The National Coalition on School Diversity

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Federally Funded Charter Schools Should Foster Diversity

Issue Brief 2

The Administration's "Blueprint For Reform," and FY 2011 budget proposal set forth an education agenda that would make the expansion of charter schools a cornerstone of the reauthorized Elementary and Secondary Education Act (ESEA). Likewise, HR 4330 would promote charter schools as a central catalyst for education reform. Without clearer guidelines, charter school expansion could exacerbate racial and socio-economic isolation, and would also miss an opportunity to promote diversity. The following recommendations urge Congress to pair federal support for charter school expansion with incentives that would create and sustain racially, economically and linguistically diverse charter schools; safeguards to ensure that the civil rights of all children are protected; and funding increases that would provide for the expansion or replication of effective, diverse magnet school models.

The ESEA should add incentives for diversity in federally funded charter schools: Neither the Administration's "Blueprint" nor HR 4330 contain language promoting diversity in charter schools. Yet, racially diverse educational settings are strongly associated with academic and social benefits for students of all racial groups.[1] Racial and economic diversity furthers the ESEA's central purpose of helping students reach proficiency, and college and career readiness – and all students need to learn to work effectively across racial and ethnic lines for the future health of our shared democracy and our increasingly multiracial nation. Therefore, whether a charter school provides a diverse educational environment should be included among the evaluation criteria in determining which charter schools or operators are considered "effective"[2] or of "high-quality,"[3] for the purpose of federally funded replication or expansion.

The reauthorized ESEA should ensure that federally funded charters do not contribute to increasing socio-economic and racial isolation: Just as research demonstrates the benefits of diversity, it also demonstrates the harm of racial isolation and concentration of poverty.[4] Unfortunately our nation's schools are becoming increasingly racially and socio-economically isolated, equivalent to levels of segregation witnessed in the late 1960's.[5] Charter schools are currently adding to this racial and socioeconomic isolation, as well as increased isolation of English learners and students with disabilities.[6] Especially problematic is the extreme isolation of African Americans in charters, which is occurring at a much higher rate than in regular public schools.[7] Federal policy supporting charter school expansion should contain explicit safeguards to prevent racial and socio-economic isolation from intensifying.[8] These safeguards should include restrictions against new charter schools that lack free transportation or federal lunch support, as their absence is associated with white flight from diverse public schools.[9] The legislative proposals before Congress currently lack such safeguards.

Where federal law encourages charter school creation it should also provide incentives to locate new schools strategically to counter growing racial and socio-economic isolation: If new charters were located to offer opportunities across traditional district boundaries[10] and with federal support for cross-district transportation and outreach to a diverse student body (including English Learners and students with disabilities), charter schools could help reduce racial and socio-

economic isolation.[11] Any new federal law should add incentives to site charter schools that serve two or more districts and to encourage the adoption of diversity goals similar to those required of federally funded magnet schools.[12]

The ESEA should ensure that a charter school is not the only option offered to students attending a failing school. Under current law, a transfer option is supposed to be provided (with free transportation) to students attending schools that persistently fail to make AYP.[13] However, the Administration's Blueprint makes no explicit reference to either students' transfer rights or the necessary funding for transportation.[14] Without a viable transfer option, a charter "restart" might be the only choice offered to students in a failing school. Providing only one option would undermine the principle of choice essential to the role of charters as instruments of reform. To provide true choices, the reauthorized Act should retain ESEA's transfer opportunities for students in failing schools, and include more diverse educational settings among transfer options where feasible. To ensure the viability of such choices, transportation should be provided with additional federal funds, charter schools must permit students from more than one district to enroll, charter "restarts" should not adopt enrollment policies that replicate pre-existing high concentrations of poverty by limiting admissions to neighborhood residents. Most importantly, federal policy should incentivize and reward voluntary "inter-district cooperative agreements" that explicitly seek to reduce racial and socio-economic isolation (including, but not limited to, agreements that arise out of accountability requirements and involve charter schools).[15]

