



To: United States Department of Education
From: Southern Education Foundation
Re: Docket ID Number: ED-2022-OESE-0006
Date: April 18, 2022

The Southern Education Foundation (SEF) appreciates the opportunity to provide comments to the United States Department of Education (ED) regarding the proposed priorities, application requirements, and definitions for the Federal Quality Charter Schools grant program posted in the Federal Register.

SEF is the nation's oldest education non-profit organization, founded on the core principle of advancing educational opportunity. For 155 years, SEF has helped develop and advocate for a high-quality and supportive public school system that allows students from low-income families and students of color in the South to master content knowledge, develop diverse skills, and access real-world learning experiences.

Our fundamental mission is to help create an effective and equitable learning environment for historically underserved students enrolled in the traditional public school system. SEF, nonetheless, supports high-quality charter school networks that are inclusive, evidence-based, and accountable to serving the representative local student population.¹ We, however, acknowledge the wide range of research on the general operation of charter schools in the United States demonstrating a checkered background with specific areas of sector improvement. For example:

- There are no distinguishable academic achievement results between charter schools and traditional public schools.²
- Data from the Network for Public Education shows that a quarter of all charter schools close within five years, disrupting the lives of students and families forced to shift to an alternative schooling option.³
- Former U.S. Secretary of Education Betsy DeVos reported that 12 percent of the Federal Charter Schools Program (CSP) schools never opened despite operators receiving federal taxpayer funds to do so.⁴

Even President Biden's most recent FY 2023 budget justifications show that CSP has not met its growth targets for the last three years and was forced to reallocate \$12 million in FY 2019 to other federal programs in the Innovation and Improvement account due to a lack of demand from the public.⁵

¹ Jones, F. (2019). *The Southern Education Foundation's Public Policy Priorities*. Atlanta, GA: Southern Education Foundation.

² Cookson, P. W., Jr., Darling-Hammond, L., Rothman, R., & Shields, P. M. (2018). *The tapestry of American public education: How we can create a system of schools worth choosing for all?* Palo Alto, CA: Learning Policy Institute.

³ Burris, C., Pflieger, R., (2020). *Broken Promises: An Analysis of Charter Schools Closures From 1999 - 2017*. Network for Public Education.

⁴ DeVos, Betsy (U.S. Secretary of Education). June 28, 2019. Letter to the Honorable Raul M. Grijalva. Accessed April 13th, 2022 <https://networkforpubliceducation.org/wp-content/uploads/2019/12/Sec-DeVos-CSP-Response-6-28-19.pdf>

⁵ U.S. Department of Education, (2022). "INNOVATION AND IMPROVEMENT, Fiscal Year 2023 Budget Request," available at <https://www2.ed.gov/about/overview/budget/budget23/justifications/f-ii.pdf>



That said, we appreciate ED’s commitment to making the CSP more equitable and reducing the possibility of fraud and abuse. Please see our specific responses to the proposed priorities and application requirements below.

Proposed Priority 1—Promoting High-Quality Educator- and Community-Centered Charter Schools to Support Underserved Students

SEF supports ED’s prioritizing of a community assets assessment for applicants interested in creating charter schools. Understanding a community’s strength allows charter providers to tailor a learning agenda that can improve student outcomes and serve the local area. In addition, a community assets assessment will enable charter operators to establish partnerships with people and organizations that enhance student engagement and create a supportive school culture. The use of a community assets assessment also empowers parents and other community members to play a more fundamental role in shaping the development of local charter schools. In many southern states, such as North Carolina,⁶ Oklahoma,⁷ and South Carolina,⁸ state charter school laws do not offer parents a significant role in designing local charter schools. The use of a community assets assessment would improve the opportunities for parents and community members, who are often overlooked in the charter creation process, to authentically engage in the creation and operation of charter schools.

Schools are the foundation of a community. They often times reflect the health of the community. Operators must understand the local context to build a school that can appropriately serve its students and families. Furthermore, SEF fully endorses prioritizing a community assets assessment for the Charter Management Operator and Developer Grants included in the first proposed priority.

Proposed Application Requirements—Community Impact Analysis

SEF supports EDs proposal, “to require CMO (Charter Management Organization) Grants, Developer Grants, and subgrants under the SE grant program to conduct a community impact analysis to inform the need, number, and types of charter schools to be created in a given community.”

Originally charter schools were created to pilot and test innovative approaches to teaching and learning. The intention was for charter schools to share promising practices with the local, traditional public school system. Charter schools were never meant to replace the traditional school system or to be used as a mechanism for certain families to self-segregate. Unfortunately, data shows that charter schools significantly contribute to racial isolation.⁹ Several enrollment factors, including targeted marketing (or lack thereof) of such schools, make

⁶North Carolina Charter Schools act., Chapter 115C - Elementary and Secondary Education, Article 14A - Charter Schools. (1996) https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_115c/Article_14A.pdf

⁷S.B. 782, Oklahoma Charter Schools act., 55th Oklahoma General Assembly, 2015 Reg. Session, Title 70 - Schools, (OK. 2017) <https://www.okcps.org/cms/lib/OK01913268/Centricity/Domain/575/SB782.pdf>

⁸ South Carolina Charter Schools act of 1996., Title 59 - Education, Chapter 40 - Charter Schools. (1996) <https://www.scstatehouse.gov/code/t59c040.php>.

