NSBA Comments on Proposed Quality Charter Program Provisions

Via Online Submission August 27, 2018:
www.regulations.gov

Re: Proposed Priorities, Requirements, Definitions, and Selection Criteria – Quality Charter Schools Program; Grants to Charter Management Organizations for the Replication and Expansion of High-Quality Charter Schools, 34 CFR Chapter II

Docket ID ED-2018-OII-0062
RIN 1855—AA14

The National School Boards Association (NSBA) represents through our state association members approximately 13,800 school boards nationwide. As the national voice for school boards, NSBA offers the following comments to the proposed rule, ED-2018-OII-0062, issued by the Office of Innovation and Improvement, Department of Education.[1]

NSBA urges the Department of Education (Department) to consider available data and operational experiences at the state level, further described below, as it finalizes its statements of priority under the Quality Charter Schools Program (CSP).

<u>NSBA Concerns Regarding Federal Support of Charter Schools</u>

NSBA and its member state school boards associations present three overarching concerns regarding federal support of charter schools.

First, school choice, by itself, is not a guarantee of better student outcomes, and should not be supported by federal funding at higher levels than other initiatives with proven effectiveness. National studies indicate "that school choices work for some students sometimes, are worse for some students sometimes, and are usually no better or worse than traditional public schools. . . . There's no reason to conclude that

---

[1] As indicated in the Summary of the proposed rule, the Department of Education "may use one or more of these priorities, requirements, definitions, and selection criteria for future competitions..." in the award of charter management organization (CMO) grants. The Department's stated purpose is "to support the effective and efficient use of [Quality Charter Schools Program] funds in the replication and expansion of high-quality charter schools throughout the Nation, particularly those that serve Educationally Disadvantaged Students, such as students who are Individuals from Low-income Families, and students who traditionally have been underserved by charter schools, such as students who are Indians and students in Rural Communities."

choice in itself will produce better outcomes. While many schools of choice do an exemplary job, the results aren't universally better than those produced by traditional public schools."[2]

Second, federal assistance should support local programs that promote improved student achievement, especially where there are achievement gaps. NSBA members report, and national studies enforce, that with some notably high-performing exceptions, charter school scores in math and reading tend to be about the same or lower than that of the traditional public school their students would have otherwise attended. While urban charter schools appear to be the exception (see chart attached as Appendix A), the Department's priorities expressed here include significant focus on rural communities, where the charter model faces significant challenges.

Third, when a significant number of charter schools are added in a state or community, students are drawn out of neighboring traditional public schools, which, in some cases, are already seeing declining enrollment and are receiving less funding from the state. Students siphoned off from these schools often take their state funding along. (One exception is Georgia, where the state funding scheme is designed to hold public schools harmless if enrollment drops during a school year.) By taking staff and expertise, these schools also create a gap in knowledge of, and capacity for, supporting effective innovation in the future.

NSBA urges the Department to direct federal support to local school district programs offering choice to their families, including magnet schools, lab schools, dual enrollment, and the like, which offer many meaningful school choice options while maintaining basic and predictable state funding streams for schools.

NSBA also urges the Department to bear in mind that each state has its own unique school funding and charter school approval system. Not all charter schools are individual LEAs; not all are authorized and overseen by an existing LEA; not all are autonomous of an LEA. Federal rules must allow for state differences, and support local programs that provide school choice within an LEA. The Maryland charter school system, as reported in a 2014 study conducted by the University of Baltimore, has not experienced financial and administration problems including mismanagement or misappropriation. "This is a credit to the community-based operators of public charter schools and the high standards for approval and oversight of Maryland's authorizing school districts (Local Education Agencies or LEAs)."[3]

Finally, NSBA asks the Department to clarify that a grant application approval should not be conflated or confused with validation of the grantee's subsequent charter application to an LEA chartering authority. Local school systems empowered to grant charters under state law must retain full decision-making authority to review and approve or deny a grantee's charter application.[4] The Department should avoid even the semblance of creating a charter authorizing LEA under federal law.

---

[2] School Choice: What the research says, Center for Public Education, 2017, available at http://www.centerforpubliceducation.org/system/files/School%20Choice%20Full%20Report_0.pdf.

