

Joint Comments from Texas Education Organizations

Supporting Proposed Priorities, Requirements, Definitions, and Selection Criteria for Charter School Program (CSP) – State Entity Grants, Charter Management Organization (CMO) Grants, and Developer Grants

Docket ID Number: ED-2022-OESE-0006

April 13, 2022

On behalf of the 21 Texas education organizations listed at the end of this letter, we write to support the U.S. Department of Education’s (ED) proposed priorities and requirements to address serious issues in the Charter School Program (CSP) and ensure that public funds are used more effectively. We appreciate the proposed guardrails to help ensure local communities and five million students who choose Texas public school districts are better represented in the charter expansion process.

We believe these rules will be a first step to incorporate community demand and need for a new charter into decision-making. The rules also will ensure that charter schools are racially and socio-economically diverse and will increase the transparency of the charter expansion process for both charter schools and charter management organizations (CMOs). We have long advocated for more transparency and believe that an assessment of local impact should be required and formally considered in advance of any charter expansion.

To that end, we strongly support the requirement in the rules for a community impact analysis, transparency for CMOs (including the disclosure of related-party relationships), and additional monitoring of grantees by state education agencies.

Too often we have seen charter schools that fail to serve the percentages of students of color, at-risk students, economically disadvantaged students, and special education students that were promised in their original charter applications. In addition, we have documented that charter expansions or relocations often result in less diverse student enrollment.

Our 21 organizations, representing thousands of public education advocates from across Texas, have seen the educational and fiscal harms that unlimited expansion of state charter schools has caused to Texas public school districts and the 93 percent of Texas students that we enroll.

A Community Impact Analysis is Crucial

We strongly support the proposed regulations that seek to bring greater transparency and assess the impact of a new charter school on the community. We especially support the requirement that applicants conduct 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 will “inform the need, number, and types of charter schools to be created in a given community.”

Since 2010, the Texas Commissioner of Education has approved expansion amendment requests for more than 900 new charter campuses in communities across the state with no public hearing, no general community notice, and very little input from or awareness by those affected communities. This proliferation occurs because our laws allow charter school chains to open campuses without regard to need or to the effect on a school district or local community. Once a charter school is initially approved and meets certain TEA requirements, the charter school can submit an amendment request to open an unlimited number of new charter campuses anywhere in the state.

Charters seeking to expand send school districts brief notices with little information – not even a proposed zip code for the location of the new campus is required – and districts have only two weeks to send a statement of impact to TEA. Without knowing where a charter will locate a new campus, it is difficult for a district to respond, much less plan for its own upcoming budget.

Nonetheless, school districts across Texas have provided the Commissioner with detailed statements of impact documenting the potential fiscal and educational harms to affected school districts and students. However, the Commissioner is not required to factor the local impact statements from districts into his decision-making even when the loss of revenue to a new charter school will result in loss of staff, student programs, or student services for students who choose to attend their public school district.

The financial drain from charter schools can translate into real cuts in a school district classroom. When students leave, reducing funds dollar-for-dollar is difficult because of stranded costs. Districts still have fixed costs such as utilities, janitorial services, transportation, and maintenance and still need a certain number of teachers, counselors, and programs for the vast majority of students who remain enrolled. School districts also are under federal “maintenance of effort” provisions for special education and cannot reduce funding across all program areas. Public schools are just not designed for large unplanned drops in enrollment.

Urban areas in particular have experienced saturation of charter schools – with charter schools enrolling as much as 24 percent of students in the geographic boundary of urban districts. In addition, charter enrollment has increased as much as 91 percent in a least one major urban region over the last three years. In most urban areas, school districts are at a severe funding disadvantage to charter schools, which have an average funding entitlement of \$1,150 per student more than their urban and suburban school district neighbors.

In the many small and rural school districts in Texas, the effect of charter drain can be exacerbated. A sudden drop in enrollment has an outsized effect and can quickly harm a small district.

Even as their overall funding shrinks, affected school districts experience a growing concentration of students with higher needs, with drastically fewer resources to meet those needs. The concentration of special education students at school district campuses is often double or triple the percentage of the nearby charter campus.

We are pleased that “the community impact analysis must describe how the plan for the proposed charter school take into account the student demographics of the schools from which students are, or would be, drawn to attend the charter school” and provide “evidence that demonstrates that the

number of charter schools proposed to be opened, replicated, or expanded under the grant does not exceed the number of public schools needed to accommodate the demand in the community.”

We appreciate the language that states, “The community impact analysis must also describe the steps the charter school has taken or will take to ensure that the proposed charter school would not hamper, delay, or in any manner negatively affect any desegregation efforts in the public school districts from which students are, or would be, drawn or in which the charter school is or would be located, including efforts to comply with a court order, statutory obligation, or voluntary efforts to create and maintain desegregated public schools...”

Including an impact analysis will help reviewers make better decisions about selecting schools for awards. We suggest that the impact analysis requirements include a profile of the students with disabilities and English learners in the community along with an assurance that the applicant will provide the full range of services and staffing to meet the needs of all students with disabilities and English language learners.

Prohibit CSP Funds Going to For-Profit CMOs and Ensure Arm’s Length Transactions

We also support the Department’s attempt to ensure that charter schools operated by for-profit management corporations do not receive CSP grants:

- (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.

The relationship between a for-profit management organization is quite different from the relationship between school district vendors who provides a single service. A public school can sever a bus contract and still have a building, desks, curriculum, and teachers that are needed to continue operation.

In recent years, many out-of-state operators have tried to come into Texas to get new charters. Although these CMOs have been largely non-profit, some of the management contracts outsource 15 percent of Texas state revenues to these out-of-state entities to run their charters in Texas from afar. There is very little transparency on the CMOs’ spending of these public funds. We support the sections in the rules that would increase CMO transparency, such as the requirement to post the CMO agreement on the charter website each year and the disclosure of related parties that do business with the CMO. We would ask that the rules include this transparency for both non-profit and for-profit CMOs.

Finally, we ask ED to prohibit any CSP funds to be paid to a for-profit entity that is a related party to any CMO (for-profit or non-profit). Please ensure arm’s length transactions to properly safeguard the use of public funds.

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

The following 21 Texas organizations support these comments:

Texas Association of School Boards (TASB)
Texas Association of School Administrators (TASA)
Association of Texas Professional Educators (ATPE)
Coalition for Education Funding
Every Texan
Fast Growth School Association
Go Public
Intercultural Development and Research Association (IDRA)
Pastors for Texas Children
Raise Your Hand Texas
Texas American Federation of Teachers (Texas AFT)
Texas Association of Community Schools (TACS)
Texas Association of Latino Administrators and Superintendents (TALAS)
Texas Association of Midsize Schools (TAMS)
Texas Association of Rural Schools (TARS)
Texas Classroom Teachers Association (TCTA)
Texas Elementary Principals and Supervisors Association (TEPSA)
Texas Rural Education Association (TREA)
Texas State Teachers Association (TSTA)
Texas School Alliance (TSA)
Texas Urban Council (TUC)