



## UNITED STATES DEPARTMENT OF EDUCATION

September 28, 2015

Dear Colleague:

The United States Department of Education (Department) is dedicated to helping every student, regardless of his or her background, receive an excellent education. Supporting high-quality public schools, including public charter schools, is essential to achieving our mission. Public charter schools now educate almost three million students,<sup>1</sup> and show promise in doing so.<sup>2</sup> As with all public schools receiving Federal funds, strong fiscal monitoring and oversight of public charter schools is critical to ensuring that charter schools have appropriate internal controls regarding use of Federal funds. When paired with comprehensive State accountability systems, this monitoring and oversight will help public charter schools provide an excellent education to an increased number of students across the United States.

We write today to remind SEAs of your role in helping to ensure that Federal funds accessed by public charter schools are used for intended, appropriate purposes. We also remind SEAs that the Department serves as an important resource to help with this important task.

As public schools, charter schools are eligible to receive assistance from a wide range of Federal education programs. For example, under the Elementary and Secondary Education Act of 1965, as amended (ESEA), eligible charter schools may apply for funds under Titles I and III (the latter assisting students who are English learners). Similarly, eligible charter schools are entitled to receive formula grant funds under Part B of the Individuals with Disabilities Education Act (IDEA) to assist in providing a free appropriate public education (FAPE) to eligible students with disabilities. Additionally, the Department provides support specifically targeted to charter schools through its Charter Schools Program (CSP), which has invested over \$1 billion since 2009 in grants to SEAs, charter management organizations (CMOs), and charter school operators to support new and substantially expanding charter schools.<sup>3</sup>

Although many charter schools are managed effectively and demonstrate promising results, the Department's Office of Inspector General's (OIG's) recent semiannual reports to Congress (<http://www2.ed.gov/about/offices/list/oig/sarpages.html>) have identified examples of conflicts of interest

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<sup>1</sup> Since 1999, the number of charter schools operating in the United States has quadrupled from 1,500 to 6,700, often with the support of Federal funds. "The State of the Charter School Movement," Bellwether Education Partners, Sept. 2015

<sup>2</sup> Recent studies show that charter schools in urban areas have produced strong results for students in need. For example, a 2015 study by the Center for Research on Education Outcomes found that urban charter students receive the equivalent of roughly 40 days of additional learning per year in math and 28 additional days of learning per year in reading.

<sup>3</sup> SEAs that provide Federal education funds to charter schools bear primary responsibility for ensuring that those funds are spent in accordance with program requirements and that program objectives are met. Additional information regarding Title I and charter schools is available at: <http://www.ed.gov/policy/elsec/guid/cschoools/cguidedec2000.pdf> (allocations of Federal funds to new and significantly expanded charter schools); and at: <http://www2.ed.gov/programs/titleiparta/charterschlallocationreq.pdf> (applying the Title I hold harmless provisions to new and significantly expanded charter school LEAs).

between charter schools and their management organizations, and examples of charter schools with problematic fiscal and management practices. We recognize that it can be challenging for SEAs to exercise appropriate oversight with the rapidly growing number of charter schools and their relationships with authorized public chartering agencies (“authorizers”), nonprofit CMOs, and for-profit educational management organizations (EMOs), especially given the relative autonomy of public charter schools. The relationships with EMOs, which do not receive Federal funds directly (as they, unlike CMOs, are for-profit entities), can pose particular challenges in monitoring and oversight. As with other public schools, however, SEAs should take steps to monitor and help correct poor management practices in charter schools.

Suggested areas where States may play a helpful role are listed below:

*Operational Oversight:* Operational oversight of charter schools receiving Federal funds should include regular independent audits which are filed with the respective authorizer and SEA, as well as review of charter school governing boards for conflicts of interest, related party transactions, and appropriate segregation of duties, to ensure that CMOs and EMOs provide effective and efficient management services to charter schools at a reasonable cost.

*CMO/EMO Relationship Transparency:* The relationship of charter schools to management organizations (especially EMOs and other organizations that provide fee-generating management services to charter schools) requires effective oversight to ensure that charter schools provide the best quality services and benefits to their students. By increasing transparency and oversight regarding these relationships, and ensuring that appropriate corrective actions are taken when conflicts of interest arise, States can help ensure that charter schools use their public funds—including Federal funds—properly.

*Strong Authorizing Practices:* Effective monitoring of charter authorizers is critical for both reducing poor management practices and increasing the number of high-quality charter schools operating across the United States. Some States have developed promising approaches to meet this challenge. For example, several States have amended their charter school laws to help improve authorizing practices. These States have strengthened authorizing practices by imposing sanctions or revoking chartering authority of authorizers that fail to meet certain requirements in their performance contracts, requiring current authorizers to go through State evaluations to be renewed as authorizers, and/or requiring authorizers to produce annual public reports on the performance of their public charter schools.<sup>4</sup> As the charter school sector grows, States can play an important role in holding authorizers accountable and ensuring that they authorize charter schools that demonstrate both operational and academic quality.

In addition, across all of these grant-making programs, charter schools have civil rights responsibilities pursuant to Federal civil rights laws. SEAs have, as a matter of Federal law, an obligation to ensure that any charter school to which it provides a charter, money (regardless of whether they are Federal or State funds), or other significant assistance, is not discriminating on the basis of race, color, national origin, sex, or disability. States can designate other agencies -- in addition to SEAs and charter school authorizers -- to take, investigate, and resolve complaints of discrimination by charter schools. For more information regarding civil rights responsibilities in this area, see the Department’s Office for Civil Rights’ Dear

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<sup>4</sup> Lin, Margaret, “Holding Public Charter Schools Accountable.” May 2015, National Alliance for Public Charter Schools and National Association of Charter School Authorizers.

