school,” demonstrate financial need, and are schools that have never provided remote learning as part of their educational program.

As you know, approval of Florida’s waiver request constitutes approval of corresponding amendments to Florida’s approved CSP SEA application. Florida is not requesting a waiver to permit charter school operators that currently have CSP startup subgrants to amend their approved subgrant applications and budgets to implement remote learning programs in response to the COVID-19 national emergency. Likewise, the Department has determined that such a waiver and corresponding amendment to Florida’s approved CSP SEA application is unnecessary because the proposed costs for remote learning under Florida’s waiver request already are allowable uses of funds. Please note, however, that charter schools with current CSP startup subgrants under Florida’s approved CSP SEA grant are required to obtain approval from Florida to amend their approved subgrant applications and budgets in order to implement remote learning programs in response to COVID-19. To this end, Florida may notify its existing charter school subgrantees that they may request budget modifications and corresponding amendments to their approved subgrant applications for the limited purpose of using CSP funds to implement remote learning programs on a temporary basis in response to the COVID-19 national emergency. Although Florida is not required to amend its approved CSP SEA application for this purpose, it is required to employ a formal subgrant application amendment process that documents the specific changes to the subgrant, how the changes align to the overall scope and objectives of the approved project, and that all costs are allowable under section 5204(f)(3) of the ESEA (20 U.S.C. § 7221c(f)(3)) and the cost principles in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) at 2 C.F.R. part 200. In addition, as a direct grantee, Florida must ensure that subgrantees comply with all statutory and regulatory requirements governing the CSP SEA program, including reporting and recordkeeping requirements; that subgrant funds are spent properly; and that appropriate safeguards, including specific conditions, are in place to mitigate against the risk of subgrant funds being misspent.

Except for Florida’s request to waive the requirements in section 5203(b)(3)(J) and (K) of the ESEA (20 U.S.C. § 7221b(b)(3)(J) and (K)), the Department approves all waivers and corresponding application amendments requested by Florida (and inferred by the Department) to allow Florida to award remote learning subgrants to new and established charter schools that **do not** have current startup subgrants under Florida’s approved CSP SEA grant to assist them in meeting the immediate educational needs of students impacted by the COVID-19 national emergency. The Department’s approval of these waivers is subject to the following specific conditions:

1. Any remote learning subgrants awarded to charter schools by Florida must be for the specific and limited purpose of meeting the immediate educational needs of charter school students impacted by the COVID-19 national emergency and may not exceed a period of 12 months.
2. Applicants for a CSP subgrant for the specific purpose of implementing a high-quality remote learning program must have satisfactorily completed all activities under any previous CSP grants or subgrants, including complying with all State and Federal reporting and recordkeeping requirements. Active CSP subgrantees may not receive remote learning subgrants concurrently.

3. A charter school receiving a CSP subgrant for the specific purpose of implementing a high-quality remote learning program shall not use funds to carry out the same project or activities from a previous CSP grant or subgrant (i.e., any activities funded under the school's previous CSP grant or subgrant may not be funded under the remote learning subgrant), including CSP grants or subgrants awarded under the CSP SEA, CSP Grants to Charter Management Organizations for the Replication and Expansion of High-Quality Charter Schools (CFDA No. 84.282M), CSP Grants to Developers for the Opening of New Charter Schools and for the Replication and Expansion of High-Quality Charter Schools (CFDA Nos. 84.282B and 84.282E), and CSP Grants to State Entities program (CFDA No. 84.282A) programs.
4. Florida must ensure that subgrant funding, including funding for pre-award costs, is used only to support the initial implementation of remote learning programs in charter schools that demonstrate financial need for such resources and have never provided remote learning as part of their educational model. Florida may reimburse subgrant recipients for pre-award costs incurred from March 13, 2020, through the date the subgrant award is made, not to exceed a period of 90 days.
5. At least 5 days before issuing its Request for Applications (RFA), Florida must provide to the Department a copy of its RFA demonstrating adherence to all program requirements that the Department has not waived, including all reporting and recordkeeping requirements and the application requirements in section 5203(b)(3) of the ESEA (20 U.S.C. § 7221b(b)(3)).
6. A charter school receiving a remote learning subgrant must support ALL students in the school, demonstrate how it will hold ALL students accountable for meeting academic performance requirements, and provide a written plan for transitioning from the remote learning program back to the school's original academic program after the COVID-19 national emergency has ended.
7. Within 10 days of receiving notice that these waivers have been approved, Florida must submit to the Department a written plan describing how it will monitor subgrant recipients to ensure that they are actually providing high-quality remote learning services to ALL students, administering their subgrants in accordance with statutory and regulatory requirements governing the CSP, and holding ALL students accountable for meeting academic performance requirements.
8. Florida must post on its website quarterly performance reports (October 1, January 1, April 1, and July 1 of each year for the duration of the grant). Florida will provide the link to each report to the Department and keep the report on the website until several years after the end of the projects or after audits are completed and resolved. The performance reports shall describe all remote learning subgrants awarded (capturing activity through the last day of the prior month), including the following information:
 - a. a listing of the specific charter schools receiving remote learning subgrants, including the name of the authorizer, and the amount of funds provided to each school;
 - b. the budget of expenses for that period;

- c. a description of the services provided under the waiver, including the number of students served by each school through remote learning;
- d. the average teacher instructional time per day through remote learning;
- e. the average percentage of student participation in classes each day (and the range) for the period;
- f. the average results on performance-based tests (when available);
- g. any information or signs demonstrating effectiveness or progress in overcoming challenges faced;
- h. other information that the Department may determine is necessary to ensure accountability regarding remote learning subgrants under Florida's CSP SEA grant; and
- i. any other information that Florida wants to post in this report that demonstrates the quality of its remote learning services to ALL students.

If you have further questions, please reach out to your CSP State Entities project officer, Ashley.Gardner@ed.gov, or to Kathryn.Meeley@ed.gov.

Sincerely,

A handwritten signature in black ink that reads "Frank T. Brogan". The signature is written in a cursive style with a large, looping initial "F" and a long, sweeping tail.

Frank T. Brogan
Assistant Secretary
for Elementary and Secondary Education