Federally funded charter schools should be expected to serve roughly proportionate numbers of English Learners (ELs), and students with disabilities. New research on charter schools shows a high frequency of underrepresentation of both groups.[16] In districts where charter schools have a history of serving disproportionately low numbers of ELs or students with disabilities, federal law should ensure that there is robust outreach to these underserved populations. Toward this end, the reauthorized Act should add funding for improving such outreach, with all information provided in the major home languages spoken in the districts served.[17] Moreover, the ESEA needs to add safeguards to ensure that federally funded charter schools enroll ELs and students with disabilities in numbers roughly proportionate to the numbers found in the public school district or district(s) served.

Only charter schools that provide accurate and comprehensive data to the public should be considered for replication: Once performance is adjusted by race, class, disability status and EL status, charters have had mixed results.[18] Similarly, adjustments for school attrition are very important in any quality analysis of school performance, because students who leave a choice school may be very different than those who stay.[19] Recent studies suggesting some benefits associated with charter schools were unable to account for the potential impact of school attrition.[20] Where replication of effective charters is the goal, we need more comprehensive and accurate information to distinguish truly effective charters from those that add no benefits when poverty and other factors are taken into account. Moreover, additional safeguards are needed to address this key incentive problem — to prevent schools that transfer out low-scoring students from gaining a competitive edge over schools that retain such students or receive transfers of low scoring students from other schools. Specifically, federal law should not consider for replication those charter schools or operators with high rates of student attrition or disciplinary removal. Moreover, the ESEA should require all public charter schools to be monitored on attrition and discipline rates and other factors to protect the civil rights of students.

Annual oversight and accountability are needed to ensure that federally supported charter schools meet civil rights requirements: Secretary Duncan recently announced that there will be greater attention to disparate impact in DOE oversight, and that new guidance for states and districts will be issued regarding non-compliance with Title VI, Title IX and Section 504.[21] Toward these goals, we urge the Congress to direct the administration to promulgate and disseminate civil rights guidance to states and districts on charter schools similar to the OCR guidance that was archived by the previous administration.[22]

Federal funding for charter schools should be extended to include magnet schools: The current law pertaining to magnets gives priority to districts that specify how magnet schools will reduce racial isolation, and to magnet schools that have been effective.[23] Unfortunately, while the President's proposed budget and "Blueprint" call for dramatic increases in funding for charter schools, similarly effective magnet schools would only receive a small increase.[24] Yet many magnet schools have very explicit requirements that ensure they promote diversity.[25] By increasing its support of magnet schools Congress would foster additional "proven effective" choice opportunities and promote greater diversity.

The National Coalition on School Diversity is a network of national civil rights organizations, university-based research institutes, local educational advocacy groups, and academic researchers seeking a greater commitment to racial and economic diversity in federal K-12 education policy and funding.

Endnotes

1 For an overview of the research literature, see Rosyln Mickelson, *Twenty-first Century Social Science on School Racial Diversity and Educational Outcomes*, 69 Ohio St. L.J. 1173 (2008).

2 See U.S. Department of Education, *A Blueprint For Reform: The Reauthorization of the Elementary and Secondary Education Act*, p. 37 (March 2010) [Hereinafter "Blueprint"].

