

# Authorizer Assurances



U.S. Department of Education  
Office of Innovation and Improvement  
Charter Schools Program  
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# Objectives

- Learn about:
  - Assurances Background
  - Scope and Application of the Assurances
  - How ED/CSP is Reviewing and Evaluating Evidence
- Provide:
  - Examples of Acceptable Evidence
  - Update of States' Compliance
- Understand
  - Timeline for Compliance
  - Consequences for Non-Compliance



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# Background and History

Q: Where did these Assurances come from?

A: 2010 Appropriations Language:

Consolidated Appropriations Act 2010,  
Division D, Title III  
Public Law 111-117



# Excerpt

*Provided further,* That each application submitted pursuant to section 5203(a) shall contain assurances that State law, regulations, or other policies require that: (1) each authorized charter school in the State operate under a **legally binding charter or performance contract** between itself and the school's authorized public chartering agency that describes the obligations and responsibilities of the school and the public chartering agency; conduct annual, timely, and **independent audits** of the school's financial statements that are filed with the school's authorized public chartering agency; and **demonstrate improved student academic achievement**; and (2) authorized public chartering agencies use **increases in student academic achievement for all groups of students** described in section 1111(b)(2)(C)(v) of the ESEA as the most important factor when determining to **renew or revoke a school's charter**.



## New SEA Assurances

- ❑ For the FY 2010 CSP SEA Grant Competition, ED added this requirement to the required Assurances, as Assurances 3A and 3B.
- ❑ The CSP Team contacted SEAs during Fall 2010 to request evidence.
- ❑ The Assurances were also included in the FY 2011 CSP Grant Application requirements.



### 3. State law, regulations, or other policies in the State where the applicant is located require that –

- A. Each authorized charter school in the State operate under a legally binding charter or performance contract between itself and the school's authorized public chartering agency that describes the obligations and responsibilities of the school and the public chartering agency; conduct annual, timely, and independent audits of the school's financial statements that are filed with the school's authorized public chartering agency; and demonstrate improved student academic achievement; and
- B. Authorized public chartering agencies use increases in student academic achievement for all groups of students described in section 1111(b)(2)(C)(v) of the ESEA as the most important factor when determining to renew or revoke a school's charter.



## Which Grants have we applied these Assurances to thus far?

Program	Required?
FY 2011 CSP SEA Competition Grantees (2 Total)	YES
FY 2010 CSP SEA Competition Grantees (12 Total)	YES
FY 2009 (or earlier) CSP SEA Competition Grantees	No
Replication and Expansion	No
CSP Grants to Non-SEA Eligible Applicants	No
Credit Enhancement Grantees and Subrecipients	No
State Facilities Incentive Grantees	No





# FY 2010 SEAs Impacted

- Arkansas
- Colorado
- Georgia
- Michigan
- New Hampshire
- South Carolina
- California
- District of Columbia
- Indiana
- Missouri
- Rhode Island
- Texas



# Compliance Options

- Legislation
- Regulation
- Policy



# Compliance Elements

- Charter or Performance Contract
- Independent Audit
- Improved Student Academic Achievement
- Renew/Revocation Decisions – Increases in Student Academic Achievement as Most Important Factor



# What are we looking for under each element?

## Charter or Performance Contract:

Must submit evidence demonstrating that charter schools in the state operate under a legally binding contract with the authorizer that describes the responsibilities and obligations of the school and authorizer.



# Results

- Of 12 States, 9 were Compliant, 3 were Non-Compliant.
- All of the Compliant states provided excerpts from their state code which defined the performance contract between charter schools and their authorizer and outlined the required provisions for the agreement.
- The 3 Non-Compliant States generally did not provide adequate documentation for ED to reach a conclusion regarding compliance.



# What are we looking for under each element?

## Independent Audit:

- Must demonstrate that charter schools are required to conduct annual, timely, and independent audits of their financial statements which are filed with their public chartering agency.
- Independent means an external auditor, conducting a financial audit.



