



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

May 24, 1993

NOTE TO: Tom Corwin  
Sue Craig  
Phil Rosenfelt

FROM: Randy Hansen (RM 4098, FAX 401-3769, TEL 401-2685)

SUBJECT: Draft specifications for elementary and secondary education programs (Magnet and Alternative Curriculum Schools)

Attached for your review is draft legislative language for the Magnet Schools Assistance and the Alternative Curriculum Schools programs of the ESEA. Please give me your comments on this draft by COB Thursday, May 27. After receiving your comments and making any necessary revisions, I will circulate legislative language department-wide. Thank you.

---

Randy Hansen

Attachments

cc: Mr. Kristy  
Mr. Riddle  
Ms. Ellis  
Ms. Heindel

*Tom's Comments.  
5/26 - 10:00*

TITLE III - MAGNET SCHOOLS ASSISTANCE

2 SEC. ---. (a) AUTHORIZATION.--Section 3001 of the Act is  
3 amended--

4 (1) by amending subsection (a) to read as follows--

5 "(a) AUTHORIZATION.--There are authorized to be  
6 appropriated ~~for fiscal year 1994~~ and such sums as may  
7 be necessary for each of fiscal years 1995 through 1998<sup>9</sup> to carry  
8 out this title."; and [Isn't it FY 94-98?] *No, reauthorization will not  
start in until '95.*

9 (2) in subsection (b) (1) (B), by striking out "title  
10 VII of the Education for Economic Security Act, or under this  
11 title," and inserting in lieu thereof "this title".

12 (b) STATEMENT OF PURPOSE.--Section 3003 of the Act is  
13 amended--

14 (1) in paragraph (1), by striking out "and" at the end  
15 thereof;

16 (2) by redesignating paragraph (2) as paragraph (4);

17 and

18 (3) by adding new paragraphs (2) and (3) to read as  
19 follows--

20 "(2) the development and implementation of magnet  
21 schools programs that will assist local educational agencies in  
22 achieving systemic reforms tied to attainment of the National  
23 Education Goals established under Title I of H.R. 1804;

24 "(3) the development and design of innovative  
25 educational methods and practices; and".

(c) USES OF FUNDS.--Section 3006 of the Act is amended--

*Instead to use the  
H.R. number (which  
will be replaced  
by a PL), why  
not use the  
name  
of the Act.*

*Why don't you make a technical change  
in 3004 by changing "part" to "title."*

(1) in paragraph (1), by inserting "the development," immediately before "expansion";

(2) in paragraph (2), by striking out "and" at the end thereof;

(3) in paragraph (3), by inserting at the end thereof "and"; and

(4) by adding a new paragraph (4) to read as follows--

"(4) activities that further the purpose of this Act by benefiting all children within the school [or building?] in which a magnet schools project operates;" *ok*

APPLICATIONS AND REQUIREMENTS.

(c) ~~USES OF FUNDS.~~--Section 3007 of the Act is amended--

(1) in paragraph (6), by inserting before the semi-colon at the end thereof a comma and "including how the proposed magnet schools project will increase interaction among students of different social, economic, ethnic, and racial backgrounds within the entire school or building";

(2) in paragraph (8)--

(A) by inserting before the semi-colon at the end thereof a comma and "such description may include evidence of whether successful magnet schools established or supported through funds under this title have been continued [with non-program resources / with non-Federal funds]"; and [Why not make this a priority or else put in the regs?]

(B) by striking out "and" at the end thereof;

(3) in paragraph (9), by striking out the period at the end thereof and inserting in lieu thereof a semi-colon and "and"; and

*don't think this would be grammatical*

*It should be in the title III resources*

*but CREAs that have never received an award of a competitive grant.*

*He want it more prominent.*

(4) by adding new paragraphs (10) and (11) to read as follows--

3           "(10) to describe how funds will be used to implement  
4 services and activities that are consistent with--

5           (A) the State's systemic reform plan, <sup>if it has been</sup> to the  
6 extent approved by the Secretary, under Title III of H.R. 1804;  
7 and

8           (B) the local educational agency's systemic  
9 reform plan approved by the State Educational Agency under Title  
10 III of H.R. 1804; and

11           "(11) to describe the criteria to be used in selecting  
12 students to attend the proposed magnet schools projects, and  
13 provide an assurance that students residing in the local  
14 attendance area for the proposed magnet schools projects will be  
15 given equitable consideration for slots in those projects;"

16           (d) SPECIAL CONSIDERATION.--Section 3008 of the Act is  
17 amended--

18           (1) by amending the section title to read "PRIORITIES  
19 AND SELECTION CRITERIA";

20           (2) by amending subsection (a) to read as follows--

21           (a) PRIORITIES.--In approving applications under this  
22 title the Secretary shall give priority to applicants--

23           "(1) that have the greatest need for assistance, based  
24 on the expense or difficulty of effectively carrying out an  
25 approved plan and the program or projects for which assistance is  
26 sought;

"(2) that propose new magnets schools <sup>or magnet programs</sup> projects or that would significantly revise existing magnet schools <sup>magnet programs</sup> projects;

"(3) that propose to implement an innovative educational approach that is consistent with the State's and, if applicable, the local educational agency's systemic educational reform plan under Title III of H.R. 1804;

"(4) that propose to select students to attend magnet schools projects by lottery, rather than through academic examination; and

"(5) that propose to draw on comprehensive community plans for educational improvements, school and residential desegregation, and community renewal."; and

(3) by amending subsection (b) to read as follows--

"(b) GEOGRAPHIC DISTRIBUTION.--~~To the extent feasible~~, the Secretary <sup>may</sup> ~~shall~~ ensure that, <sup>to the extent feasible</sup> awards under this title are equitably distributed among the various geographic regions of the United States."

*This should be an authority but not a requirement.*

(d) PROHIBITIONS.--Section 3009 of the Act is amended by striking out "consultants,".

(e) LIMITATIONS ON PAYMENTS.--Section 3010 of the Act is amended--

(1) by amending subsections (a) and (b) to read as follows--

"(a) DURATION OF AWARDS.--Awards made under this title shall be for a term of <sup>up to</sup> four years.

*Don't we still want the language on substituting magnets?*

13  
2 "(b) LIMITATION ON PLANNING FUNDS.--A local educational  
3 agency may expend up to 50 percent of the funds received pursuant  
4 to an award made under this title for planning in the first year  
5 of the project, 25 percent in the second year of the project, and  
6 10 percent in the third year of the project. A local educational  
7 agency shall not expend such funds for planning thereafter."; and

8 (2) by adding a new subsection (d) to read as  
9 follows--

10 "(d) FEDERAL SHARE.--The Federal share of the cost of any  
11 project under this title shall be no more than 100 percent in the  
12 first ~~year~~ and second years of the project, 90 percent in the  
13 third year, and 70 percent in the fourth year."

ALTERNATIVE CURRICULUM SCHOOLS ASSISTANCE

3 SEC. ---. Section 4606 of the Act is repealed.

4 *df - amend*

5 SEC. ---. Section 4610 of the Act is amended--

6 (1) by striking subsection (b); and

7 (2) by redesignating subsection (d) as subsection (b).

8

9



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

*Tom C's Comments.*

May 24, 1993

NOTE TO: Tom Corwin  
Sue Craig  
Phil Rosenfelt

FROM: Randy Hansen (RM 4098, FAX 401-3769, TEL 401-2685)

SUBJECT: Draft specifications for elementary and secondary education programs (WEEA)

Attached for your review is draft legislative language for the Women's Educational Equity Act program of the ESEA. Please give me your comments on this draft by COB Thursday, May 27. After receiving your comments and making any necessary revisions, I will circulate legislative language department-wide. Thank you.

---

Randy Hansen

Attachments

cc: Mr. Kristy  
Mr. Riddle  
Ms. Ellis  
Ms. Heindel

*Randy -  
we may not get you  
our Biligund Eed comments  
until some time Friday.*

*Tom*

WOMEN'S EDUCATIONAL EQUITY ACT

1 SEC. ---. (a) FINDINGS AND PURPOSES.--Section 4001(b)(2) of  
2 the Act is amended, in the first sentence--

3 (1) by striking out "and" immediately following  
4 "United States" and inserting in lieu thereof a comma; and

5 (2) by inserting before the period a comma and "and to  
6 help ensure that women and girls have equal opportunity to  
7 achieve <sup>to</sup> high standards so that the Nation can attain the National  
8 Education Goals set out in Title I of <sup>the Goals 2000 Educate America Act</sup> ~~H.R. 1804~~".