3 See e.g., H.R. 4330 Section 2.

4 R. Balfanz & N. Legters, "Locating the Dropout Crisis: Which High Schools Produce the Nation's Dropouts?" in Dropouts in America: Confronting the Graduation Rate Crisis, ed. Gary Orfield (Cambridge, Mass.: Harvard Education Press, 2004): 85-106; K. Borman, et al., "Accountability in a Postdesegregation Era: The Continuing Significance of Racial Segregation in Florida's Schools," American Educational Research Journal, 41, no. 3 (2004): 605-31; Douglas Massey, Camille Charles & Gniesha Dinwiddie, The Continuing Consequences of Segregation: Family Stress and College Academic Achievement, 86 Soc. Sci. Q. 509 (2007); Douglas N. Harris, How Do School Peers Influence Student Educational Outcomes?, 112 Tchrs. C. Rec. __(forthcoming 2010). Argun Saatcioglu, Disentangling School and Student-Level Effects of Desegregation and Resegregation on the Dropout Problem in Urban High Schools: Evidence from the Cleveland Municipal School District, 1977-1998, 112 Tchrs. C. Rec. (forthcoming 2010). See also, U.S. Civil Rights Commission, *Racial Isolation in the Public Schools of the North and West*, (Washington, DC, 1967); Douglas Harris, "Lost Learning, Forgotten Promises: A National Analysis of School Racial Segregation, Student Achievement and "Controlled Choice" Plans," (Washington DC: Center For American Progress, 2006); Mark Berends & Roberto Penaloza, Increasing Racial Isolation and Test Score Gaps in Mathematics: A 30-Year Perspective, 112 Teachers College Record_ (forthcoming 2010).

5 Approximately 40 percent of Black and Latino students attended schools that were 90-100 percent minority in 2006-07 while whites remained the most isolated from students of any racial group, and less than one in four students in the typical white students' school is of another race. See G. Orfield, *Reviving the Goal of an Integrated Society: A 21st Century Challenge* (Los Angeles: Civil Rights Project/Proyecto Derechos Civiles, UCLA:, January 2009) (Table 7). See also G. Orfield & E. Frankenberg, *The Last Have Become First: Rural and Small Town America Lead the Way on Desegregation* (Los Angeles: Civil Rights Project/Proyecto Derechos Civiles, January, 2008); Charles T. Clotfelter, *After Brown: The Rise and Retreat of School Desegregation* (Princeton, N. J.: Princeton Univ. Press, 2004).

6 Miron, G., Urschel, J. L., Mathis, W, J., & Tornquist, E. (2010). *Schools without Diversity: Education Management Organizations, Charter Schools and the Demographic Stratification of the American School System*. Boulder and Tempe: Education and the Public Interest Center & Education Policy Research Unit. Retrieved March 19, 2010 from http://epicpolicy.org/publication/schools-without-diversity; see also E. Frankenberg, G. Siegel-Hawley, & J. Wang, *Choice Without Equity: Charter School Segregation and the Need for Civil Rights Standards* (Los Angeles: Civil Rights Project/ Proyecto Derechos Civiles, February, 2010).

7 Finnegan, K., Adelman, N., Anderson, L., Cotton, L., Donnelly, M. B., & Price, T. (2004). Evaluation of Charter Schools Program: 2004 Final Report. U.S. Department of Education. Policy and Programs Study Service. Retrieved 10/28/09 at http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/29/d8/04.pdf; E. Frankenberg, G. Siegel-Hawley, & J. Wang, *Choice Without Equity: Charter School Segregation and the Need for Civil Rights Standards* (Los Angeles: Civil Rights Project/ Proyecto Derechos Civiles, February, 2010).

8 The provision of these safeguards was sanctioned by the controlling opinion in *PICS*, which found diversity to be a compelling educational interest. Opinion of J. Kennedy, in *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701 (U.S. 2007): p. 101.

9 E. Frankenberg, G. Siegel-Hawley, & J. Wang, *Choice Without Equity: Charter School Segregation and the Need for Civil Rights Standards* (Los Angeles: Civil Rights Project/ Proyecto Derechos Civiles, February, 2010).

10 For example, one study found that when charter schools drew from outside their local district they were more promising in terms of providing racially integrated schools in comparison to traditional public schools. Ni, Y. (2007). *Are Charter Schools More Racially Segregated Than Traditional Public Schools?* East Lansing: Michigan State University, Education Policy Center, Policy Report 30.

