



8/27/18

Ms. Allison Holte
US Department of Education
400 Maryland Ave SW, Room 5W106
Washington, DC 20202-5970

RE: Comments from the National Association of Charter School Authorizers regarding Docket Number ED-2018-OII-0062: "Proposed priorities, requirements, definitions and selection criteria—Expanding Opportunity through Quality Charter Schools Program; Grants to Charter Management Organizations for the Replication and Expansion of High-Quality Charter Schools."

Dear Ms. Holte,

I am writing on behalf of the National Association of Charter School Authorizers (NACSA) to provide comments on the proposed rules for the grants to Charter Management Organizations program, published in the federal register on 7/27/18.

In general, NACSA is supportive of the Department's proposed rules to govern this important grant program created in the Every Student Succeeds Act. Good authorizers encourage the replication and expansion of high-quality charter schools as a meaningful way to increase the number of students attending great schools, and Charter Management Organizations (CMOs) play a valuable role in facilitating expansion of successful school models. The following letter describes our support, our recommendations for additional priorities and technical language, and a few concerns with the rule language as written.

Thank you for your consideration.

Sincerely,

Greg Richmond
President and CEO
National Association of Charter School Authorizers

Recommendation: Create an Additional Priority on Improving Outcomes for Students with Disabilities

We acknowledge and appreciate that ESSA statute and the Department’s proposed rules give significant weight to serving students with disabilities, as expressed in this notice through the proposed application criteria, definitions, and selection criteria¹. The language proposed in these rules is an important way to ensure that every CMO that receives grant funds works to help students with disabilities thrive.

Across all public schools, achievement levels for students with disabilities still lag far behind their peers by nearly every metric by which we measure school performance². NACSA believes that such persistent achievement gaps, which can be of a similar scale to those present across low-income demographics, warrants additional prioritization for federal investment. We encourage the Department to create a competitive and/or invitational priority for CMOs that propose to replicate or expand models that are intentionally designed to address achievement gaps that exist for students with disabilities. As explored in case studies from the National Charter School Resource Center³ and the National Center for Special Education in Charter Schools⁴, individual charter schools and CMO networks are increasingly serving as sites of innovation that are developing successful models to serve students with disabilities. A competitive and/or invitational priority in this competition would further catalyze research and development of programs for students with disabilities within CMOs of all sizes and could encourage single charter schools that specialize in closing these achievement gaps to replicate their successful models as new CMOs.

¹ *Proposed Application Criteria*: In the application the CMO must “(h) Describe how the applicant will ensure that all eligible students with disabilities receive a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act; (i) Describe how the proposed project will assist Educationally Disadvantaged Students in mastering challenging State academic standards. *Proposed Definitions*: “Definition of Educationally Disadvantaged student means a student in one or more categories described in section 1115(c)(2) of the ESEA, which include children who are economically disadvantaged, students with disabilities, migrant students, English learners, neglected or delinquent students, homeless students, and students who are in foster care.” *Proposed Evaluation Criteria*: Applicants will be evaluated on “(i) the extent to which the academic results...for Educationally Disadvantaged Students served by the charter schools operated or managed by the applicant have exceeded the average academic achievement results for such students in the State.”

² Thurlow, M. L., Albus, D. A., & Lazarus, S. S. (2017). “2014-15 Publicly Reported Assessment Results for Students with Disabilities and ELs with disabilities (NCEO Report 405)”. Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes.
<https://nceo.umn.edu/docs/OnlinePubs/NCEOReport405.pdf>

³ National Charter School Resource Center, “*Students with Disabilities Resources*”, January 2017.
https://charterschoolcenter.ed.gov/sites/default/files/files/field_publication_attachment/Students%20with%20Disabilities%20Resources%20%28%29_0_1.pdf

⁴ National Center for Special Education in Charter Schools, “*Shining a Spotlight on Promising Practices for Students with Disabilities in the Charter Sector: Centers for Excellence*” Denver School of Science and Technology, Brooklyn Laboratory Charter School, and Paramount School of Excellence, 2018.
<http://www.ncsecs.org/centers-of-excellence-cole-high-school>

Comments on Proposed Priorities #1-7

1. Promoting Diversity

The Department proposes to add language to a statutory priority for applicants that plan to operate or manage high-quality charter schools with racially and socioeconomically diverse student bodies (Section 4305(b)(5)(A)) to clarify that in order to meet such a priority the applicant must have an “intentional focus” on recruiting and serving a diverse student body.

NACSA supports the use of this proposed priority and the addition of “intentional focus” as a requirement. We believe this is consistent with statutory intent and provides important clarity to the priority. We support the use of this priority as a competitive or invitational priority but do not support its use as an absolute priority. We believe the intent of statute is to encourage the creation of charter schools that serve diverse populations, not to limit the competition on the basis of an intent to create such schools.