9 (b) PROGRAM AUTHORIZED.--Section 4002 of the Act is amended  
10 to read as follows--

11 "SEC. 4002 (a) AUTHORIZATION.--The Secretary is authorized  
12 to make grants to, and enter into contracts [and cooperative  
13 agreements?] with, public agencies, private nonprofit agencies,  
14 organizations, and institutions, including student and community  
15 groups, and individuals, to achieve the purpose of this part by  
16 providing support and technical assistance for--

yes

17 "(1) <sup>implementation of effective gender equity policies and practices</sup>  
18 activities of local significance (at all levels  
of education?), including--  
*in educational institutions and local communities*

still educational levels

19 "(A) training for teachers, counselors,  
20 administrators, and other school personnel, especially preschool  
21 and elementary school personnel, <sup>to infuse</sup> gender equity [wouldn't this  
22 cover the learning and the infusing?]; *into teaching and learning*

23 "(B) assisting educational agencies and  
24 institutions to implement policies and practices to--

*including elementary and secondary education, preschool education,  
higher education, and adult education)*

*Specs had made sexual harassment prevention a part of Title IX compliance*  
*I don't know if it matters. Kathy Ellis may.*

3                   "(i) comply with Title IX of the Education  
4 Amendments of 1972; and

5                   "(ii) prevent the sexual harassment of  
6 students;

7                   "(C) leadership training to allow women and girls  
8 to develop professional and marketable skills to compete in the  
9 global marketplace, improve self-esteem, and benefit from  
10 exposure to positive role models;

11                   "(D) apprenticeship and other programs ~~that~~ *to*  
12 increase opportunities for women and girls to enter a  
13 technologically demanding workplace and, in particular, to enter  
14 careers in which they have been underrepresented;

15                   "(E) enhancing educational and career  
16 opportunities for women and girls who suffer multiple  
17 discrimination, based on sex and race, ethnic origin, *limited English proficiency*,  
18 or age; and  
19 disability,

20                   "(F) assisting pregnant students and students  
21 rearing children to remain in high school, graduate, and prepare  
22 their preschool children to start school;

23                   "(2) research and development designed to advance  
24 gender equity nationwide and to help make policies and practices  
25 in educational institutions and local communities ~~more~~ *more* gender-  
26 equitable, including--

                  "(A) research and development designed to advance  
gender equity, including the development of innovative strategies  
to improve teaching and learning practices;

"(B) the development of nondiscriminatory testing instruments <sup>that are free of gender bias</sup> [with respect to gender?];

"(C) evaluation of curricula, textbooks, and other educational materials [to ensure equitable representation of the genders / to ensure gender neutrality / to ensure non-discrimination with respect to gender <sup>to ensure that both genders are represented fairly?];</sup>

*might as well follow the specs*

"(D) the development of instruments and procedures to assess the presence or absence of gender equity in various [or "different"] educational settings;

"(E) the development of new dissemination and replication strategies; and

"(F) updating educational materials previously developed through awards made under this part.

"(b) The Secretary shall annually designate the amounts to be expended in any fiscal year for activities under paragraphs (1) and (2) of this subsection."

(c) APPLICATION; PARTICIPATION.--Section 4003 of the Act is amended--

(1) in subsection (a)--

(A) [in the first sentence, by inserting "and cooperative agreement" after "contract";?]

*or? > ok*

[Did you want paragraphs (1) and (2) deleted?]

*I don't think either is really needed, particularly (1)*

(B) in paragraph (2), by striking out "and" at the end thereof;

(C) in paragraph (3)--

(i) [by striking out "insure adequate" and inserting in lieu thereof "ensure comprehensive";--K. Ellis?] *OK*

(ii) [by inserting <sup>an evaluation of</sup> "the practices, policies, and materials to be used by the applicant and," immediately after

"including" --K. Ellis?] *oh*   
 *and why don't we also delete "where appropriate" after "including."*   
 (iii) by inserting a comma immediately after "appropriate"; and   
 *oh*

(iv) by striking out the period at the end thereof and inserting in lieu thereof a semi-colon; and

(D) by adding new paragraphs (4) through (7) at the end thereof to read as follows--

"(4) demonstrate how funds received under this part will be used to promote the attainment of one or more of the National Education Goals set out in Title I of ~~H.R. 1804~~ <sup>Goals 2000: FAD</sup> and support the implementation of State and local plans for systemic reform under title III of ~~H.R. 1804~~ <sup>Goals 2000: CAA</sup>; and

"(5) demonstrate how the applicant will address different perceptions of genders roles, in particular, perceptions of gender roles based on cultural <sup>and linguistic</sup> differences and <sup>or</sup> stereotypes;

"(6) demonstrate how the applicant will foster partnerships and share resources with State Educational Agencies,

*(6) + (7) are to apply to applicants under 4002(a)(1) only.*

local educational agencies, institutions of higher education, or other recipients of Federal <sup>educator funding</sup> ~~money~~; and

"(7) demonstrate how parental involvement <sup>in the project</sup> will be encouraged."

(2) in subsection (b)--

(A) in paragraph (1), by striking out "and" at the end thereof;

(B) in paragraph (2), by striking out the period at the end thereof and inserting in lieu thereof a semi-colon;

(C) in paragraph (1), by adding new paragraphs (3) and (4) at the end thereof to read as follows--

"(3) applications for projects that would contribute significantly to improving teaching and learning practices in the local community; and

"(4) applications for projects that would provide for a comprehensive approach to addressing gender equity in educational institutions and agencies <sup>would and that would</sup> ~~the~~, as appropriate, ~~would~~ draw upon a variety of resources, including local educational agencies, community-based organizations, institutions of higher education, and private organizations."

(d) CHALLENGE GRANTS.--Section 4004 of the Act is repealed.

(e) CRITERIA AND PRIORITIES.--Section 4005 of the Act is amended by adding at the end thereof a new sentence to read as follows: "The Secretary shall involve <sup>(Meaning?)</sup> the Office for Civil Rights when establishing criteria and priorities for awards

5  
I think it really just means "involve."  
This was a Mike Smith request.

under this part." [Why explicitly require this when he already *has the authority to do so administratively?*] *And he wants future Secretary who might not be so inclined, to be held to that standard.*

*Mike wants to put out a signal that our efforts to enforce Title IX and to provide assistance for implementing Title IX would be closely*

(f) REPORTS, EVALUATION, DISSEMINATION.--Section 4006 of the Act is amended--

(1) [in subsection (a), by striking out "1992" and inserting in lieu thereof "1999"; and

(2) by amending subsection (b) to read as follows--

*Also need to change the purpose of the report (see spec.)*

"(b) EVALUATION AND DISSEMINATION.--(1) The Secretary shall evaluate and disseminate (at low cost) materials and programs developed under this part.

"(2) The Secretary is authorized to gather and disseminate information about emerging issues concerning gender equity and, if necessary, to convene meetings for these

purposes." [If the real desire here is to use of program funds for meetings and peer review then, I suggest that we make that

authority explicit--either program by program or by providing general authority elsewhere in the Act for either all or some ESEA programs?]

*Peer review is not the issue. The meetings that somebody or other has in mind may not*

(g) AUTHORIZATION OF APPROPRIATIONS.--Section 4007 of the Act is amended to read as follows:

*be at issue in other programs*

"SEC. 4007. AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated ~~\*\*\*\*\*~~ for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 through 1996 to carry out this part."

(h) Sections 4005, 4006, and 4007 of the Act are redesignated as section 4004, 4005, and 4006, respectively.

Review  
mid info  
etc.

DRAFT  
4/27/93

## SPECIFICATIONS FOR INEXPENSIVE BOOK DISTRIBUTION PROGRAM

### Section 1511 (a)(2) - Reservation of Chapter 2 funds

Current law - This section authorizes no more than 6 percent of the amount appropriated to Chapter 2 for National Programs.

