



U.S. Department of Education
Promoting educational excellence for all Americans.



Office of Innovation and Improvement
CHARTER SCHOOLS PROGRAM
September 15, 2005

Secretary Spellings and the Department have undertaken a number of initiatives to help Americans impacted by Hurricane Katrina, including ongoing communication with states and local education officials to determine the full range of student- and school-related needs; working on a plan to marshal funds to affected schools and colleges in the Gulf Region as well as schools taking in displaced students; and also assisting college students and institutions of higher education with needs related to federal student aid. Secretary Spellings has committed to being as flexible as possible in order to assist displaced students and the states directly impacted by Hurricane Katrina. The Secretary and the Department will do everything they can to help students continue their education, and restore some order and normalcy to their lives.

To further support states and their charter schools to meet the growing educational needs of families and their children affected by Katrina, States may submit requests for statutory and regulatory waivers of various requirements under the CSP and other federal statutes and regulations over which the Secretary of Education exercises administrative authority. If you have questions or need further technical assistance, please contact Dean Kern, Charter Schools Program Director, dean.kern@ed.gov

September 14, 2005

Dear Colleague:

The U.S. Department of Education is continuing to work with States and schools to ensure that the children affected by Hurricane Katrina continue their education with the least disruption. In recent days, officials from several States have contacted the Department's Charter Schools Program (CSP) staff, seeking increased flexibility to serve the thousands of students displaced by Hurricane Katrina.

Because charter schools are exempt from many State and local education rules, they may be uniquely equipped to serve these students. Accordingly, the Department is prepared to consider requests for statutory and regulatory waivers of various requirements under the CSP and other federal statutes and regulations over which the Secretary of Education exercises administrative authority.

In addition, the Department has identified approximately \$20 million of Fiscal Year 2005 funds still available under the CSP, which the Department would like to use to assist States and their charter schools to meet the immediate educational needs of students displaced as a result of Hurricane Katrina.

Enclosed please find guidance on the process for requesting CSP supplemental funds and waivers. Written requests for supplements must be submitted to the Department on or before **September 23, 2005**, to ensure consideration and allow the Department sufficient time to review the requests and obligate the funds by their expiration date of September 30, 2005.

Thank you for your diligent efforts to assist displaced families and students affected by Hurricane Katrina. If you have any questions please call Nina Rees, Assistant Deputy Secretary for Innovation and Improvement, at (202) 205-4500. We look forward to working with you in the days and weeks ahead.

Sincerely,

Margaret Spellings

Guidance for Requesting Supplemental Funds and Waivers Under the Charter Schools Program

A State or charter school grantee with an approved Charter Schools Program (CSP) application may submit a request for a waiver of statutory or regulatory requirements described below to further expedite educational services to students displaced by Hurricane Katrina. The request should describe each statutory or regulatory requirement of which the State or charter school grantee is seeking a waiver, along with an explanation of how the waiver will assist in meeting the educational needs of displaced students and their families. In addition, a State or charter school grantee with an approved CSP application may submit a written request for supplemental CSP funds to educate students displaced by Hurricane Katrina. Written requests for supplements must be submitted to the Department on or before **September 23, 2005**.

Written requests for supplemental funds or waivers should be sent directly to Dean Kern, CSP Director, Office of Innovation and Improvement, at dean.kern@ed.gov or faxed to (202) 205-5630. For technical assistance or additional information, please contact Mr. Kern at (202) 260-1882 or by email.

Waivers

In general, under the CSP, the Secretary is authorized to waive "any statutory or regulatory requirement" over which she exercises administrative authority if the waiver "is requested in an approved application" and the Secretary determines that the waiver "will promote the purpose" of the CSP. In the context of the CSP, this waiver authority applies to the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001; the Education Department General Administrative Regulations (EDGAR); and other Federal statutes and regulations over which the Secretary exercises administrative authority. However, the Secretary is expressly prohibited from waiving any requirements relating to the elements of a "charter school" as that term is defined in section 5210(1) of the ESEA. Examples of requirements for which a State may wish to request a waiver include: (1) the requirement that a charter school receive only one CSP startup grant; and (2) the requirement that a charter school limit its planning activities to no more than 18 months and its implementation activities to no more than two years.

Supplemental CSP Funds

CSP grantees that enroll and educate these displaced students may submit written requests for supplements to their existing grants. If your State or school could use funds for that purpose, please submit a request for supplemental funding, and include in that request the following: (1) a description of your State's or school's immediate need for additional CSP funds to enroll quickly and educate displaced students, including, for States, a description of how your agency will expedite the distribution of funds to charter schools serving displaced students; (2) a description of the ability of the charter school(s) to meet the educational needs of the displaced students; and (3) a description of the capacity

of the charter school(s) to provide high-quality educational services to displaced students.

Expedited, Weighted Lottery

Charter schools receiving CSP grants must hold a lottery if more students apply for admission than can be accommodated. However, a new charter school established, or an existing charter school expanded, for the specific purpose of educating students displaced as a result of Hurricane Katrina may conduct a weighted lottery that gives priority to displaced students. For example, displaced students might receive two or more chances to be selected through the lottery, while all other students would have only one chance to gain admission. In addition, a charter school that has a CSP grant and that has sufficient space available to accommodate all applicants for admission is not required to conduct a lottery.

In general, when offering spaces to students, charter schools should take a variety of actions to invite all students and parents in the community to participate. Under normal circumstances, this process involves extensive information dissemination and recruitment activities, which may span several weeks or even months. In order to expedite enrollment of and minimize the disruption of education to displaced students, existing and prospective State and charter school grantees may announce the opening or expansion of a charter school primarily by posting information about the charter school and its admissions process on the websites of the State department of education, the local educational agency, and the charter school, and by distributing flyers or pamphlets to displaced families. A charter school might also find other means of informing parents and potential students to be effective. A charter school may accept applications for admission for a period of time that it or the State determines to be reasonable, in light of the potential disruption to the education of the displaced students.