Colleague Letter concerning the applicability of Federal civil rights laws to charter schools, available at: <http://www.ed.gov/ocr/letters/colleague-201405-charter.pdf>.

### *Support from the Department*

Going forward, the Department will work with the Office of Management and Budget (OMB) and OIG to revise the government-wide guidance provided to auditors in OMB's annual "Compliance Supplement," as it relates to Federal education program funds received by charter schools. This revised guidance will help ensure that the single, organization-wide audits of State and local agencies provide a deeper review of State and local oversight of charter schools and their management practices, especially as they relate to Federal program funds. OMB provides this guidance to auditors who perform audits of State and local entities and educational institutions (those with \$750,000 or more in Federal expenditures in a fiscal year) under the Single Audit Act. The Compliance Supplement helps auditors review how SEAs, local agencies, and educational institutions fulfill their roles and responsibilities with respect to the administration of Federal education programs. Enhancing the Compliance Supplement with respect to Federal funds awarded to charter schools will help the auditors review whether appropriate controls are in place and how well charter schools administer Federal program funds.

The Department's program offices also are available to help States as they oversee and monitor the use of Federal funds by charter schools:

*The Office of State Support:* As part of a regular performance review cycle, the Department's Office of State Support, within the Office of Elementary and Secondary Education, plans to assess and monitor SEAs' current procedures and protocols to ensure that SEAs and charter schools follow applicable laws and regulations when administering Federal education programs. They can also provide guidance and technical assistance in these areas as well.

*The Office of Innovation and Improvement (OII):* OII provides monitoring, guidance and technical assistance in a number of areas related to charter schools and CSP grant administration, some of which is attached in **Appendix A**. For the fiscal year 2015 CSP SEA grant competition, OII also established priorities designed to provide incentives for SEAs to take steps to ensure high-quality monitoring and authorizing practices.

*The Office of Special Education and Rehabilitative Services (OSERS):* For States with charter schools that are considered to be local educational agencies (LEAs) and receive funding under IDEA, we encourage the SEA's State Director of Special Education and other special education officials in the State, in addition to monitoring, to contact and maintain communication with charter school representatives. These officials can provide information and assistance regarding a specific State's policies and procedures in implementing IDEA requirements for charter schools. Additionally, OSERS provides monitoring, guidance, and technical assistance on these matters as they relate to the administration of IDEA.

Finally, in **Appendix A**, we list several additional resources for States, and specifically SEAs, to consult as they consider improvements to their monitoring and oversight procedures for charter schools. We also strongly encourage States, local authorities, and authorizers to share their promising or best practices in this area with the Department so that we can help disseminate these practices to other States, authorizers,

and charter school operators. Please let us know if you have further questions on these matters or need further technical assistance.

As with all public schools, it is important that States and the Department take steps to assist charter schools in providing high-quality educational services to students and to ensure the proper and efficient use of Federal education funds. These steps include, but are not limited to, monitoring charter schools' use of such funds and including charter schools in State accountability systems. Working together, we can ensure that Federal funds supporting charter schools are used for their intended purposes—helping students succeed.

Sincerely,

/s/

Nadya Chinoy Dabby  
Assistant Deputy Secretary  
for Innovation and Improvement

/s/

Ann Whalen  
Senior Advisor to the Secretary Delegated the  
Duties of Assistant Secretary  
for Elementary and Secondary Education

/s/

Michael Yudin  
Assistant Secretary  
for Special Education and Rehabilitative Services

**APPENDIX A**

**BEST PRACTICES RESOURCES<sup>5</sup>**

**(1) Principles and Standards for Quality Charter School Authorizing:**

<http://www.qualitycharters.org/for-authorizers/principles-and-standards/>

**(2) Charter School Accountability:**

<http://www.publiccharters.org/publications/charter-school-accountability/>

**(3) Holding Public Charter School Authorizers Accountable:**

<http://www.publiccharters.org/publications/authorizer-accountability/>

**(4) Office of Innovation and Improvement Resources, as provided by the National Charter School Resource Center:**

SEA Data Management Tools for Risk-Based Monitoring	<a href="http://www.charterschoolcenter.org/webinar/sea-webinar-five-data-management-tools-risk-based-monitoring">www.charterschoolcenter.org/webinar/sea-webinar-five-data-management-tools-risk-based-monitoring</a>
Charter School Closure	<a href="http://www.charterschoolcenter.org/webinar/sea-webinar-three-charter-school-closure">www.charterschoolcenter.org/webinar/sea-webinar-three-charter-school-closure</a>
Measuring Authorizer Quality	<a href="http://www.charterschoolcenter.org/webinar/sea-webinar-two-measuring-authorizer-quality">www.charterschoolcenter.org/webinar/sea-webinar-two-measuring-authorizer-quality</a>
SEA Financial Management and Fiscal Controls	<a href="http://www.charterschoolcenter.org/webinar/sea-webinar-one-financial-management-and-fiscal-controls">www.charterschoolcenter.org/webinar/sea-webinar-one-financial-management-and-fiscal-controls</a>
Virtual Schools Accountability	<a href="http://www.charterschoolcenter.org/webinar/sea-community-practice-virtual-schools-accountability">www.charterschoolcenter.org/webinar/sea-community-practice-virtual-schools-accountability</a>
Performance Frameworks	<a href="http://www.charterschoolcenter.org/webinar/sea-community-practice-performance-frameworks">www.charterschoolcenter.org/webinar/sea-community-practice-performance-frameworks</a>

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<sup>5</sup> We present a listing of these resources for your convenience. This list does not represent an official endorsement of these documents or statements made therein. Rather, these are offered as possible starting places for SEAs and others as they work to improve charter school accountability and oversight.