2. School Improvement through Restart Efforts

The Department proposes to add language to a statutory priority for applicants that demonstrate success in working with schools identified for comprehensive support and improvement (Section 4305(b)(5)(B)) to (1) clarify that CMOs requesting this priority must use awarded funds for restarting (an) Academically Poor-performing Public School(s); and (2) update the identification method to reflect more types of schools that may be identified for this type of school “restart” process, in keeping with the status of ESSA implementation and school improvement practices.

NACSA supports the use of this proposed priority and the additional language to ensure schools seeking this priority intend to use grant funds for “restart” efforts. NACSA shares the Department’s belief that school restarts can be a powerful and impactful method for school improvement, and we reiterate that prior, demonstrated success with school restarts is vital for the success of restart initiatives. We also encourage the Department to ensure that when such restart applications are evaluated they are done with the context of the restart charter school authorization process in mind, as a qualified restart CMO should have adapted its project timelines, student recruitment protocols, community engagement procedures, and authorizer oversight relationship to account for the unique demands of the restart context⁵.

We support the use of this priority as a competitive priority, but not as an absolute priority given the limited number of CMOs with experience with successful restarts relative to the funding level for this program.

With this priority in place we also ask for updated non-regulatory guidance for the Charter Schools Program to clarify that, notwithstanding open enrollment requirements, a charter school receiving any (not just CMO) CSP funds could, if permissible under applicable State law, exempt from its lottery student who are enrolled in an Academically Poor-performing Public School at the time that it is restarted.

⁵ NACSA often refers members to the Restart Authorization Process Guide, a joint project by Public Impact, EdPlex, and the Michael & Susan Dell Foundation, which contains resources for charter school authorizers engaged in restart initiatives. Such resources may provide peer reviewers with a helpful overview of the unique context of CMO restarts and the authorization process. <http://www.schoolrestarts.org/what-is-this-guide/>

3. High School Students

The statute gives priority to applicants proposing to expand or replicate high-quality charter schools to serve high school students. Under the Notice of Proposed Priorities (NPP), to receive the priority an applicant would also have to prepare students for enrollment in college (e.g., through advanced coursework, college counseling) and support those students in persisting in college. Applicants would also have to propose one or more performance measures aligned with those objectives.

While the additional requirements and performance measures are not in the statute, we support their inclusion in order to prioritize support for high schools that are preparing students well for college. We support this as an invitational or competitive priority, but not an absolute priority.

4. Low-income Demographic

Under the NPP, applicants would receive this priority if at least 40, 50, or 60 percent of the students served in the charter schools operated by the applicant are from low-income families. The NPP indicates that the Department would use one or more of the three subparts of the priority (that is, a priority for 40 percent vs. 50 percent vs. 60 percent, or more than one of the above) in a given competition. If more than one is used, then presumably the Department will give more points to applicants having a higher percentage of students from low-income families.

NACSA would support a tiered approach to competitive priority points, with more points given to CMOs operating higher-poverty schools. We support this as a competitive priority but not as an absolute priority, as it is conceivable that other priorities (such as promoting diversity) may work at cross purposes with a low-income priority.

5. Number of Charter Schools Operated or Managed by the Eligible Applicant

The Department proposes to create a priority that would allow it to distinguish between CMOs of different sizes, allowing it to prioritize and/or group applications from small (2-5 schools) vs. medium (6-20 schools) vs. large (21 or more schools) CMOs. The Department notes that such segmenting would allow it to respond to sector needs and consider the impact of awards made for Replication and Expansion through the separate State Entity program.

NACSA believes there could be several benefits to the Department's proposed approach. First, CMOs of different sizes face some distinct challenges as they expand at different size levels. This is reflected in practices employed by the Charter School Growth Fund, which groups CMOs into different grant competitions based on factors like CMO size⁶. Grouping applications by CMO size may allow the peer reviewers to better evaluate the likelihood of success and apply the evaluation rubric with more consistency. Second, we agree with the Department's desire to target CMO grant funds to respond to sector investment needs. We note that the early-to-mid CMO stages, where networks grow from 2-5 schools, or when they grow into new geographic locations, often present the most significant stumbling blocks for maintaining quality. A federal grant at such transition stages could be particularly meaningful.

⁶ The success of the Charter School Group Fund methodology (<https://chartergrowthfund.org/portfolio/emerging-cmo-fund/>) has been well documented in research by CREDO, which finds significant academic success in CSGF-supported CMO networks.