Proposed amendments - Delete this provision, and authorize Inexpensive Book Distribution, as well as the National Diffusion Network and Arts in Education, in a separate part or title of the ESEA.

Explanation - There is no need for this program to be included as a Chapter 2 set-aside. The 6 percent cap has been inadequate to fund activities under the various National Programs; Congress has had to override it in recent years.

### Section 1563(b) - Requirements of Contract

Current law - Section 1563(b) sets forth the conditions that the contractor, Reading Is Fundamental (RIF), must meet. These conditions include: entering into subcontracts with entities that support reading motivation activities, which include the distribution of books by gift or loan to preschool and elementary and secondary school children; using the appropriated funds to support the Federal share of these reading motivation programs; giving priority in the funding of additional programs to projects that focus on at-risk children and other children with special needs; and meeting any other conditions the Secretary may deem necessary.

Proposed amendments - Add language requiring that the contractor work with the subcontractors to enable the subcontractors to operate without Federal funds, unless situations of severe hardship exist with the subcontractor and in the area the subcontractor serves. This provision would set the end date of the subcontractor's grant as five years after the date of legislation or the start of the subcontractor's project, whichever comes later.

Explanation - The National Literacy Act of 1991 added the priority for additional RIF projects serving a variety of children with special needs. However, under current law, there is little likelihood that RIF will implement this priority because over 99 percent of their subcontractors, or projects, renew annually, and funding is not available for additional projects. Many of RIF's existing projects have been in the program for a number of years, while new applicants, some of whom are in low-income areas, are turned down for a lack of funding. The recently completed evaluation of the Inexpensive Book Distribution program recommended that the Department investigate the possibility of getting RIF to "graduate" projects out of its program, especially in situations where the projects could raise funding easily. Language requiring this would enable funds to be targeted more effectively to populations with special needs.

Section 1563(d) - Definitions

Current law - This section defines the Federal share as 75 percent of a project's book costs for most projects and as 100 percent of the cost of books for projects serving migrant children.

Proposed amendments - Modify current language to say "up to 75 percent" and "up to 100 percent."

Explanation - One way that RIF could "graduate" projects out of its program would be to have the Federal share decrease over time. Adding the proposed language would increase RIF's flexibility by allowing a gradual reduction of Federal funds received by projects that have demonstrated success in raising funds or that operate in more affluent areas. This would allow the actual level for each project for each year to be decided by RIF.

copy -  
Jinhe

ROUTING AND TRANSMITTAL SLIP

Date MAY 5 1993

	(Name, office symbol, room number, building, Agency/Post)	Initials	Date
1.	Tom Corwin, OMB PRO		
2.			
3.			
4.			
5.			

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

Attached, for your information, are OGC's informal comments on the unofficial specifications for the Chapter 2 Inexpensive Book Distribution program.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
	Phone No. 401-2676

Paul Riddle

5041-102  
GPO : 1987 O - 196-409

OPTIONAL FORM 41 (Rev. 7-75)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.208

cc: Phil Rosenfelt  
Nancy Heindel

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Wym  
Juhé

ROUTING AND TRANSMITTAL SLIP

Date MAY 5 1993

(Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. <i>Tom Corwin, ONR/PRO</i>		
2.		
3.		
4.		
5.		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

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FROM: (Name, org. symbol, Agency/Post) <i>Paul Riddle</i>	Room No.—Bldg.
	Phone No. <i>401-2676</i>

5041-102  
GPO : 1987 O - 196-409  
OPTIONAL FORM 41 (Rev. 7-76)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.206

cc: Phil Rosenfelt  
Nancy Heindel

FRAN  
5/11/93

## SPECIFICATIONS FOR INEXPENSIVE BOOK DISTRIBUTION PROGRAM

### Section 1511 (a)(2) - Reservation of Chapter 2 funds

Current law - This section authorizes no more than 6 percent of the amount appropriated to Chapter 2 for National Programs.

Proposed amendments - Delete this provision, and authorize Inexpensive Book Distribution, as well as the other National Programs proposed for continuation (National Diffusion Network, Arts in Education) in a separate part or title of the ESEA.

Explanation - There is no need for this program to be included as a Chapter 2 set-aside. The 6 percent cap has been inadequate to fund activities under the various National Programs; Congress has had to override it in recent years.

### Section 1561(b)(2) - Authorization Level for Program

Current law - Subject to the availability of funds, not less than \$8,200,000 is authorized for the Inexpensive Book Distribution Program.

Proposed amendments - Under the new authorization section, authorize such sums as may be necessary for 1995 and the four succeeding fiscal years.

Explanation - Technical change.

### Section 1563(b) - Requirements of Contract

Current law - Section 1563(b) sets forth the conditions that the contractor, Reading Is Fundamental (RIF), must meet. These conditions include: entering into subcontracts with entities that support reading motivation activities, which include the distribution of books by gift or loan to preschool and elementary and secondary school children; using the appropriated funds to support the Federal share of these reading motivation programs; giving priority in the funding of additional programs to projects that focus on at-risk children and other children with special needs; and meeting any other conditions the Secretary may deem necessary.

Proposed amendments - Add language requiring that the contractor work with the subcontractors to enable the subcontractors to operate without Federal funds, unless situations of severe hardship (i.e., lack of adequate resources) exist with the subcontractor and in the area the subcontractor serves. This provision would set the end date of the subcontractor's grant as five years after the date of legislation or the start of the subcontractor's project, whichever comes later.

Explanation - The National Literacy Act of 1991 added the priority for additional RIF projects serving a variety of children with special needs. However, under current law, there is little likelihood that RIF will implement this priority because over 99 percent of their subcontractors, or projects, renew annually, and funding is not available for additional projects. Many of RIF's existing projects have been in

the program for a number of years, while new applicants, some of whom are in low-income areas, are turned down for a lack of funding. The recently completed evaluation of the Inexpensive Book Distribution program recommended that the Department investigate the possibility of getting RIF to "graduate" projects out of its program, especially in situations where the projects could raise funding easily. Language requiring this would enable funds to be targeted more effectively to populations with special needs.

#### Section 1563(d) - Definitions

Current law - This section defines the Federal share as 75 percent of a project's book costs for most projects and as 100 percent of the cost of books for projects serving migrant children.

Proposed amendments - Modify current language to say "up to 75 percent" and "up to 100 percent."

Explanation - One way that RIF could "graduate" projects out of its program would be to have the Federal share decrease over time. Adding the proposed language would increase RIF's flexibility by allowing a gradual reduction of Federal funds received by projects that have demonstrated success in raising funds or that operate in more affluent areas. This would allow the actual level for each project for each year to be decided by RIF.

U.S. DEPARTMENT OF EDUCATION

OFFICE OF PLANNING, BUDGET AND EVALUATION CONTROL DOCUMENT

Assigned to : BUDGET SERVICE - IMMED. OFFICE Control Number: PB30618006

Action Required: REVIEW AND COMMENT Due Date : 06/22/93

Priority :

Writer's Name : RIDDLE, PAUL

Title :
Organization : ED / OGC
Street :
City/State/Zip :

Written to : On : 06/18/93

Subject : DRAFT LEGISLATIVE LANGUAGE FOR REAUTHORIZATION OF THE INEXPENSIVE BOOK DISTRIBUTION PROGRAM

On Behalf Of: HAZZARD

BWT Copies To :

ASSIGNMENT TRACKING SECTION

Table with columns: Assigned To, Assn Date, Actn Code, Due Date, Comp Date, Comments. Includes handwritten notes: 'see attached sheet', 'Comments on the document - JAC 4/22', 'T. (w/ma 6/23)'. Vertical stamps: 'BUDGET', 'REC'D JUN 22 1993', 'REC'D JUN 25 1993'.

INTERIM CONTACTS WITH WRITER

Summary of Contacts



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF THE GENERAL COUNSEL

June 18, 1993

MEMORANDUM

TO: Legislative Services Officers  
Attn: Mr. Berger, OHRA  
Mr. Borches, OIG  
Mr. Ginsburg, OPP  
Mr. Hazzard, OMB/CFO  
Ms. Henderson, ODS  
Mr. Link, ES  
Ms. Rairdin, OLCA  
Mr. Tinsman, OIIA  
Mr. Wooten, OESE  
Office of the General Counsel  
Attn: Mr. Haubert  
Mr. Rosenfelt

02:19

FROM: Paul Riddle *Paul Riddle*  
Division of Legislative Counsel

SUBJECT: Draft legislative language for reauthorization of the  
Inexpensive Book Distribution Program

Attached, for your review, is draft legislative language to reauthorize the Inexpensive Book Distribution Program, currently authorized under §1562 of the ESEA, in accordance with final specifications prepared by OMB/CFO. This language would be included in the Department's omnibus proposal to reauthorize elementary and secondary education programs, other portions of which are being separately circulated to interested offices.

