

**Fordham Institute's March 25 Flypaper Article Opposes Proposed Common Sense Rules for Federal Money Flowing to the Charter School Industry. Public School Advocates Should Support the Proposed Rules.**

Studies have shown that multiplied millions of federal Charter School Program (CSP) funds have been wasted and have enriched charter school management companies.

State and local governments have not effectively monitored these funds tossed out to the charter industry. Over several years, billions in federal CSP tax revenue has flowed to the charter industry with essentially no accountability. Loopholes and flaws in the current standards are huge and must be addressed by new regulations.

Right on cue, Fordham (a charter school sponsor) and its charter school comrades throughout the nation are allied against federal efforts to regulate the use of federal CSP funds. The charter industry will not police itself and it adamantly resists any regulations.

Public school advocates can support the provision of appropriate regulations for charters by taking action as suggested by the attached paper by Public Education Partners (PEP).

**Please Support the Proposed USDOE Rule Changes for the Federal Charter Schools Program**

Submit a comment supporting the Department's new stronger regulations. You can submit your comment [HERE](#) and you must submit the comment **before April 13, 2022**.

Please read [Ohio Public Education Partners' explanation](#) of an urgently important development that requires our immediate attention. The U.S. Department of Education has published [a notice in the Federal Register](#) proposing new rules to strengthen oversight of the federal Charter Schools Program (CSP). It is urgently important for each one of us to write and submit a formal comment expressing support for stronger oversight of the Charter Schools Program.

First, even though the Elementary and Secondary Education Act forbids the allocation of federal dollars to for-profit charter schools, the owners of for-profit charter management organizations (CMOs) have learned how to get around the law. The U.S. Department of Education has proposed to stop the misallocation of federal Charter Schools Program (CSP) dollars to for-profit charter school management companies that hide behind the nonprofit charter schools they manage under sweeps contracts.

Second, when a charter school asks for Charter Schools Program startup funds, the Department has declared its intention to require a community impact statement to ensure that there is a need for a new charter school in the community and that the school won't promote racial segregation. Neither should rapid expansion of charter schools undermine urban neighborhoods. The most serious consequence of out-of-control charter school expansion has

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been evident in large cities, where charter schools advertise lavishly to attract families from public schools.

Here is the language of the two urgently important rules the U.S. Department of Education proposes to add:

First --- "Each charter school receiving CSP funding must provide an assurance that it has not and will not enter into a contract with a for-profit management organization, including a non-profit management organization operated by or on behalf of a for-profit entity, under which the management organization exercises full or substantial administrative control over the charter school and, thereby, the CSP project."

Second --- "Each applicant must provide a community impact analysis that demonstrates that there is sufficient demand for the proposed project and that the proposed project would serve the interests and meet the needs of students and families in the community or communities from which students are, or will be, drawn to attend the charter school, and that includes the following: (a) Descriptions of the community support and unmet demand for the charter school, including any over-enrollment of existing public schools or other information that demonstrates demand for the charter school, such as evidence of demand for specialized instructional approaches. (b) Descriptions of the targeted student and staff demographics and how the applicant plans to establish and maintain racially and socio-economically diverse student and staff populations, including proposed strategies (that are consistent with applicable legal requirements) to recruit, enroll, and retain a diverse student body and to recruit, hire, develop, and retain a diverse staff and talent pipeline at all levels (including leadership positions)."

Please submit a comment supporting the Department's new stronger regulations. Don't let yourself be intimidated by the complicated language and presentation of the new rules in the *Federal Register*.

Begin your comment by thanking the Department of Education for strengthening long-needed accountability in this program. In simple prose, explain your support for each of the proposed new rules for the Charter Schools Program. In your comment, if you like, you may quote the language (above) of each rule followed by your reason for believing the new regulation is so important.

Your comment may be as long or as short as you like—a few sentences or several paragraphs. Longer comments must be submitted as attached documents.

You can submit your comment [HERE](#), and you must submit the comment **before April 13, 2022**.

If you are not planning to write your own comment, [you may send the Network for Public Education's action alert letter](#), but please personalize your letter by adding a few sentences of your own.

**Comments from Public Education Partners of Ohio Regarding Proposed Priorities, Requirements, Definitions, and Selection Criteria-Expanding Opportunity Through Quality Charter Schools Program (CSP)-Grants**

**Docket ID Number: ED-2022-OESE-0006**

March 31, 2022

Public Education Partners (PEP) is the leading volunteer advocacy group for public education in Ohio. PEP is a nonpartisan organization dedicated to the support of publicly accountable Ohio schools for all.

The Board of Public Education Partners is writing in response to the invitation to submit comments regarding "Proposed Priorities, Requirements, Definitions, and Selection Criteria-Expanding Opportunity Through Quality Charter Schools Program (CSP)-Grants to State Entities (SE Grants); Grants to Charter Management Organizations for the Replication and Expansion of High-Quality Charter Schools (CMO Grants); and Grants to Charter School Developers for the Opening of New Charter Schools and for the Replication and Expansion of High-Quality Charter Schools (Developer Grants).

It is important that the U.S. Department of Education (USDOE) update its priorities and its requirements to address long-standing loopholes and flaws in the CSP program. We support the proposed priorities and requirements of the Department for the reasons that follow.

**Priorities One and Two**

We strongly support the proposed priorities. Priority one builds off the community schools' movement. Priority two encourages cooperative activities between district and charter schools. We believe that these priorities should be absolute priorities.