# Results

- 7 SEAs were deemed Compliant, 5 Non-Compliant
- Of the 7 Compliant SEAs, 6 provided evidence from their charter law/state code
- 1 Compliant SEA could not demonstrate initially that all charter schools had to undergo independent audits, but they cured this through a letter to all authorizers and charter schools clarifying that all charters must undergo an audit, and this requirement will be included in their state's updated resource guide for financial accountability.
- Of the 5 Non-Compliant states, 2 did not provide adequate evidence to evaluate compliance, and 3 could not demonstrate that the audit was independent (as well as annual, in one case).



# What are we looking for under each element?

## Charter Schools Demonstrate Improved Academic Achievement for all Students:

- Must provide evidence that authorizers require charter schools to demonstrate improved academic achievement for all students.
- Adequate evidence included written documentation of a state requirement that the goals in a school's charter include improved academic achievement.





## Results

- 5 SEAs were deemed Compliant, 2 have legislation pending, and 5 were deemed Non-Compliant.
- All of the Compliant states provided evidence from their charter law/state code, and 1 also provided evidence of state policy.



# What are we looking for under each element?

Increases in student academic achievement for all groups of students described in section 1111(b)(2)(C)(v) of the ESEA as the most important factor when determining to renew or revoke a school's charter:

- For all groups: economically disadvantaged students; students from major racial and ethnic groups; students with disabilities; and students with limited English proficiency.
- We interpret “Most Important” to mean an absolute requirement for all charter schools, although there may be other factors considered.
- This does prevent State Law from permitting authorizers to decline a renewal or to revoke a charter for other reasons, including, but not limited to material violation of law, violating other terms of a charter, financial insolvency, student safety, etc.



## Results

- 4 SEAs were deemed Compliant, 3 have legislation pending, and 5 were deemed Non-Compliant.
- All 4 Compliant SEAs provided evidence from their charter law/state code, and 1 also provided evidence of authorizer policy.
- In the case of one state, state law requires improved academic achievement, but it does address how that is considered in renewal and revocation decisions. That state is issuing new termination process guidance to clarify that this is the most important factor.



# Special Terms and Conditions

The U.S. Department of Education (ED) has determined that, as of August 1, 2011, \_\_\_\_\_ (insert grantee) (PR/ Award number U282A1000\_\_\_) is not in compliance with the following requirements of the Charter Schools Program (CSP):

*State law, regulations, or other policies in the State where the applicant is located require that –*

*A) Each authorized charter school in the State operate under a legally binding charter or performance contract between itself and the school's authorized public chartering agency that describes the obligations and responsibilities of the school and the public chartering agency; conduct annual, timely, and independent audits of the school's financial statements that are filed with the school's authorized public chartering agency; and demonstrate improved student academic achievement; and*

*B) Authorized public chartering agencies use increases in student academic achievement for all groups of students described in section 1111(b)(2)(C)(v) of the ESEA as the most important factor when determining to renew or revoke a school's charter.*

[Consolidated Appropriations Act, 2010 (P.L. 111-117), 2010 CSP State educational agencies (SEA) assurances]

On or before September 1, 2011, \_\_\_\_\_ (insert grantee) must submit to ED a written plan of action for meeting the requirements described above on or before January 31, 2012. The SEA's plan is subject to ED approval. Failure to submit a plan by September 1, 2011, to have the plan approved by ED by October 1, 2011, or to comply with the requirements described above by January 31, 2012, will result in the Department initiating appropriate enforcement action, which may include, but will not necessarily be limited to, withholding grant funds, placing the grant on a cost reimbursement system of payment, termination of the grant, or recovery of funds.

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# Compliance Timeline

## For 2010 Grantees

September 1, 2011:	Written plan of action
October 1, 2011:	ED approval
January 31, 2012:	Compliance



# Noncompliance

Withholding Funds

Cost Reimbursement

Grant Termination

Recovery of Funds

Other Appropriate Enforcement Action



# Questions?