11 A study in Arizona found, for example, that a charter school enrolled students from more than 20 different public school districts. M. Gifford, M. Ogle, & L. Solomon, *Who is Choosing Charter Schools? A Snapshot of Geography and Ethnicity of Charter School Students* (Center for Market-based Education, 2009); E. Frankenberg & G. Siegel-Hawley, *Equity Overlooked: Charter Schools and Civil Rights Policy* (Los Angeles: Civil Rights Project/ Proyecto Derechos Civiles, 2009); S. Eaton & G. Chirichigo, "Charters Must Commit to Diversity," *Boston Globe*, 19 July 2009.

12 In the ESEA, federally supported magnet schools, for example, are required to have explicit goals of increas-

ing diversity. Charter schools that adopt these or similar goals should be given a competitive advantage when applying for limited federal charter school grants.

13 According to a 2004 report by the Citizens' Commission on Civil Rights, the transfer opportunity "resulted in desegregation by race/ethnicity and income" in at least five districts in Alabama and at least three districts in South Carolina. Cynthia G. Brown, *Choosing Better Schools: A Report on Student Transfers Under the No Child Left Behind Act*, at 8., Piche and Taylor Eds., Citizens' Commission on Civil Rights (2004). However, although the number of transfers were rising, "there were significantly greater transfer requests than actual transfers...." Id at 6. The report also concluded that free transportation was critical to successful implementation. Id at 59.

14 The Blueprint describes a "Restart Model" that would reopen a failing school "under the management of an "effective charter operator…." Blueprint, supra note 2 at p. 12. HR 4330 references the extant accountability provisions of the ESEA that include re-opening a schools as a charter as one of several choices of "alternative governance" that must be implemented when a school persistently fails to make AYP. 20 U.S.C. Section 6316(b)(8).

15 HR 4330 specifically proposes federal funding preferences for charter schools that are part of extant interdistrict cooperative agreements. See HR 4330 Section 5, Part 4 (L). These agreements, however, are only used when accountability triggers give students from failing schools transfer opportunities to attend schools making AYP, but where there are no such schools within a district. See 20 U.S.C. 6316(b)(11). The Blueprint For Reform is less specific, but calls for greater support for inter and intra-district choice options. Blueprint, *supra* note 2 at p. 38. These proposals should be strengthened in the reauthorized ESEA to give incentives to any interdistrict cooperative agreements that explicitly promote diversity or are designed to reduce racial and socio-economic isolation.

16 Miron, G., Urschel, J. L., Mathis, W, J., & Tornquist, E. (2010). *Schools without Diversity: Education Management Organizations, Charter Schools and the Demographic Stratification of the American School System.* Boulder and Tempe: Education and the Public Interest Center & Education Policy Research Unit. Retrieved March 19, 2010 from http://epicpolicy.org/publication/schools-without-diversity;Welner, K.G., & Howe, K.R. (2005). Steering toward separation: The evidence and implications of special education students' exclusion from choice schools. In J. Scott (Ed.), *School choice and diversity* (pp. 93-111). New York: Teachers College Press.

17 In Boston, for example, the *Boston Globe* reports a major new outreach campaign to recruit immigrant families to Boston schools by a coalition of the city's 14 charter schools to attract more EL students. This would bring the schools in closer alignment with the percentage of EL students served by the district which is nearly 20% compared to less than 4% in all but one of the charter schools. See James Vaznis, "Charter Schools Start Recruiting Drive", *The Boston Globe* (January 30, 2010) available at: http//www.boston.com/news/education/k_12/articles/2010/01/30/charter_schools_start_recruiting_drive/

