



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

Dear Secretary Cardona and Deputy Assistant Secretary Washington,

I strongly oppose the United States Department of Education's proposed new rules for the Charter Schools Program (CSP). The proposed changes would create insurmountable bureaucratic hurdles for most applicants, and lower-income communities that desperately need alternatives to failing traditional public schools would be denied CSP funding. Perhaps by design, the delay in the application process caused by the proposed rules would deter potential grantees from applying for CSP grants this year and prevent the creation of new educational options for communities and families who are poorly served by the traditional public school system.

The rules' plan to require charter schools to describe "unmet demand for the charter school" by showing "over enrollment of existing public schools" is irrational in an era of declining traditional public school enrollment and unfair to parents. Parents choose charter schools based on the educational opportunities, academic program, and environment the school offers their children. Parents should not lose access to educational options because the local school district is not "over enrolled."

The proposal to require charter schools to demonstrate plans to "establish and maintain racially and socio-economically diverse student and staff populations" would prevent charter schools from opening and serving students in urban environments with high minority populations. Charter schools have a long history of serving Black and Hispanic students in urban areas effectively, in stark contrast to the failing traditional public schools in the same areas. Teachers, parents and education entrepreneurs hoping to

open charter schools in areas that are not racially or socio-economically diverse, like Native American reservations, would not be able to access CSP funding. It is cruel to deprive historically underserved students of high-quality education options.

The Department plans to require states to prioritize funding for charter applicants that have found a school district to “partner” with them. School districts have little to no incentive to partner with independently-operated charter schools, so the CSP funding would automatically be directed to district-authorized charter schools. This proposal would empower districts to prevent innovative and entrepreneurial charter schools from opening.

For over a quarter of a century, the federal Charter Schools Program (CSP) has channeled essential startup funding to nonprofits launching charter schools. In the attached case study, I describe the history and impact of this valuable and important federal program, which should be continued and strengthened, rather than weakened by these proposed rules.

The original CSP law created a federal program to provide small, competitive grants to charter school developers, including “teachers, administrators and other school staff, parents or other members of the local community in which a charter school project will be carried out.” The program’s creators hoped that funding new charter schools would expand freedom for communities to innovate, test a variety of educational approaches and provide educational opportunities to students poorly served by their neighborhood school.

Soon after the first state charter school law passed in Minnesota in 1991, advocates proposed creating a federal startup funding source for these new, innovative, autonomous public schools. The idea received bipartisan backing, including substantial support from Democrats in Congress and the White House. Republican Sen. Dave Durenberger of Minnesota developed a proposal to provide competitive federal grant funding and build awareness of the charter idea among other states’ legislators and governors. Democratic Sen. Joe Lieberman of Connecticut co-sponsored the bill and Democratic Rep. Dave McCurdy of Oklahoma introduced the bipartisan House companion bill. The Democratic Leadership Council and its affiliated think tank, the Progressive Policy Institute, worked to expand support for the proposal among members of Congress and governors.

Then-President Bill Clinton included charter funding in his administration’s Elementary and Secondary Education Act reauthorization proposals, and charter proponent Sen. Ted Kennedy, Democrat of Massachusetts, oversaw the reauthorization conference committee. The federal Public Charter Schools

Program was signed into law in 1994 as part of the comprehensive Improving America's Schools Act in the reauthorization and received a \$6 million appropriation for fiscal year 1995.

For years, CSP expanded due to support from congressional advocates. The Obama administration, under Secretaries Arne Duncan and John King, initiated a significant funding spike for the program and, due to bipartisan support, it has grown considerably. In FY 2022, CSP received an annual appropriation of \$440 million for the fourth consecutive year. As recently as February 2020, Democratic Rep. Rosa DeLauro of Connecticut stated that “with regard to charter schools, there is a place for them. They have a role in education.”

The federal charter grant program effectively uses small amounts of federal power and funding to encourage a variety of innovative approaches to public education. Many schools launched with CSP funds serve disadvantaged students. Rather than proposing rules to weaken the program, the Department of Education should explore opportunities to further strengthen the program. Rather than making the already lengthy CSP application even more onerous and complicated, it should be streamlined to avoid discouraging smaller charter developers and community organizations from applying.

The CSP was designed to encourage nonprofits to open a diverse array of charters that fit the needs of their local communities. The program should be strengthened, rather than attacked, ensuring that flow of federal charter school funds align with the program's original goals. Demand for charter schools is growing with overall charter enrollment increasing by seven percent this year. Federal funding should be accessible to charter school founders who seek to meet the growing demand. Students and families will benefit from an expanded education marketplace.

The Charter Schools Program is an important investment in educational opportunity that should not be undermined by these bureaucratic rule changes.

Respectfully,

Virginia Gentles  
*Director, Education Freedom Center*  
*Independent Women's Forum*