[3] Charter School Study Prepared for the Maryland State Department of Education (MSDE) November 1, 2014, available at http://marylandpublicschools.org/programs/Documents/Charter-Schools/CharterSchoolReport12172014.pdf

[4] NSBA believes that charter schools serve students and communities best when they are offered as one of several mechanisms available to local school boards, provided that the local school board:

Specific Comments on the Department's Proposed Priorities

Through its member state school boards associations, NSBA urges the Department to consider the following concerns regarding its proposed priorities for awarding CMO grants.[5]

Proposed Priority 1 – Promoting Diversity

NSBA applauds the Department's prioritizing eligible entities that plan to operate or manage schools with racially and socioeconomically diverse student bodies, reflecting that statutory requirement. "Racially integrated schools have also been shown to produce greater life outcomes for all students, including higher college enrollment and success, higher lifetime earnings, a more diverse circle of friends and living arrangements in adulthood, and the important career skill of working with people from diverse backgrounds (Philips, et al., 2009; Siegel-Hawley, 2012; Wells, Fox, & Cordova-Cobo, 2016)."[6] However, to the extent that some charter schools may result in increased racial and socio-economic segregation, while decreasing diversity within traditional public schools from which the charters draw students, the Department should require that grant applicants demonstrate zero net effect to the diversity of the sending traditional public school.

Proposed Priority 2 – School Improvement through Restart Efforts

NSBA urges the Department to proceed with caution with respect to this priority. Although a study

---

(a) retains sole authority to grant the charter and receives full funding for monitoring costs;

(b) determines accountability, such as the criteria that will be used in establishing the charter;

(c) retains authority to decertify or not renew the charter of any school that fails to meet criteria set forth in the charter or as otherwise specified by the local school board, including but not limited to a requirement that charter schools demonstrate improved student achievement;

(d) has the authority to ensure that a charter school does not foster racial, ethnic, social, religious or economic segregation or segregation of children by disability, ability, sexual orientation or academic performance; and,

(e) determines that funding for the other schools under its jurisdiction will not be adversely affected.

In cases where entities other than the local school district authorize the charter, NSBA believes that the law should require that all schools receiving public funds meet the same standards of accountability and that funds for traditional local schools are not diminished or reduced by the funding mechanism for charter schools NSBA Beliefs & Policies, Article 1, Section 1, 1.10 Charter Schools, available at https://cdn-files.nsba.org/s3fs-public/2018_Beliefs_&_Policies-Adopted-4-6-2018.pdf.

[5] Section 4305 of the Every Student Succeeds Act lists as priorities for CMO grant program awards entities that:

(A)   Plan to operate or manage high-quality charter schools with racially and socioeconomically diverse student bodies;

(B)   Demonstrate success in working with schools identified by the state for comprehensive support and improvement;

(C)   Proposed to use funds to expand high quality charter schools to serve high school students; or to replicate high-quality charter schools to serve high school students; or

(D)   Propose to operate or manage high-quality charter schools that focus on dropout recovery and academic re-entry.

[6] Segregation Then and Now, Center for Public Education , 2016, available at http://www.centerforpubliceducation.org/system/files/School%20Segregation%20Full%20Report_0.pdf.

suggested that CMO-managed charter schools outperform traditional public schools in math and reading, it showed wide differences by individual CMOs. CMO-managed virtual schools, in fact, produce the largest negative impacts. [7] A 2013 study shows that restarts in Philadelphia showed no positive or negative effects after four years. [8]

Proposed Priority 3 – High School Students

NSBA applauds the Department's mention of access to counseling in this priority. We note, however, that although a 2014 study found that attending a charter high school in Chicago and Florida increases the probability of graduating in five years by 7 to 11 percentage points, enrolling in postsecondary by 10 to11 points, and persisting through two years by 13 points (in Florida only),[9] the limited data from only two geographic locations makes it difficult to evaluate the impact of charter high schools. NSBA urges the Department to conduct more studies before expanding this priority.

Proposed Priority 4 – Low-Income Demographic

A 2017 CREDO study determined, "CMO charter students in poverty [had] significantly weaker growth than non-poverty TPS students, but significantly stronger growth than TPS students in poverty. On average, a student in poverty would experience 34 days of additional math growth in a CMO charter as compared to the expected experience in a TPS setting and 23 more days in reading. In both reading and math, non-CMO charter students in poverty have growth which is not significantly different from TPS students in poverty."[10]

CREDO further examined growth of students in poverty by race. White non-poor students and white poor students showed less growth in CMO and non-CMO charters compared to similar students in TPS in math. Both non-poor and poor black and Hispanic students showed weaker growth in comparison. However, unlike their white classmates, black and Hispanic students benefited from attendance in CMO charters, whether poor or non-poor.

With these findings in mind, NSBA urges the department to prioritize applicants with proven success in improving their students' academic growth.

NSBA also urges the Department to consider a recommendation within this priority that federally-supported charter programs serving students who are Individuals from Low-income Families provide transportation and meal services to students. When those two critical services are not included in the enrollment benefits of a charter school, it is more difficult for families and students facing poverty to attend that school.