Please review the draft language and give me your comments, including any changes you recommend in writing, by next Wednesday, June 23. I am in Room 4093, FOB-6 and can be reached at 401-2670; fax: 401-3769.

Thanks.

Attachment

cc: Mr. Smith, OS  
Mr. Peterson, OS  
Ms. Dozier, OS  
Ms. Casstevens, OLCA  
Ms. Winston  
Mr. Winnick  
Ms. Comstock  
Mr. Kristy  
Ms. Forde

*Paul - If you have any questions on our comments, please talk to Julie.  
Tom*

*PB 30618006*

Comments on Draft Legislative Language for the Inexpensive Book Distribution Program

In addition to the comments provided on the document itself, we would like to raise the following issues. These deal with areas in which the draft bill diverges from the final specifications.

The specifications would have allowed RIF to support any project for up to five years; RIF would have had to wean, within five years, any project that is not experiencing financial hardship or serving areas facing financial hardship. Projects that were experiencing financial hardship and were serving disadvantaged areas would have continued to be eligible for funding, even after five years.

The legislative language increases the distinctions made between projects from two to three: projects that are serving special populations; projects that are not serving special populations; and projects that are not serving special populations but are experiencing financial hardship and serving areas of financial hardship. No projects may be supported for longer than five years.

We agree with the expansion of the criteria for programs that are eligible for continued funding to projects that are serving targeted populations (as opposed to just those serving disadvantaged areas) and are unable to raise funds elsewhere.

However, we disagree with the remainder of the changes made from the specifications for the following reasons:

- o There are unlikely to be situations in which a subcontractor can demonstrate financial hardship and not be serving low-income children. If the subcontractor is serving low-income children, then it would be eligible for a priority under the previous section. We question the need for section (b)(4) as worded.
- o RIF should also be required to wean projects that are serving targeted populations, if they have demonstrated the ability to raise outside funds. Therefore, we would recommend going back to the two distinctions in the specifications (with the proposed modification): (1) those that are serving targeted populations and are unable to find funds elsewhere, and (2) all other programs. (See suggested language changes on document.)
- o Cutting off funding "as soon as possible" for projects that are not serving priority populations seems somewhat unfair. This language could be interpreted as not allowing RIF time to work with the projects to ensure self-sufficiency. Although the Department has been assisting RIF in its attempts to increase its focus on special populations, it will probably take RIF a bit of time to implement this new legislation. RIF will need to improve significantly its data collection and technical assistance to projects. Since RIF projects are staffed mainly by volunteers, it is often difficult to collect the data to determine who should be funded. We recommend, therefore, keeping the five-year timeframe proposed in the specifications for all projects.

- o We can also imagine situations in which a project is truthfully unable to raise outside funds, either because it is operating in an extremely poor area or because it is serving a population in which no one is interested. Therefore we do not recommend that all projects be cut off after five years.

M&B/DESVA

6/22/93

DRAFT

Inexpensive Book Distribution Program  
[see ESEA, §1563]

JUN 16 1963

1 [section heading to be added]

2 SEC. 01. Title IV of the ESEA is further amended by  
3 amending Part C thereof [Is this where we want this?] to read as  
4 follows:

5 "PART C - [heading to be added, depending on what  
6 else goes in here]

7 "INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION

8 "SEC. 4301. (a) AUTHORIZATION. The Secretary is authorized  
9 to enter into a contract with Reading is Fundamental (RIF)  
10 (hereinafter in this section referred to as "the contractor") to  
11 support and promote programs, which include the inexpensive  
12 distribution of books to students, that motivate children to  
13 [learn to?] read.

14 <sup>no</sup> "(b) REQUIREMENTS OF CONTRACT. Any contract entered into  
15 under subsection (a) shall--

16 "(1) provide that the contractor will enter into  
17 subcontracts with local private nonprofit groups or organizations  
18 or with public agencies, for a period of not more than five  
19 years, under which each subcontractor will agree to establish,  
20 operate, and provide the non-Federal share of the cost of reading  
21 motivation programs that include the distribution of books, by  
22 gift or loan, to preschool, elementary, and secondary school  
23 children;

under no situation?  
what if there are districts  
that projects that will  
never be able to support  
themselves. Do we want to  
cut off funds for them?

10 Distinguishing b/w projects serving special needs that are able to raise funding from outside sources & those that are not?

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"(2) provide that funds made available by the Secretary will be used by the contractor only to pay the Federal share of the cost of such programs;

"(3) provide that in selecting new subcontractors, the contractor will give priority to programs that will serve a substantial number or percentage of children with special needs, including, at a minimum--

"(A) low-income children, particularly in high-poverty areas;

"(B) children at risk of school failure;

"(C) children with disabilities, including children with serious emotional disturbance;

"(D) foster children;

"(E) homeless children;

"(F) migrant children;

"(G) children without access to libraries;

"(H) institutionalized or incarcerated children;

and

"(I) children whose parents are institutionalized or incarcerated;

(4) provide that the contractor will, as soon as possible, cease providing Federal assistance under this part for any program that does not qualify for a priority under paragraph (3); except that--

"(A) the contractor may continue assistance to any such a program, for a period not to exceed five years from the

within 2 five years of the date of enactment of this part or the date of receipt of possible

what does this mean? why was the 5-year deadline charged

providing targeted assistance to priority population

We agree we can't do it but for some reason...

1 ~~enactment of [insert name of this bill]~~, if the contractor  
2 determines that the local program will not, because of severe  
3 economic hardship facing the subcontractor and the local area it  
4 serves, be able to continue without additional assistance under

5 this part; and *Will there ever be a situation where the local area faces hardship, but the children aren't low-income? If they are low-income, the*

6 "(B) if funds remain for any fiscal year after  
7 providing assistance to all programs described in paragraph (3) *projects would meet*  
8 and subparagraph (A) seeking assistance, the contractor may *the priority on the*  
9 provide assistance to other eligible programs;

10 "(5) provide that the contractor will provide such *previous page of the section & not be needed*  
11 technical assistance to subcontractors as may be necessary to  
12 carry out the purpose of this section; and

13 "(6) include such other terms and conditions as the  
14 Secretary determines to be appropriate to ensure the  
15 effectiveness of such programs.

16 "(c) RESTRICTION ON PAYMENTS. The Secretary shall make  
17 no payment of the Federal share of the cost of acquiring and  
18 distributing books under any contract under this section unless  
19 the Secretary determines that the contractor or subcontractor, as  
20 the case may be, has made arrangements with book publishers or  
21 distributors to obtain books at discounts at least as favorable  
22 as discounts that are customarily given by such publisher or  
23 distributor for book purchases made under similar circumstances  
24 in the absence of Federal assistance.

25 "(d) DEFINITION OF 'FEDERAL SHARE'. For the purpose of this  
26 section, the term 'Federal share' means the portion of the cost

*Purpose of this section?*

*projects would meet the priority on the previous page of the section & not be needed*

1 to a subcontractor of purchasing books to be paid with funds made  
2 available under this section. The Federal share shall be  
3 established by the Secretary or the contractor, and shall not  
4 exceed 75 percent, except for books to be distributed to children  
5 of migrant or seasonal farmworkers.

6 "(e) AUTHORIZATION OF APPROPRIATIONS. For the purpose of  
7 carrying out this section, there are authorized to be  
8 appropriated such sums as may be needed for each of the fiscal  
9 years 1995 through 1999.

# # # # #

ROUTING AND TRANSMITTAL SLIP

Date JUL 19 1993

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Tom Corwin, M+6/CEO		
2. Julie Edwards, M+2/CEO		
3. Jack Kristy		
4.		
5.		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

F4I, as given to Brett Scott to send to OMB for review.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post) <i>Paul C.</i>	Room No.—Bldg.
	Phone No.