**Restrictions on CSP Grants to Charter Schools Operated by For-Profit Organizations**

We strongly support the Department's attempt to ensure that charter schools operated by for-profit management corporations do not receive CSP grants, specifically this language:

- (a) Each charter school receiving CSP funding must provide an assurance that it has not and will not enter into a contract with a for-profit management organization, including a non-profit management organization operated by or on behalf of a for-profit entity, under which the management organization exercises full or substantial administrative control over the charter school and, thereby, the CSP project.*

Charter schools that are run in part or whole to create profit should not benefit from federal expansion or start-up funds.

As an organization based in Ohio, we can attest to the many problems created by for-profits running schools. In our state, nearly 50% of our charter schools are run by for-profit management companies. These include Accel and National Heritage Academies, national chains that run charter schools using “sweeps” contracts.

To show how extensive a sweeps contract is, the following is an excerpt from the 2019 Ohio audit of the Bennett Venture Academy contract with NHA:

“Under the terms of the Agreement, NHA receives as remuneration for its services an amount equal to the total revenue received by the Academy from all revenue sources.”<sup>i</sup>

Very often small Ohio charter schools serving students of color have been passed from one for-profit to another, with terrible results—including schools that have received CSP grants<sup>ii</sup>.

The relationship between a for-profit management organization is quite different from the relationship between our district vendors who provide a single service. A public school can sever a bus contract and still have a building, desks, curriculum, and teachers. However, in cases where charter schools have attempted to fire their for-profit operator, they find it impossible to do so without destroying the schools in the process. In addition, the spending of the for-profit is hidden from public inspection and not subject to FOIA requests.

### **The Importance of the Inclusion of an Impact Analysis**

The PEP board believes that the proposed rule changes should be absolute priorities. If charter schools must continue to exist as education options in Ohio, they should only operate with community input that’s coordinated with our public-school districts. We especially support the inclusion of a community impact analysis “to inform the need, number, and types of charter schools to be created in a given community.” We are pleased that “the community impact analysis must describe how the plan for the proposed charter school takes into account the student demographics of the schools from which students are, or would be, drawn to attend the charter school.”

We strongly support the inclusion of language that requires the applicant to report on all enrollment patterns for public and charter schools and report “the steps the applicant has taken or will take to ensure that the proposed charter school would not increase racial or socio-economic segregation or isolation in those schools.”

Unfortunately, the CSP has aided the tremendous charter churn in our state that displaces families and children when charter schools close. Over 41% of the Ohio charter schools that received CSP grants either never opened or have closed<sup>iii</sup>.

The problem is so extreme that Senator Sherrod Brown requested that a CSP grant not be issued to his own state until after an investigation was conducted<sup>iv</sup>.

The inclusion of an impact statement will help reviewers make the best decisions regarding which schools should or should not get awards. We suggest that the impact analysis requirements include a profile of the students with disabilities and English Language Learners in the community along with an assurance that the applicant will provide the full range of services that meet the needs of all students with disabilities and English Language Learners. Too often, the neediest students are left behind in our districts, while funding leaves the schools along with students who require fewer services. We also believe that applicants include a signed affidavit provided by district or state education department officials attesting to the accuracy of the information provided.

### **Planning Grants to Unauthorized Charter Schools**

According to a 2019 response to Representative Raul Grijalva by then-Secretary of Education Betsy DeVos, 12% of all CSP grants between 2001 and 2019 were awarded to schools that never opened and were not expected to open.<sup>v</sup> In most cases, these schools had never achieved authorization. Whether unauthorized schools can receive funding for planning purposes and how much can be awarded has been left up to the states. This has resulted in large amounts of federal CSP money in the pockets of people who provided no service to the public.

We recommend that a school's planning amount before an authorization be limited to \$10,000. If justifiable expenses exceed that amount, they should only be compensated following authorization.

Thank you for allowing us the opportunity to submit comments. And thank you for proposing much needed reforms.

### **ENDNOTES**

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<sup>i</sup> Bennett Venture Academy for the Year Ending June 30, 2018. Ohio Auditor of State. Retrieved

from [https://ohioauditor.gov/auditsearch/Reports/2019/Bennett\\_Venture\\_Academy\\_18-Lucas.pdf](https://ohioauditor.gov/auditsearch/Reports/2019/Bennett_Venture_Academy_18-Lucas.pdf)

<sup>ii</sup> Strauss, Valerie. (2022, January 14). "The story of a charter school and its for-profit operators." *The Washington Post*. Retrieved March 23, 2022, from <https://www.washingtonpost.com/education/2022/01/14/charter-school-for-profit/>

<sup>iii</sup> Burris, Carol. (2019, December 6). *Still Asleep at the Wheel: How the Federal Charter Schools Program Results in a Pile-Up of Fraud and Waste*. Network for Public Education. Retrieved on March 26, 2022, from <https://networkforpubliceducation.org/wp-content/uploads/2020/02/Still-Asleep-at-the-Wheel.pdf>

<sup>iv</sup> Kelley, Jeremy P. (2015, November 4). Ohio could lose huge charter grant. *Dayton Daily News*. Retrieved on March 28, 2022 from <https://www.daytondailynews.com/news/ohio-could-lose-huge-charter-school-grant/8Ge51rtlOazqwtWWv8lUrN/>.

<sup>v</sup> U.S. Secretary of Education letter to Representative Raul M. Grijalva. (2019, June 28). Retrieved on March 25, 2022 from <https://networkforpubliceducation.org/wp-content/uploads/2019/12/Sec-DeVos-CSP-Response-6-28-19.pdf>