---

[7] Woodworth, et al, CREDO, Charter Management Organizations, 2017
https://credo.stanford.edu/pdfs/CMO%20FINAL.pdf.
[8] Which Way Up (Center for Public Education, 2013, archived) (RAND Corporation, 2007).
[9] Booker, Kevin, et al., Calder, January 2014, https://caldercenter.org/sites/default/files/WP-103.pdf.
[10] Woodworth, et al, CREDO, Charter Management Organizations, 2017
https://credo.stanford.edu/pdfs/CMO%20FINAL.pdf.

Proposed Priority 5 – Number of Charter Schools Operated or Managed by the Eligible Applicant

In the available research, CMO charters overall showed positive results compared to independently operated charters. In one study, CREDO researchers found a wide range of performance by individual charter networks.[11] So-called "super networks" showed an overall positive effect. NSBA cautions, however, that full-time online schools – whether part of a network or independent – showed what CREDO researchers call "extremely negative results." NSBA asks that the Department refrain from awarding grants to organizations providing full-time online schools until schools can put a sufficient infrastructure in place to monitor and teach students effectively online.

Proposed Priority 6 – Geographic Location of Charter Schools Proposed to Be Replicated or Expanded

With this priority, the Department aims to provide "incentives for applicants to propose to replicate or expand high-quality charter schools in Rural Communities."[12]

The charter school model proves challenging in rural settings. In many instances, charter schools struggle to provide, or do not provide, student transportation for school day and extracurricular activities. Rural students, especially those facing poverty, are heavily dependent on provided transportation to participate in the instructional school day, as well as before- and after-school activities. Many rural communities are facing challenges including increased homelessness, increased poverty, reduced resources for support at school, and challenges stemming from drug addiction. These contribute to a decrease in available local tax revenue for schools. When added to the decrease in state financial support for schools, rural school districts are left with modest resources. If charter schools effectively siphon students and state funding away from traditional public schools, these communities lose some ability to serve effectively all the students in their borders.

The requirements outlined by the Department, including "recruitment and enrollment practices to promote inclusion of all students, including by eliminating any barriers to enrollment for educationally disadvantaged students...," though laudable and aspirational, are difficult to achieve in many rural communities, where populations are sparse. Many rural districts are geographically isolated with very few students. While charter schools in these areas may adopt admissions policies that conform with these guidelines, it is unlikely they would see much difference in their student body demographics. "[R]ural schools tend to be small, and have difficulty attracting qualified teachers and principals. In most cases, the market for school choice in rural areas is just not large enough to be worthwhile. It's not surprising, for example, that only 11% of charter schools are rural compared to 56% that are

---

[11] Woodworth, et al, CREDO, Charter Management Organizations, 2017
https://credo.stanford.edu/pdfs/CMO%20FINAL.pdf
[12] 83 Fed. Reg. 15574.

located in city districts (McFarland et al., 2017)."[13] CREDO researchers show that charter schools work well in urban areas, but overall produce mixed results.[14]

As indicated above, NSBA strongly urges the Department to refrain from awarding grants to organizations providing full-time online schools, even in rural areas, until schools can put a sufficient infrastructure in place to monitor and teach students effectively online. Full-time online schools – whether part of a network or independent – showed what CREDO researchers call "extremely negative results." [15]

The expansion of charter schools would exacerbate disparities in rural areas, including attracting and retaining effective school teachers and leaders, and placing a greater burden on transportation services. A voluntary right of transfer for staff, for example, would be disproportionally disruptive to rural and less-populated school systems. A STEM-oriented charter school might draw highly qualified math and science teachers away from existing high schools to the detriment of many more students than the number served by the charter school.

Some states, Kentucky for example, are in a transition period away from No Child Left Behind-era accountability measures and academic standards, as well as high school graduation requirements, and into Every Students Succeeds Act initiatives provided in state plans. With all these factors in flux, even without major expansions to programs that draw funding away from traditional public schools, those schools are strained with the new requirements and low funding levels. It simply is not a good time to expand programs that potentially draw more funding away from traditional public schools. In some states with very small school populations in rural areas, if even one student leaves a traditional public school for a charter, the traditional school drops below a key threshold for state funding.

Proposed Priority 7 – Replicating or Expanding High-quality Charter Schools to Serve Students who are Indians

NSBA urges the Department to consider research and experiences in tribal communities that indicate there may be disadvantages to employing a charter model for Native students. As noted by a 2016 research paper published by Harvard graduate students, charter school priorities may conflict with the cultural norms of indigenous communities, including a narrow focus on standardized testing, which "turns attentions away from the most critical elements of culturally-responsive education (Cockrell, 1992)."[16] The testing focus unfairly highlights Native student weaknesses "without fully capturing their true strengths (Commission on Civil Rights, 2003). Recruiting indigenous teachers and administrators