James L. Woodworth, Margaret E. Raymond, Chunping Han, Yohannes Negassi, W. Payton Richardson, and Will Snow, Charter Management Organizations 2017, Center for Research on Education Outcomes (CREDO) at Stanford University, 2017. <https://credo.stanford.edu/pdfs/CMO%20FINAL.pdf>

However, NACSA also recognizes that segmenting CMOs by size carries risks. It could artificially constrain awards to CMOs of certain sizes or inhibit the type of broad, multi-state expansion that large and mid-size CMOs are more likely to pursue. The 2017 CREDO study on Charter Management Organizations also found that having replicated before is not a guarantee of quality⁷, which points to the challenge of using size as a proxy for other characteristics. We also note that in prior years, when such a size-based priority did not exist, the CMO competition made awards to CMOs of all sizes, with a significantly higher number of awards going to small CMOs.

Given these dynamics, we would propose that the Department retain the priority language in the NPP, but begin by using it as an invitational or minimally-weighted priority. This would allow the Department to test the impacts of this type of segmenting before it had a significant impact on competition characteristics or the resulting slate of awards.

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

This priority would allow the Department to pool applications into those that propose to replicate or expand charter schools in a rural community vs. those that propose to do so in a non-rural community. Although this priority is not in the statute, it would be responsive to widespread concerns about rural education, including committee report language accompanying recent Department of Education appropriations.

We support the use of this priority on a competitive or invitational basis. However, if used as an absolute priority, (that is, if the Department required applicants to apply for either the rural priority or the non-rural priority, and then placed the applications in two separate pools), it might prevent a CMO from applying to serve both rural and non-rural areas, unless the CMO submitted two separate applications and received two separate grants. We request that the Department clarify that CMOs could submit one application to serve rural and non-rural schools and make provisions in the upcoming competition allowing eligible applicants to do so.

7. Replicating or Expanding High-quality Charter Schools to Serve Students who are Indians

Under this language, the Department would give priority to an applicant proposing to replicate or expand one or more high-quality charter schools and, in doing so: (1) use “targeted outreach and recruitment” to serve a high proportion of Indian students, including by having a mission and academic program that reflects the unique needs of those students; and (2) have a governing board with a substantial percentage of members who are members of local tribes or Indian organizations. To receive this priority, an applicant would also have to submit a letter of support from at least one local tribe or Indian organization and demonstrate a commitment to collaborating with that tribe or organization.

The Department would determine what is meant by a “high proportion” of Indian students on a case-by-case basis, in general setting 50 percent as the threshold but allowing a lower percentage based on unique circumstances. We do not support this definition, because of the lack of clear and objective criteria for the Department’s case-by-case determinations, and propose instead that the Department set a clear threshold so that applicants know clearly whether or not they will meet the priority and to avoid the appearance of awarding unearned competitive priority points. According to data from the National Alliance for Public Charter Schools (NAPCS), there are 59 charter schools

⁷ James L. Woodworth, Margaret E. Raymond, Chunping Han, Yohannes Negassi, W. Payton Richardson, and Will Snow, Charter Management Organizations 2017.

above 25 percent native student enrollment, and those schools have an average enrollment rate of 75 percent. Drawing a bright line, or setting clear criteria absent available enrolment statistics, is critical to ensure this competitive priority achieves its intent.

While this isn't a statutory priority, we support the use of this priority as a competitive preference to prioritize high-quality CMOs that proposed to make charter school options available to students living on Indian lands or areas of large concentrations of Native students. Alternatively, given that there is currently a very limited universe of CMOs that could meet the criteria for the priority, it might be initiated as an invitational priority.

Proposed Application Requirements

NACSA fully supports the proposed application requirements. We commend the Department for strengthening requirements related to several aspects that are critical indicators of CMO readiness to replicate, including management relationships, evidence of success with all types of students, community and parent input procedures, and financial health. NACSA's own best-practice recommendations on the evaluation of charter school replicators⁸, as well as the 2017 CREDO study on Charter Management Organizations⁹, found that many of these indicators are key predictors of charter school success and that authorizers (and potential funders) should evaluate them rigorously before approving a school to replicate or expand.

NACSA recommends two additional technical modifications to further strengthen the proposed application requirements.

Disclosure of "Academically poor-performing public schools"

NACSA supports the additional language requiring the disclosure of specific compliance issues in section (b) of the proposed application requirements, including schools that have been closed, revoked, or had their affiliation terminated. NACSA recommends adding an additional category of disclosures, which is schools in the CMO network that meet the proposed definition of "Academically poor-performing public schools". NACSA recommends this disclosure for two reasons. First, the presence of state or authorizer designated academically poor-performing public schools within a CMO network is concerning, particularly as charter quality can vary within charter networks, including among different grade levels¹⁰. The presence of such a poor performing school could reflect challenges with fidelity as the CMO grows at certain sizes, in certain grade levels, or in certain communities, and in nearly all circumstances would constitute a significant compliance issue. Second, how a CMO responds when a school in its network is struggling can be illustrative of its decision-making process and its management model, as well as a real demonstration that the CMO fulfills its assurance regarding the timely closure of low performing schools (ESSA Sec. 4305(b)(3)(C)).

