



August 27, 2018

Allison Holte
Office Innovation and Improvement,
U.S. Department of Education,
400 Maryland Avenue SW.,
Room 5W106,
Washington, D.C. 20202

RE: 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 - Docket ID: ED–2018–OII–0062

Dear Ms. Holte:

On behalf of the National Alliance for Public Charter Schools (National Alliance) I am writing to provide comments to the U.S. Department of Education (ED or the Department) on the Proposed Priorities, Requirements, Definitions, and Selection Criteria for the Grants to Charter Management Organizations for the Replication and Expansion of High-Quality Charter Schools program (NPP). Thank you for the opportunity to comment. In general we are supportive of the proposed requirements in this rule. The following describes our support and a few concerns in detail:

Priorities

1. Promoting Diversity

The Department proposes to award a priority to applicants that propose to replicate or expand high-quality charter schools that have an intentional focus on recruiting students from racially and socioeconomically diverse backgrounds and maintaining racially and socioeconomically diverse student bodies. The language is consistent with the statutory requirement (Section 4305(b)(5)(A)) that Secretary give priority to eligible entities that plan to operate or manage schools with socioeconomically diverse student bodies, but adds language on an “intentional focus.”

We support the use of this proposed priority as a competitive priority or invitational priority and the addition of “intentional focus” as a requirement. The intent of the statute is encourage the creation of charter schools that serve diverse populations not

to limit the competition on the basis on an intent to create those schools. Moreover, an absolute priority could work at cross-purposes to serving students in areas of high concentrations of poverty.

2. School Improvement through Restart Efforts

The statute gives priority to entities that can demonstrate success in working with “Academically Poor-performing Public Schools,” which are defined in the notice as schools identified for comprehensive support and improvement (CSI) under Title I or other similarly performing schools identified by the SEA or authorizers in the case of charter schools. While there are a few CMOs engaged in this work, there is a significant need for more CMOs to partner with school districts or states to provide quality options to students in CSI schools. Under the NPP, in order to receive this priority an applicant would have to demonstrate success in working with schools identified as low-performing under NCLB and also propose to “restart” one or more “academically poor-performing public schools.” The restarted schools would have to replicate a successful charter school model and target a student population similar to that of the low-performing school.

The term “restart” is not a defined term in the statute or the NPP, but the notice indicates (in the Background discussion for this priority) that it means “reopening a low-performing traditional public school under the management of a charter school developer or CMO, or reopening a low-performing public charter school under the management of a different charter school developer or CMO.”

We support the use of this priority as a competitive priority, but not as an absolute priority given the limited pool of CMOs that could meet this criteria relative to the funding available.

In addition, we request clarification that an applicant may be awarded priority if it proposed to partner with a school district to open new, not restarted, charter schools that would prioritize the enrollment of students attending Academically Poor-performing Public Schools or recently closed schools. In other words, an applicant should be able to receive the priority not just for proposing to restart low-performing schools but also if it proposed to replicate or expand a successful charter school model in order to serve the students enrolled in a low-performing school.

To be clear, we do not believe this clarification would require any change in the current proposed priority language. ED could instead, in the comments and responses section of the Notice of Final Priorities, clarify that our interpretation of the language is correct. The same clarification would also be included in the Notice Inviting Applications for the upcoming competition.

We would 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 students who are enrolled in an Academically Poor-performing Public School at the time that it is restarted.

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 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 ED will give more points to applicants meeting a higher bar.

In past competitions, the Department used 60 percent poverty as an absolute priority for this program. This priority is not in the statute, and we do not support its use as an absolute priority. We would support a tiered approach to points, with more points given to CMOs operating higher-poverty schools. We note, however, that this priority would potentially work at cross-purposes with the Promoting Diversity priority if they are used in the same year. The vast majority of CMOs have a poverty rate above 40 percent, so the need for and impact of such a priority would be marginal.

Average Poverty Rate	CMOs
Below 40%	19
At/above 40%	150
At/above 50%	140
At/above 60%	123
Total	169

5. Number of Schools Operated or Managed by the Eligible Applicant: The Department is proposing a priority, not in the statute, that would allow ED to give priority to CMOs that operate 2-5 charter schools, or 6-20 charter schools, or 21 or more charter schools. The NPP offers the rationale that the priority language “would give the Department flexibility to respond to changing needs in the charter school sector” and “to focus its grant-making, as appropriate, based on new and evolving support for the replication and expansion of charter schools at the State level.” In practice, in an annual competition ED could make all three elements of the priority an absolute priority, requiring that applications apply under one of those three elements. The Department would then, in effect, run separate competitions for three separate pools of funds, ensuring that some funds go to smaller CMOs and that those CMOs don’t have to compete against the larger ones which might be expected to have stronger and more sophisticated grant-writing teams).

The National Alliance does not support this proposed priority for the following reasons:

- We do not think it is the intent of this program to make awards, or prioritize awards, on the basis of size. Furthermore, we do not see a need to correct any perceived imbalances from prior years. In fact, fewer large CMOs and more smaller CMOs have been funded in the last two years and, owing in part to their smaller budget requests, the smallest CMOs have received almost eight times as many awards as the largest ones.

Management Organizations, 2016-17				
Type	3-5 Schools	6-20 Schools	21+ Schools	Total
CMO	108	56	14	178

CMO Grant Competition – Grantee Size at time of Application			
	2016	2017	Total
2-5 schools	7	12	19
6-20 schools	4	3	7
21+ schools	3	2	5

- There is a wide range of contexts that will determine whether a CMO is able to apply to its state entity for a subgrant under the State grant program, in lieu of the federal competition. Some states will have funds available for replication and expansion; others may not. Larger CMOs serving students across several states will likely prefer to apply to the federal grant program directly. The Federal CMO grant competition should thus be neutral with respect to CMO size, in order to be sensitive to these legitimate variations in contexts and practices.

- If at some point ED is able to collect current year subgrantee data for CSP state-entity grants' disaggregated by CMO in time for issuing the NIA, and notices significant disparities, perhaps a competitive priority for one category of CMOs would be appropriate. Without such data in place, we don't think there would be a basis for using this priority in that manner.
- A more effective approach might be to use the Department's existing Novice Applicant priority, which was used in previous CMO competitions.

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

This priority would allow ED 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 associated accompanying recent ED appropriations.

We support the use of this priority on a competitive or absolute basis. However, if used as an absolute priority, (that is, if ED 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 Indian Students

Under this language, ED 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.

ED 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 ED'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 our data, there are 59 charter schools 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 enrollment 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.

Definitions

As noted under #7 above, we do not support the definition of "High Proportion" for use in proposed priority 7.

Eligible Applicants

Lastly, we ask that in Notice Inviting Applications for this competition that the Department continues to stipulate that applicable regulations include the Education Department General Administrative Regulations (EDGAR) in 34 CFR part 75. Part 75 is of particular importance because it permits CMOs to apply as a group or consortium, which is helpful for CMOs applying to open schools across different regions and states.

We continue to be grateful for the Secretary's strong support of public charter schools. Thank you very much for your intent, as embodied in this NPP, to ensure that Grants to Charter Management Organizations for the Replication and Expansion of High-Quality Charter Schools are awarded to high quality grantees that will expand access to high quality seats in charter schools around the county.

Sincerely,



Nina Rees
President and CEO
National Alliance for Public Charter Schools

Blackstone Valley Prep
Breakthrough Schools
Brooke Charter Schools
Citizens of the World Charter Schools
DC Prep
Gestalt Community Schools
KIPP
Noble Network of Charter Schools
YES Prep