---

[13] Lavalley, CPE, Out of the loop, 2018,
http://www.centerforpubliceducation.org/system/files/Rural%20School%20Full%20Report.pdf. "[O]ne thing about school choice is clear: on a purely practical level, it's a metropolitan-centric strategy."
[14] CREDO, Urban Charter School Study: Report on 41 Regions, 2015
https://urbancharters.stanford.edu/download/Urban%20Charter%20School%20Study%20Report%20on%20
41%20Regions.pdf.
[15] Woodworth, et. al., CREDO, Online Charter School Study, 2015
https://credo.stanford.edu/pdfs/OnlineCharterStudyFinal2015.pdf.
[16] Eve L. Ewing and Meaghan E. Ferrick, "For This Place, for These People: An Exploration of Best Practices Among Charter Schools Serving Native Students," https://leg.mt.gov/content/Committees/Interim/2015-2016/State-Tribal-Relations/Meetings/July-2016/charter-school-case-study.pdf.

for indigenous charter schools may also be impeded by a relatively small population of Native college graduates qualified to serve as teachers (Demmert & Towner, 2003). Further contributing to hiring challenges may be the difficulty of recruiting non-Native teachers with a culturally-responsive orientation (DeVoe & Darling-Churchll, 2008)."[17]

NSBA member Arizona School Boards Association supported a bill in its state legislature in 2017 to provide teachers for charter schools in Native American communities with alternative certifications. It is crucial that the Department consider the unique needs of tribal communities and, as it awards grants, to consider charter organizations' meaningful ties to those communities and indigenous nations.

<u>Conclusion</u>

Expansion of federal support for charter schools and charter school management organizations could negatively affect public school districts and local communities, segregate student populations racially and socio-economically, divert resources away from traditional public schools, and exacerbate disparities in rural areas. Federal resources should be assigned wisely, where they are most needed. NSBA urges the Department of Education ensure the proposed regulation is measured and constrained to prevent these consequences that flow from further charter school expansion, particularly were they are not authorized by local school districts.
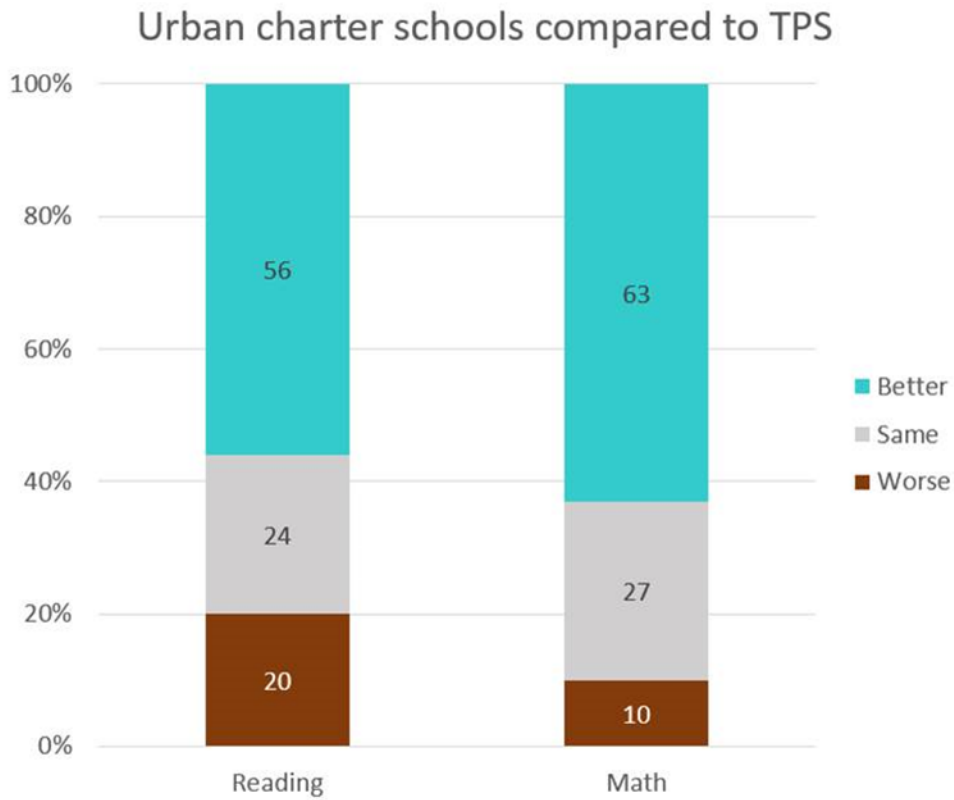
Sincerely,

Thomas J. Gentzel
Executive Director & CEO

---

[17] Id.

Appendix A

Urban charter schools compared to TPS

	Reading	Math
Better	56	63
Same	24	27
Worse	20	10

SOURCE: CREDO, 2015