18 Center for Research on Educational Outcomes. "Multiple Choice: Charter School Performance in Sixteen States" (Stanford: CREDO). Retrieved 11/2/09 at http://credo.stanford.edu/reports/MULTIPLE_CHOICE_CREDO.pdf; R. Zimmer,t al., *Charter Schools in Eight States: Effects on Achievement, Attainment, Integration, and Competition*. (Santa Monica, CA: Rand Corporation, 2009); THOMAS KANE, ET AL., INFORMING THE DEBATE. COMPARING BOSTON'S CHARTER, PILOT AND TRADITIONAL SCHOOLS (2009), available at http://www.gse.harvard.edu/~pfpie/pdf/InformingTheDebate_Final.pdf. Thomas Kane responded to the use of this report to support broad charter school expansion, commenting that "Our report did not offer a blanket endorsement of charter schools. Indeed, our failure to find robust effects ofthe pilot schools (particularly in middle school grades) should be a warning that additional flexibility for schools does not ensure results for kids." Thomas Kane, Harvard Graduate School of Education, *Professor Kane Comments on Mayor Menino's Charter School Initiative*, http://www.gse.harvard.edu/blog/news_features_releases/2009/06/professor-kane-comments-on-mayormeninos-charter-school-initiative.html. INSTITUTE ON RACE AND POVERTY, FAILED PROMISES: ASSESSING CHARTER SCHOOLS IN THE TWIN CITIES (2008), available at http://www.irpumn.org/uls/resources/projects/2_Charter_Report_Final.pdf. Minnesota is the state with the longest history of charter schools. The IRP analysis finds: "Despite nearly two decades of experience, charter schools in Minnesota still perform worse on average than comparable traditional public schools. Although a few charter schools perform well, most offer low income parents and parents of color an inferior choice—a choice between low-performing traditional public schools and charter schools that perform even worse." Id. at 1. The report goes on to state that "charter schools have intensified racial and economic segregation in [Minneapolis and St. Paul schools]." Id. Similarly, Carnoy, Jacobsen, Mishel and Rothstein found that in Florida, Michigan, Texas and Pennsylvania, test scores in charter schools that had been operating for more than three years did no better than public schools did. In Michigan, three studies found lower test score levels in charters than in similar public schools. MARTIN CARNOY ET AL., *supra*

note 1, at 43. In North Carolina, a study of students who had attended both charters and public schools demonstrated that the students did far less well in charter schools. Id. at 44.

19 Henig, J. (2008). *What do we know about the outcomes of KIPP schools?* Boulder and Tempe: Education and the Public Interest Center & Education Policy Research Unit. Retrieved March 19, 2010 from http://epicpolicy.org/publication/outcomes-of-kipp-schools; Multicultural Education, Training and Advocacy (META). Charter Schools and English Language Learners in Massachusetts: Policy Push without the Data (2009). Retrieved 11.2.09 at http://www.edweek.org/media/metacharterschoolbrief.pdf

20 Multicultural Education, Training and Advocacy (META). Charter Schools and English Language Learners in Massachusetts: Policy Push without the Data (2009). Retrieved 11.2.09 at http://www.edweek.org/media/metacharterschoolbrief.pdf

21 In testimony before Congress, on March 17, 2010. In his testimony, Secretary Duncan explained that "indirect discrimination" referred to unintended "disparate impact" from otherwise neutral policies and practices.

22 See U.S. Department of Education, *Applying Federal Civil Rights Laws to Public Charter Schools*, (Archived Information) Retrieved 3/23/2010 at http://www2.ed.gov/offices/OCR/archives/charterqa/charadmin.html.

23 Until this latest funding cycle, over the years, however, MSAP funding priorities had become so varied that the emphasis on eliminating racial isolation had gradually lessened. E. Frankenberg & C.Q. Le, "The Post-Seattle/Louisville Challenge: Extra-Legal Obstacles to Integration," *Ohio State Law Journal*, vol. 69 no. 5 (2008): 1015-1072.

24 E. Frankenberg & G. Siegel-Hawley, *The Forgotten Choice: Rethinking Magnet Schools in a Changing Landscape* (Los Angeles: Civil Rights Project/ Proyecto Derechos Civiles, 2008);

25 Id.

For more information on the National Coalition on School Diversity, go to www.school-diversity.org