6011-102

GPO : 1987 O - 196-409

OPTIONAL FORM 41 (Rev. 7-78)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.206

cc: Nancy Heindel

Inexpensive Book Distribution Program  
Title II, Part C, Subpart 5  
[see current ESEA, §1563]

JUL 19 1993

1 "SUBPART 5--INEXPENSIVE BOOK DISTRIBUTION PROGRAM

2 "INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION

3 "SEC. 2351. (a) AUTHORIZATION. The Secretary is authorized  
4 to enter into a contract with Reading is Fundamental (RIF)  
5 (hereinafter in this section referred to as "the contractor") to  
6 support and promote programs, which include the distribution of  
7 inexpensive books to students, that motivate children to read.

8 "(b) REQUIREMENTS OF CONTRACT. Any contract entered into  
9 under subsection (a) shall--

10 "(1) provide that the contractor will enter into  
11 subcontracts with local private nonprofit groups or organizations  
12 or with public agencies under which each subcontractor will agree  
13 to establish, operate, and provide the non-Federal share of the  
14 cost of reading motivation programs that include the distribution  
15 of books, by gift or loan, to preschool, elementary, and  
16 secondary school children;

17 "(2) provide that funds made available by the Secretary  
18 will be used by the contractor only to pay the Federal share of  
19 the cost of such programs;

20 "(3) provide that in selecting subcontractors for  
21 initial funding, the contractor will give priority to programs  
22 that will serve a substantial number or percentage of children  
23 with special needs, such as--

1           "(A) low-income children, particularly in  
2 high-poverty areas;

3           "(B) children at risk of school failure;

4           "(C) children with disabilities, including  
5 children with serious emotional disturbance;

6           "(D) foster children;

7           "(E) homeless children;

8           "(F) migrant children;

9           "(G) children without access to libraries;

10          "(H) institutionalized or incarcerated children;

11 and

12          "(I) children whose parents are institutionalized  
or incarcerated;

14          "(4) provide that the contractor will not provide  
15 Federal assistance under this section to any subcontractor for  
16 more than five years after the date of enactment of [insert name  
17 of this bill] or the beginning of the subcontractor's program  
18 under this section (or its predecessor authority), whichever  
19 comes later, except that the contractor may continue to provide  
20 such assistance beyond such date if--

21           "(A) the program qualifies for priority treatment  
22 under paragraph (3); and

23           "(B) the contractor determines that, because of  
24 severe economic hardship facing the subcontractor and the local  
25 area it serves, the local program will be unable to continue  
without additional assistance under this section;

1           "(5) provide that, not later than three years from the  
2 date of enactment of [insert name of this bill], the contractor  
3 will cease providing Federal assistance under this section to any  
4 subcontractor whose program--

5           "(A) received such assistance under section 1563  
6 of this Act, as in effect before the date of enactment of [insert  
7 name of this Act]; and

8           "(B) does not qualify for priority treatment under  
9 paragraph (3);

10           "(6) provide that the contractor will provide such  
11 technical assistance to subcontractors as may be necessary to  
12 carry out the purpose of this section;

13           "(7) provide that the contractor will annually report  
14 to the Secretary the number of, and describe, programs funded  
15 under paragraph (3); and

16           "(8) include such other terms and conditions as the  
17 Secretary determines to be appropriate to ensure the  
18 effectiveness of such programs.

19           "(c) RESTRICTION ON PAYMENTS. The Secretary shall make no  
20 payment of the Federal share of the cost of acquiring and  
21 distributing books under any contract under this section unless  
22 the Secretary determines that the contractor or subcontractor, as  
23 the case may be, has made arrangements with book publishers or  
24 distributors to obtain books at discounts at least as favorable  
25 as discounts that are customarily given by such publisher or

1 distributor for book purchases made under similar circumstances  
2 in the absence of Federal assistance.

3 "(d) DEFINITION OF 'FEDERAL SHARE'. For the purpose of this  
4 section, the term 'Federal share' means the portion of the cost  
5 to a subcontractor of purchasing books to be paid with funds made  
6 available under this section. The Federal share shall be  
7 established by the Secretary or the contractor, and shall not  
8 exceed 75 percent, except for books to be distributed to children  
9 of migrant or seasonal farmworkers.

10 "(e) AUTHORIZATION OF APPROPRIATIONS. For the purpose of  
11 carrying out this section, there are authorized to be  
12 appropriated such sums as may be needed for each of the fiscal  
13 years 1995 through 1999.

# # # # #

[Note: As a conforming amendment, the bill will repeal the reporting requirement of §501(b) of P.L. 102-73, the National Literacy Act of 1991. The substance of that provision would be restated in §2351(b)(7) of the ESEA, p. 3 of this draft.]

7/13/93

Note to Jack Kristy

Attached are final specifications for Charter Schools. These specs reflect the decisions reached at this morning's meeting. I have also attached a "Redline" version showing the changes made since the 6/30 version.

As with the school construction and arts/foreign languages proposals, these will not be circulated as specs; however, the draft bill language should be put into Departmental circulation.

*Tom*

Tom Corwin

Attachment

cc: Mike Smith

7/13/93

LEGISLATIVE SPECIFICATIONS FOR CHARTER SCHOOLS PROGRAM

1. Findings and Purpose

Findings -

- o Enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging academic standards, if sufficiently diverse and high-quality choices and opportunity to take advantage of such choices by all students are available.
- o States and communities should therefore experiment with methods of offering teachers, parents, and other members of the public the opportunity to design and implement new public schools.
- o The new schools developed through this process should be free to test a variety of educational approaches and should therefore be exempted from certain rules and regulations if their leadership commits to attaining specific and ambitious educational results for students consistent with State content and performance standards.
- o Charter schools, as they have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from unnecessary regulations, and a focus on learning gains.
- o The Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational option.

Purpose -

It is the purpose of this program to provide financial assistance to eligible grantees for the design and initial implementation of charter schools, and then to provide for evaluations of those schools, in order to increase national understanding of the charter schools model.

2. Authorization of Appropriations

"Such sums" for fiscal years 1995 through 1999.

### 3. Definitions

- o A Charter school is a school that:
  - is newly created by a "developer" [see below] as a public school, or is adapted by a developer from an existing public school but otherwise meets the requirements of this definition;
  - operates in pursuit of a specific set of educational objectives, including intended student learning gains, determined by the developer and agreed to by the school's LEA or SEA;
  - provides a program of elementary or secondary education, or both;
  - is nonsectarian in its programs, admissions policies, employment practices, and all other operations and is not affiliated with a sectarian school or religious institution;
  - does not charge tuition;
  - complies with title VI, title IX, section 504, and the substantive and procedural safeguards of the IDEA;
  - in the event that more students apply for admission than can be accommodated, admits students on the basis of a lottery;
  - complies with the same Federal and State audit requirements as do the other schools in the State in which the school is located, unless such requirements are specifically waived under this program;
  - meets all relevant Federal, State, and local health and safety requirements; and
  - in accordance with applicable State laws, is exempted from State or local rules governing public schools, with the exception of rules in the areas set forth above, and, with the agreement of the Secretary, may be exempted from Federal statutory and regulatory requirements except for those set forth above.
  
- o A Developer is an individual or group of individuals, which may include teachers, administrators and other school staff, parents, or other members of the local

community of the school. A developer may be a public or private nonprofit organization.

- o An eligible grantee is an LEA or SEA, applying and carrying out a project in partnership with a developer.

#### 4. Program Authorized

The Secretary is authorized to make grants to eligible grantees for the design and initial operation of charter schools. Each grant shall be for a period of not more than three years, of which no more than 18 months shall be used for planning and program design and no more than two years shall be for assisting the initial implementation of the charter school. No grantee may receive more than a single grant for development and implementation of a particular charter school.

#### 5. Application Process

The Secretary shall make grants on the basis of applications submitted at such time and in such manner as the Secretary may require.

An application may be submitted on behalf of a single charter school or for a cluster of charter schools located within a community. Such a cluster may include a high school and its feeder elementary and middle schools.