⁹ Cookson, P. W., Jr., Darling-Hammond, L., Rothman, R., & Shields, P. M. (2018). *The tapestry of American public education: How we can create a system of schools worth choosing for all?* Palo Alto, CA: Learning Policy Institute.



it more challenging to ensure equal access to charter schools.¹⁰ There is a significant body of new evidence that demonstrates that charter schools contribute to racial and ethnic student segregation.¹¹

We have a serious concern that the student demographic composition of many charter schools that do not reflect the racial diversity or socio-economic status of the eligible population or community in which the charter school is situated. Allowing an unequal enrollment system to reflect a different population than the total eligible population, intentionally or not, is morally wrong. It directly harms eligible but unenrolled students by favoring families who have the means, knowledge, and time to navigate a charter enrollment application process that is available for all but accessed by a few.

SEF strongly supports including a community impact analysis of any new charter schools. This new layer of accountability would help improve diversity and ensure the students enrolled in charter schools accurately reflect the demographics of the community where the schools are located, improving both the development of and the opportunity for equal access to high-quality local charter schools.

Proposed Application Requirements—Assures For-Profit Managed organizations do not receive CSP grants

We strongly support the language outlined in the proposed rules that would ensure charter schools operated by for-profit management corporations do not receive CSP grants.¹²

Current law forbids for-profit entities from receiving direct grants or subgrants from the CSP. However, for-profit entities can enter into contracts with charter providers to manage a specific service, such as food or transportation. The Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, did not intend for business entities to manage the operation of the entire school. The relationship between a for-profit management organization is quite different from the relationship between a vendor who provides a single service. For instance, a school can sever a bus contract and still have a building, desks, curriculum, and educators. In cases where charter schools have attempted to fire the for-profit operator, they find it impossible to do so without harming the schools and students in the process.¹³

Also, research shows that charter schools operated by for-profit managers perform significantly worse than their non-profit counterparts and traditional public schools. For example, recent findings from the Center for American Progress show that: “For-profit virtual charter schools graduate about half of their students, which groups them among the lowest-performing schools in their state; for-profit virtual charter schools underperform the state average for third-grade

¹⁰ Burris, C., Pflieger., (2020). *Broken Promises: An Analysis of Charter Schools Closures From 1999 - 2017*: Network for Public Education.

¹¹ Monarrez, T., Kisida, B., and Chingos, M. (2019). *Do Charter Schools Increase Segregation? First national analysis reveals a modest impact, depending on where you look*. Education Next, 19(4), 66-74.

¹² 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.

¹³ Benner, M., Campbell, N., (2018). *Profit Before Kids: An Analysis of the Performance and Financial Practice of For-Profit, Virtual Charter Schools*. Washington D.C.: Center for American Progress.



English language arts and eighth-grade math proficiency; and virtual for-profit charter schools offer a poor return on public investment.”¹⁴

For-profit entities prioritize growth over student outcomes or experiences.¹⁵ They use public dollars for marketing, lobbying, high executive pay, and fraudulent activities because the focus of many for-profit operators is on making a profit, not learning.¹⁶ Most recently, a for-profit charter owner was found guilty of tax fraud because he used public funds allocated for the operation of his charter school to purchase a condo, instead of using them to support the school and its students.¹⁷ SEF supports the improved language to limit for-profit charter management organizations from entering contracts that allow them to operate all or a significant portion of the school.

Lastly, we would also like to mention our endorsement for charter and traditional public school collaboration. Genuine partnerships can facilitate improved conditions of learning for students, families, and educators within such communities. Thank you again for allowing the public the opportunity to respond to ED’s proposal. If you have any questions about the content of this response, do not hesitate to contact me at fjones@southerneducation.org. We look forward to your review.

Sincerely,

A handwritten signature in cursive script that reads "Fred Jones Jr".

Fred A. Jones, Jr.
Senior Director of Public Policy and Advocacy
Southern Education Foundation

¹⁴ Benner, M., Campbell, N., (2018). *Profit Before Kids: An Analysis of the Performance and Financial Practice of For-Profit, Virtual Charter Schools*. Washington D.C.: Center for American Progress.

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Riser-Kositsky, Herold, and Prothero, “Map”; Torsten Ove, “After Three Years of Fighting Charges, PA Cyber Founder Admits Tax Fraud,” Pittsburgh Post-Gazette, August 24, 2016, available at <http://www.post-gazette.com/local/city/2016/08/24/PA-Cyber-Charter-founder-Trombetta-pleads-guilty-to-tax-conspiracy/stories/201608240177>.