NACSA stresses that the presence of an academically poor-performing public school in a CMO network should not, in and of itself, prevent a high-quality CMO from receiving a CMO grant. There are legitimate reasons why an otherwise high performing network may have a school identified as

⁸ National Association of Charter School Authorizers, Core Resource Guidance: Evaluating Charter School Replicators, 2012. https://qualitycharters.site-ym.com/global_engine/download.aspx?fileid=8722EC0F-BAEC-4918-A922-307751288E36&ext=pdf

⁹ James L. Woodworth, Margaret E. Raymond, Chunping Han, Yohannes Negassi, W. Payton Richardson, and Will Snow, Charter Management Organizations 2017.

¹⁰ Ibid.

academically poor-performing—especially in the case of new school restart efforts. We believe that the presence of a school should be disclosed and then evaluated as another data point in the course of assessing the CMO’s ability to replicate and expand high-quality charter schools in their targeted community.

Addition of “campus” to school disclosure

State charter school law varies in how it structures charter contracts, especially with charter schools that may have multiple school sites. Some states assign a single “school identifier” to a charter school that may operate multiple campus sites, thus classifying the entire charter as a single school, while other states give unique identifiers to each campus and each location is classified as a separate single school. In NACSA’s experience, it is advantageous to use both terms (school and campus) as it avoids ambiguity and ensures information is collected for each school site, whether that is defined as a school or campus under state law. We believe such disclosure is the Department’s intent.

NACSA also proposes a technical addition of “including those” to ensure that information is provided on any schools or campuses with compliance issues, not just those that have been closed, revoked, identified as Academically poor-performing, or had their affiliation terminated. We believe that is consistent with statutory intent.

Recommended Language: Application Requirements

Proposed additions are in red and underlined.

Applicants for funds under this program must meet one or more of the following requirements—

...

(b) Provide information regarding any compliance issues and how they were resolved, for any charter schools and charter school campuses operated or managed by the applicant, including those that have—

(i) Closed;

(ii) Had their charter(s) revoked due to problems with statutory or regulatory compliance, including compliance with sections 4310(2)(G) and (J) of the ESEA;

(iii) been identified as Academically poor-performing public schools, as defined in this notice;
or

(iv) Had their affiliation with the applicant revoked or terminated, including through voluntary disaffiliation.

Proposed Definitions

NACSA supports the proposed definitions, with the exception of the definition of “high Proportion” for use in proposed priority 7, as discussed above.

Proposed Selection Criteria

NACSA fully supports the addition of all proposed selection criteria.

Disclosure of “Academically poor-performing public schools”; Addition of “campus” to school disclosure

Similar to our recommendation for the “Application Requirements”, we recommend that (a) *Quality of the eligible applicant* include an evaluation of the extent to which the CMO operates any Academically poor-performing public school, as defined in these rules. We also recommend the addition of the term “charter school campuses” to ensure the intended information is collected.

We note that such an evaluation should be made so as not to unfairly penalize CMO applicants involved in formal school restart initiatives.

Recommended Language: Selection Criteria

Proposed additions are in red and underlined.

(a)(ii) The extent to which one or more charter schools and charter school campuses operated or managed by the applicant have closed, have had a charter revoked due to noncompliance with statutory or regulatory requirements; have been identified as Academically poor-performing public schools; or have had their affiliation with the applicant revoked or terminated, including through voluntary disaffiliation.

General Comment

Use of ED Facts data

Whenever possible we encourage the Department to use data collected via ED Facts to supplement information submitted by the CMO applicants. ED Facts data collection currently includes entries to link each individual charter schools with their affiliated CMO (if present), their charter school authorizer, charter contract approval data and anticipated renewal date¹¹. We are aware that this ED Facts data collection is still relatively new and that it may take a few data collection cycles to ensure States are submitting high quality, accurate data on these new charter files. We believe that comparing data submitted via ED Facts with the data self-reported by applicant CMOs may help the Department improve data collection and submission by both States and CMOs.

¹¹ ED Facts Workbook (SY 2017-18), U.S. Department of Education. Washington, D.C., ED Facts, FS190, FS196, FS197, FS198. <https://www2.ed.gov/about/inits/ed/edfacts/sy-18-19-nonxml.html>