Each application shall include:

- o A description of the educational program to be implemented through the proposed charter school(s), including the grade levels or ages of children to be served and the curricular approach to be used;
- o A description of how the school(s) will be managed;
- o A description of the educational results that the school(s) will seek to attain, of how those results relate to the State's content and performance standards, if any, approved under the Goals 2000: Educate America Act, and of the methods by which the school(s) will determine its/their progress toward those results ;
- o A description of the administrative relationship between the charter school(s) and the LEA or SEA that would act as the grantee;
- o A description of how parents and other members of the

community will be involved in the design and implementation of the charter school(s);

- o An assurance that the State or local educational agency, as applicable, will assume full financial responsibility for operation of the school(s) once the Federal grant has expired;
- o A request and justification for any Federal statutory or regulatory waivers that are necessary for operation of the charter school(s), and a description of any State or local rules that will not apply to the charter school(s) or will be waived;
- o A description of how Federal funds obtained under the grant would be used;
- o A description of how all eligible students in the community will be informed about the school(s) and of how all such students will be given equal opportunity to enroll, and an assurance that the school(s) will meet the requirements set forth above related to civil rights compliance ; and
- o Such other information as the Secretary may require, including information provided annually to enable the Secretary to determine if the project is making satisfactory progress toward its objectives.

Any application from an LEA shall first be submitted to the SEA for review and approval. In conveying its approval, the SEA shall confirm, as an addendum to the application, that the State exemptions or waivers described in the application have been or will be granted.

#### 6. Project Selection

The Secretary shall select projects to be funded on the basis of the quality of applications received, taking into consideration such factors as: (1) the quality of the proposed curriculum; (2) the degree of flexibility afforded by States to the school(s); (3) the degree of innovation involved in the plan for the school(s); (4) community support for the application and involvement in designing the school(s); (5) the ambitiousness of the objectives for the school(s); (6) the likelihood that schools(s) will meet those objectives and improve educational results for students; and ~~(7) the national significance and potential for replication of the project.~~

The Secretary shall make his selections after obtaining the advice of expert reviewers.

The Secretary may select applicants in a way that ensures that projects are geographically diverse (including that they are located in both urban and rural areas) and that they represent a variety of educational approaches.

#### 7. Uses of Funds

A grantee under this program may use program funds only to pay for planning and design, and initial implementation, of the charter school program.

- o Planning and design include further refinement of the educational program (beyond what is included in the application), further refinement of the desired educational results and of the methods for measuring progress toward those results, and training of teachers and other staff to work in the charter school(s).
- o Initial implementation includes informing the community about the school(s), purchase of necessary equipment, purchase or development of curriculum materials, and other operational costs that cannot be met from normal State and local sources.

#### 8. Continuation of Funding

The Secretary shall provide the second and third year of a grant only if he determines that the grantee is making acceptable progress toward meeting the objectives of the project.

#### 9. National Activities

From funds appropriated for this program, the Secretary may reserve 10 percent for:

- o Peer review of applications;
- o A national evaluation of the program; and
- o Other activities to enhance the success of the program, such as bringing grantees together to share ideas and information.

7/13/93

## LEGISLATIVE SPECIFICATIONS FOR CHARTER SCHOOLS PROGRAM

### 1. Findings and Purpose

#### Findings -

- o Enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging academic standards, ~~but only if sufficiently diverse and high-quality choices and opportunity to take advantage of such choices by~~ for all students are available.
- o States and communities should therefore ~~experiment with methods of offering~~ teachers, parents, and other members of the public the opportunity to design and implement new public schools.
- o The new schools developed through this process should be free to test a variety of educational approaches and should therefore be exempted from certain rules and regulations if their leadership commits to attaining specific and ambitious educational ~~results outcomes for students consistent with State content and performance standards.~~
- o Charter schools, as they have been implemented in a few States, ~~can~~ embody the necessary mixture of enhanced choice, exemption from unnecessary regulations, and a focus on ~~learning gains outcomes.~~
- o The Federal Government should ~~test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational option assist in the expansion of charter school programs to additional States and communities.~~

#### Purpose -

It is the purpose of this program to provide financial assistance to eligible grantees for the design and initial implementation of charter schools, ~~and then to provide for evaluations of those schools, in order to increase national understanding of the charter schools model so that more States and communities permit, and receive the benefits of, such schools.~~

### 2. Authorization of Appropriations

above.

- o A Developer is an individual or group of individuals, which may include teachers, administrators and other school staff, parents, or other members of the local community of the school. A developer may be a public or private [nonprofit?] organization.
- o An eligible grantee is an LEA or SEA, applying and carrying out a project in partnership with a developer.

#### 4. Program Authorized

The Secretary is authorized to make grants to eligible grantees for the design and initial operation of charter schools. Each grant shall be for a period of not more than three years, of which no more than 18 months one year shall be used for planning and program design and no more than two years shall be for assisting the initial implementation of the charter school. ~~{Core team discussed only limiting the implementation time. But wouldn't we want some limitation on planning time?} No grantees may receive more than a single grant for development and implementation of a particular charter school.~~

#### 5. Application Process

The Secretary shall make grants on the basis of applications submitted at such time and in such manner as the Secretary may require.

An application may be submitted on behalf of a single charter school or for a cluster of charter schools located within a community. Such a cluster may include a high school and its feeder elementary and middle schools.

Each application shall include:

- o A description of the educational program to be implemented through the proposed charter school(s), including the grade levels or ages of children to be served and the curricular approach to be used;
- o A description of how the school(s) will be managed;
- o A description of the educational results outcomes that the school(s) will seek to attain, of how those results outcomes relate to the State's content and performance standards, if any, approved developed by the State under the Goals 2000: Educate America Act, and of the methods by which the school(s) will determine its/their

progress toward those results outcomes;

- o A description of the administrative relationship between the charter school(s) and the LEA or SEA that would act as the grantee;
- o A description of how parents and other members of the community will be involved in the design and implementation of the charter school(s);
- o An assurance that the State or local educational agency, as applicable, will assume full financial responsibility for operation of the school(s) once the Federal grant has expired;
- o A request and justification for any Federal statutory or regulatory waivers that are necessary for operation of the charter school(s), and a description of any State or local rules that will not apply to the charter school(s) or will be waived;
- o A description of how Federal funds obtained under the grant would be used;
- o A description of how all eligible students in the community will be informed about the school(s) and of how all such students will be given equal opportunity to enroll, and an assurance that the school(s) will meet the requirements set forth above related to civil rights compliance and admissions policies; and
- o Such other information as the Secretary may require, including information provided annually to enable the Secretary to determine if the project is making satisfactory progress toward its objectives.

Any application from an LEA for which the SEA is not acting as a sponsor shall first be submitted to the SEA for review and approval. In conveying its approval, the SEA shall confirm, as an addendum to the application, that the State exemptions or waivers described in the application have been or will be granted.

#### 6. Project Selection

The Secretary shall select projects to be funded on the basis of the quality of applications received, taking into consideration such factors as: (1) the quality of the proposed curriculum; (2) the degree of flexibility afforded by States to the school(s); (3) the degree of innovation involved in the plan for the school(s); (4) community support for the application and involvement in designing the school(s); (5) the ambitiousness of

the objectives for the school(s); (6) the likelihood that schools(s) will meet those objectives and improve educational results for students; and (7) the national significance and potential for replication of the project.

The Secretary shall make his selections after obtaining the advice of expert reviewers.

The Secretary may select applicants in a way that ensures that projects are geographically diverse (including that they are located in both urban and rural areas) and that they represent a variety of educational approaches.

#### 7. Uses of Funds

A grantee under this program may use program funds only to pay for planning and design, and initial implementation, of the charter school program.

- o Planning and design include further refinement of the educational program (beyond what is included in the application), further refinement of the desired educational results outcomes and of the methods for measuring progress toward those results outcomes, and training of teachers and other staff to work in the charter school(s).
- o Initial implementation includes informing the community about the school(s), purchase of necessary equipment, purchase or development of curriculum materials, and other operational costs that cannot be met from normal State and local sources.

#### 8. Continuation of Funding

The Secretary shall provide the second and third year of a grant only if he determines that the grantee is making acceptable progress toward meeting the objectives of the project.

#### 9. National Activities

From funds appropriated for this program, the Secretary may reserve 10 \_\_\_\_\_ percent for:

- o Peer review of applications;
- o A national evaluation of the program; and
- o Other activities to enhance the success of the program, such as bringing grantees together to share ideas and information.

