



April 18, 2022

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

The Honorable Mark Washington
Deputy Assistant Secretary
Office of Administration
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

Subject: *Joint Governors' Response to Document ID No. ED-2022-OESE-0006-0001 - Proposed Priorities, Requirements, Definitions, and Selection Criteria: Expanding Opportunity through Quality Charter Schools Program: Grants to State Entities; Grants to Charter Management Organizations for the Replication and Expansion of High-Quality Charter Schools; etc.*

Dear Secretary Cardona and Deputy Assistant Secretary Washington,

We, the undersigned Governors, submit comment expressing our opposition to new mandates altering the U.S. Department of Education Charter School Program (CSP). We oppose any attempts by the federal government to act as a national charter school board, impose a top-down and one-size-fits-all approach, and undermine the authority of parents to choose the educational option best for their child. Specifically, we take issue with both the substance and process of the proposed rule, and therefore, we ask that the comment period be extended, the community impact analysis requirement be removed, and implementation be delayed by one year.

Charter schools are public schools, and many of the 3.5 million American students enrolled in charter schools are educated through the public education system in our states. Charter school leaders are essential partners in offering high-quality options that deliver outcomes for students and provide competition to lift academic achievement in nearby schools. Charter schools serve 7% of all public school students, however charter schools account for less than 1% of total federal spending on K-12 education. Despite this, the Administration is choosing to place disproportionate burdens on the charter school sector, burdens that will ultimately harm the students from minority and low-income households.

With regard to new substantive barriers imposed in this program, we understand the Administration has claimed to prioritize the concept of *equity*. However, the application of the proposed rule would only exacerbate inequities in our education system by reducing federal support for high-quality choices available to millions of low-income families. For instance, in one of our states alone, 60% of the student population at charter schools is economically disadvantaged, and more than 90% of those students belong to racial and ethnic minority groups. Across the nation, charter schools enroll more students of color and more economically disadvantaged students than their traditional public school counterparts. The requirements imposed in the proposed rule will put the Department in a position to undermine the decision made by millions of families seeking a better opportunity for their child.

Two years into the COVID-19 pandemic, our nation's children are in greater need than ever. National school closures led to significant learning loss, a decline in college enrollment, and a rapid rise in mental-health challenges experienced by students. During the height of the COVID-19 pandemic, more—rather than fewer—parents sought to enroll their children in high-performing public charter schools.

The Administration seeks to impose a new standard that will require charters to demonstrate that the relevant school district is “over-enrolled.” By focusing on the number of seats, rather than the number of “high-quality” seats, the new standard fails to consider that a driving force in parents’ decisions is the desire for their child to attend a school that meets their child’s unique needs. It cannot be ignored that enrollment is down in many big-city school districts due to parents choosing to leave closed or persistently failing schools. The Administration’s proposed rule means that charters bringing high quality seats to areas in need would be routinely rejected for funds, despite offering parents a chance to stay in their community without sacrificing their child’s future.

With regard to the rulemaking process, the Administration proposes significant new regulations for immediate effect on the CSP. The new rule was proposed with no meaningful prior engagement from parents or school leaders. In addition, the regulations were posted on March 14 with comments due only by April 18. For the rules to take effect as written, the Department has little time to consider comments before awarding funding to state entities this fiscal year. Such a narrow window raises alarm and poses to disrupt the delivery of education to students in our respective states.

Traditionally, we have seen the comment period for rulemaking to be at least 60 days, providing greater opportunity for feedback from parents. However, in this case, the Administration is allowing approximately one month for input on its proposed charter school rule. For comparison, when the previous administration amended Title IX investigation rules to provide for greater due process and fairness in student disciplinary processes, it did so only after an 18-month rulemaking process that considered more than 124,000 public comments. We believe a sustained and transparent process for rulemaking will yield better regulations and consensus and will give parents a greater opportunity to engage in the development of policies that deeply impact them.

It is a certainty that the expansion of such burdensome regulations will make it more difficult—if not impossible—for independent and smaller charter schools to access federal funds. Accordingly, we ask that the Administration:

- (1) Extend the unprecedentedly short comment period to reflect the magnitude of changes proposed and solicit meaningful public comment;
- (2) Remove all provisions that limit local control, including the new requirement for a community impact analysis, which would mandate school districts be over-enrolled and put federal officials in the place of local parents in determining the need for high-quality choices; and
- (3) Delay any changes to the program to the next fiscal year so that the current program can be administered under rules that are long-standing and well understood by applicants.

Thank you for consideration of our public comment.

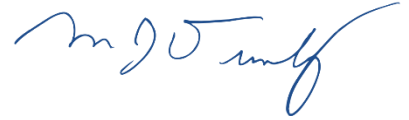
Sincerely,



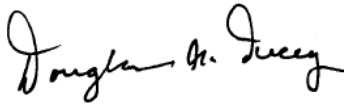
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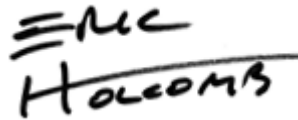
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