*Chen*

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

ROUTE SLIP

TO <u>Brett Scoll, Rm. 4169</u>	Take necessary action	_____
_____	Approval or signature	_____
_____	Comment	_____
_____	Prepare reply	_____
_____	Discuss with me	_____
_____	For your information	_____
_____	See remarks below	_____
FROM <u>Bayla F. White</u> <i>Bayla</i>	DATE <u>July 8, 1993</u>	

REMARKS

Attached are comments on the Charter schools specs.

RECEIVED  
PRESIDENT OF  
1993 JUL 9 PM 10

JUL 8 1993

**OMB STAFF COMMENTS ON THE CHARTER SCHOOLS SPECIFICATIONS**  
(version dated 6/30/93)

General concerns

1. Why there should be a separate categorical program for Charter schools. The specs. make no compelling argument for a Federal role in support of Charter schools. Since Charter schools are such a new phenomenon, we do not know if they work. Why should limited Federal resources be used to spread an idea of unproven effectiveness? If the Federal role is to extract from the Charter school movement lessons that other schools can use to improve educational outcomes, then other ED authorities are much better vehicles to do that than a new discretionary grant program:

In particular, the general demonstration authorities (FIE, OERI) could be used to support carefully designed investigations of the implementation and effectiveness of Charter schools: do they work; are they more successful in improving educational outcomes than other public schools and for which children; how do their governance structures differ from other public schools. Those kinds of questions are unlikely to be answered in a discretionary grant program in which the Secretary has no authority to vary the design of the schools funded or to collect information on appropriate control schools.

Moreover, Charter schools are today's phenomenon. We have no reason to believe that Charter schools will survive for more than a few years, but every reason to believe that a discretionary grant program once created will be with us for decades. Discretionary grant programs never go away.

Specific comments

1. Findings & purpose section. The last "finding" and the "purpose" imply that these awards would only be made to communities and States which do not already (or at the time of the application) have at least one charter school. Is that correct?

2. Authorization of appropriations. What level of effort is contemplated for Charter Schools in total, and per school?

3. Definitions. ?

- o Nothing in the definition of a Charter school distinguishes it from any new school opened by an LEA or any newly created magnet school or other special-purpose school. Nothing in the definition speaks to the governance of a Charter school that might distinguish such a school from any other school which has a clear set of educational objectives and outcomes. ?

o Must a Charter school comply with Federal (and State) laws concerning the work place and employment, particularly employment discrimination? ?

*OG C doesn't think listing them is needed.*

o Who is a "sponsor" -- the term used in the last "bullet" of the definition?

o What is the function (and the responsibilities) of a "Developer" in this Federal program? ?

o What role does the LEA or SEA play in the planning and implementation of a Charter School (other than fiscal agent)? ?

#### 4. Program authorized.

o Can a grantee receive more than one three-year award for the same charter school? NO

o Can the same grantee receive more than one three-year award to plan and implement different charter schools? The statements in the Findings & Purpose section would seem to indicate the answer is NO, because once a grantee has received an award, a second award would not spread the concept to more communities or States. YES

o Given the two year limit on implementation, what is expected to be accomplished in that two years? In other words, what would be the evidence that a Federal grant had succeeded? ?

o Why is there no matching requirement or other evidence of State and local support for the Charter school? \*

*-Add "capacity building language under application"*

#### 5. Application process.

o Given the information about what the Charter school will be like required in the application, there seems to be no rationale for a planning year. The educational program, management, educational outcomes will have been developed in order to apply and the applicant would have to have a clear enough picture of what will go on in the school to be able to describe how the Federal funds would be used. The kinds of activities cited in the Uses of Funds section do not seem to merit Federal support.

o What is the developer's role in the application? In other words, is the application prepared by the LEA (or SEA) or the developer?

o There seems to be no role for parents or the community in the Charter school. ?

*Add to application*

- o Nothing in the application requirements would provide sufficient information for the Secretary to determine whether the applicant deserves continued funding after year 1 or year 2. ✓

6. Project selection. The quality factors described in the specs. do not exactly lend themselves to sufficient regulatory specificity to enable ED to select projects objectively. Expert reviewers are not likely to be sufficient. The last two criteria are particularly weak, since they require the reviewers to be clairvoyant. Similar criteria in other ED programs have not had much success in identifying particularly successful projects. ?

*Bayle - board certainly (sup 10) - [unclear] [unclear]*

7. Uses of funds.

- o There is no supplement not supplant language. Why, especially since funds may be used during implementation to purchase equipment or curriculum materials? ✗

*no*

- o There is a notion of "initial implementation" in this section. What does that term mean and how is initial implementation distinguished from other implementation activities? ?

- o Why should informing the community about the school(s) be an implementation activity? Surely the community should be informed about a Charter school long before the idea is implemented. ?

*part of implementation = going out + getting the feel*

- o The specs. do not make clear what would be the relationship of a Charter school to other ED programs for which children in the school (or faculty) might be otherwise eligible. Is a Charter school considered part of an LEA? Does a Charter school continue to participate (or can it become a participant) in other ED programs? If so, what is the relationship of the Federal funds provided under this grant to the Federal funds the school receives under other programs? ?

*handwritten notes:*  
 - need to figure out what ED funds the school will receive during the period of the grant  
 - get to know board ... in Federal programs

ROUTING AND TRANSMITTAL SLIP

Date

JUL 15 1993

TO: (Name, office symbol, room number, building, Agency/Post)

Initiate

Date

1. Tom Corwin, Mt B/100

2. Jack Knisky

3.

4.

5.

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

For your pre-circulation review + comment: draft bill language to authorize a charter school program. I think the tough nut here is the minimum amount of freedom from business-as-usual that must be granted a school to make it a charter school. See §2508(1)(3) [p. 10]. Comments? Do we need to meet?

DO NOT use this form as a RECORD of approvals, concurrences, disposes, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

Paul R.

Phone No.

Thank!

5041-102

GPO : 1987 O - 156-409

OPTIONAL FORM 41 (Rev. 7-78)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.206

Brett: we need to meet with Tom + Paul R (also Tom P) -

Quintin → Do we need sht law? - Does it say that it helps a minor a lot of questions it raised

Don see mini sht law?

mt

Mike's comments?  
from Danica  
7/26/93

Tom: F4J  
Paul

D

Charter Schools - ESEA, Title II, Part E

"PART E--CHARTER SCHOOLS

"FINDINGS AND PURPOSE

"SEC. 2501. (a) FINDINGS. The Congress finds that--

"(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging academic standards, if sufficiently diverse and high-quality choices and <sup>up</sup> [an?] opportunity to take advantage of such choices are available to all students;

"(2) ~~State and communities should, therefore,~~ <sup>provide a range of options, as in the law</sup> ~~experiment with methods of offering teachers, parents, and other members of the public the opportunity to design and implement new public schools;~~ <sup>let</sup>

"(3) the new schools developed through this process should be free to test a variety of educational approaches and should, therefore, be exempted from certain rules and regulations [~~How does "certain" comport with the related elements of the definition of "charter school", 52508(1)(J)(i) and (ii)2~~] if their leadership commits to attaining specific and ambitious educational results for students consistent with State content and ~~student~~ <sup>student</sup> performance standards;

"(4) charter schools, as they have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from <sup>particular</sup> ~~unnecessary~~ regulations, and a focus on <sup>in a challenging environment</sup> ~~learning gains/gains in learning~~; and

1           "(5) the Federal Government should test, evaluate, and  
2 disseminate information on a variety of charter school models in  
3 order to help demonstrate the benefits of this promising  
4 educational option.

5           "(b) PURPOSE. It is the purpose of this part to increase  
6 national understanding of the charter schools model by--

7           "(1) providing financial assistance ~~{to eligible~~  
8 ~~grantees? Words not really needed}~~ for the design and initial  
9 implementation of charter schools; and

10           "(2) evaluating those schools.

11                           "PROGRAM AUTHORIZED

12           "SEC. 2502. (a) GENERAL. The Secretary may make grants to  
13 eligible grantees for the design and initial operation of charter  
14 schools.

15           "(b) PROJECT PERIODS. Each such grant shall be for a period  
16 of not more than three years, of which the grantee may use--

17           "(1) no more than 18 months for planning and program  
18 design; and

19           "(2) no more than two years for the initial  
20 implementation of the charter school.

21           "(c) LIMITATION. The Secretary shall not make more than one  
22 grant to support a particular charter school.

23                           "APPLICATIONS

24           "SEC. 2503. (a) APPLICATIONS REQUIRED. Any eligible <sup>applicant</sup> grantee  
25 ~~{odd term when they're just applying}~~ that desires to receive a

1 grant under this part shall submit an application to the  
Secretary at such time and in such manner as the Secretary may  
require.

4 "(b) SCOPE OF APPLICATION. Each such application may  
5 request assistance for a single charter school or for a cluster  
6 of schools, which may include a high school and its feeder  
7 elementary and middle schools, within a community.

8 "(c) APPLICATION CONTENTS. Each such application shall  
9 include, for each charter school for which assistance is sought--

10 "(1) a description of the educational program to be  
11 implemented through ~~at~~ <sup>(by)</sup> ~~in~~ the proposed charter school,  
12 including--

13 "(A) the grade levels or ages of children to be  
14 served; and

"(B) the curricular approach to be used;

16 "(2) a description of how the school will be managed;

17 "(3) a description of--

18 "(A) the educational results that the school will  
19 seek to attain;

20 "(B) how those results relate to the State's  
21 content and ~~{student?}~~ performance standards, <sup>if any</sup>, approved  
22 under title III of the Goals 2000: Educate America Act; and

23 "(C) the methods by which the school will  
24 determine its progress toward ~~{achieving?}~~ those results;

1           "(4) a description of the administrative rel.  
2 between the charter school and the local educational agen.  
3 State educational agency that will act as the grantee;

4           "(5) a description of how parents and other members of  
5 the community will be involved in the design and implementation  
6 of the charter school;

7           "(6) an assurance that the State or local educational  
8 agency, as the case may be, will assume full financial  
9 responsibility for operation of the school once the Federal grant  
10 has expired;

11           "(7) a request and justification for waivers of any  
12 Federal statutory or regulatory provisions that the applicant  
13 believes are necessary for the operation of the charter school  
14 [~~compare to §2508(I)(J)(ii)~~]; and a description of any State or  
15 local rules <sup>or</sup> generally applicable to public schools, ~~or~~ that  
16 will be waived for, or otherwise not apply to, the school;

17           "(8) a description of how the grant funds would be  
18 used;

19           "(9) a description of how all eligible students ~~{means~~  
20 ~~what?}~~ in the community will be--

21           "(A) informed about the school; and

22           "(B) given an equal opportunity to attend the  
23 school [~~compare to language in definition of "charter school"~~  
24 relating to civil rights and lottery requirements; what does this  
25 requirement get you that those definitional requirements don't?];

1           "(10) an assurance that the school will  
2 civil rights statutes listed in section 2508(1)'  
3 regulations thereunder (this is unnecessary and du,  
4 our civil rights regulations, which apply to all recipi  
5 Federal financial assistance, and appears in the preprinted  
6 application form we use for all grant applications]; and

7           "~~(11) an assurance that the applicant will annually~~  
8 provide the Secretary such information as the Secretary may  
9 require to determine if the [project/charter school?] is making  
10 satisfactory progress toward its objectives; and

11           "(12) such other information and assurances as the  
12 Secretary may require.

13           "(d) STATE EDUCATIONAL AGENCY APPROVAL REQUIRED.--(1) A  
14 local educational agency that desires to receive a grant under  
15 this part shall obtain the State educational agency's approval of  
16 its application before submitting it to the Secretary.

17           "(2) A State educational agency that approves an  
18 application of a local educational agency shall provide the local  
19 educational agency, and such local agency shall include in its  
20 application to the Secretary, a statement that the State has  
21 granted, or will grant, the waivers and exemptions from State  
22 requirements described in such local agency's application.

23           "SELECTION OF GRANTEEES; WAIVERS

24           "SEC. 2504. CRITERIA. The Secretary shall select projects  
25 to be funded on the basis of the quality of the applications,  
26 taking into consideration such factors as--

1           "(1) the quality of the proposed curriculum;

2           "(2) the degree of flexibility afforded by the State  
{and the LEA} to the school;

4           "(3) the degree of innovation involved in the plan for  
5 the school;

6           "(4) the extent of community involvement in designing  
7 the school and community support for the application;

8           "(5) the ambitiousness of the objectives for the  
9 school;

10           "(6) the likelihood that the school will meet those  
11 objectives and improve educational results for students; and

12           "(7) the national significance and potential for  
13 replication of the project.

14           "(b) PEER REVIEW. The Secretary shall approve applications  
under this section after obtaining and considering the advice of  
15 ~~experts/expert reviewers~~. *do the extent possible.*

17           "(c) DIVERSITY OF PROJECTS. The Secretary may approve  
18 projects in a manner that ensures that they--

19           "(1) are distributed throughout different areas of the  
20 Nation, including in urban and rural areas; and

21           "(2) represent a variety of educational approaches.

22           "(d) WAIVERS. The Secretary may waive any statutory or  
23 regulatory requirement that the Secretary is responsible for  
24 enforcing, except for any such requirement relating to the  
25 elements of a charter school described in section 2508(1) if--

1           "(1) the waiver is requested in an approved application  
or by a grantee under this part; and

2           "(2) the Secretary determines that granting such a  
3  
4 waiver would promote the purpose of this part.

5 [Can he waive, for example, the requirement of equitable services  
6 to private school children? See other limitations on the waiver  
7 authority in §310(c) of the Goals 2000 Act.] *UK*

8                               "USES OF FUNDS

9           "SEC. 2505. A recipient of a grant under this part may use  
10 the grant funds only for--

11           "(1) post-award [post-application?] planning and design  
12 of the educational program, which may include--

13                               "(A) refinement of the desired educational results  
14 and of the methods for measuring progress toward [achieving?]  
those results; and

15                               "(B) *pre-award design*  
16 ~~training~~ of teachers and other staff who will  
17 work in the charter school; and

18           "(2) initial implementation of the charter school,  
19 which may include--

20                               "(A) informing the community about the school;

21                               "(B) ~~purchase~~*obtaining* necessary equipment;

22                               "(C) purchasing or developing curriculum  
23 materials; and

24                               "(D) other operational costs that cannot be met  
25 from ~~normal~~*regular* ~~no adjective~~ State or local sources.

26 [As I read the specifications, we don't want to pay for pre-award  
27 (or at least pre-application) costs. Is that right? Wouldn't

*Probably -  
will be  
full*

1 such costs be a significant portion of the total cost of  
2 launching a charter school?]

"CONTINUATION AWARDS

4 "SEC. 2506. The Secretary shall not provide funding beyond  
5 the first year of any project under this part unless the  
6 Secretary determines that the grantee is making acceptable  
7 progress toward meeting the objectives of the project.

8 [Under EDGAR, 34 CFR 75.253(a)(2), the grantee must have either  
9 (i) "made substantial progress toward meeting the objectives in  
10 its approved application"; or (ii) obtained the Secretary's  
11 approval of changes in the project that: (A) do not increase the  
12 cost of the grant; and (B) enable the grantee to meet those  
13 objectives in succeeding budget periods. Do we dislike that test  
14 here?]

"NATIONAL ACTIVITIES

15  
16 "SEC. 2507. The Secretary may reserve [up to?] ten percent  
17 of the funds appropriated for this part for any fiscal year for--

"(1) peer review of applications under section 2504(b);

18  
19 "(2) a national evaluation of the program authorized by  
20 this part; and

21 "(3) other activities designed to enhance the success  
22 of such program, such as bringing grantees together to share  
23 ideas and information.

"DEFINITIONS

24  
25 "SEC. 2508. As used in this part, the following terms have  
26 the following meanings:

27 "(1) The term 'charter school' means a school that--

1                   "(A) is [~~newly?~~ means what?] crea  
2 developer as a public school, or is adapted by  
3 an existing public school [~~but otherwise meets~~  
4 of this paragraph? That's true in any case; w

5                   "(B) operates in pursuit of a s  
6 educational objectives, including intended student learning  
7 gains, determined by the school's developer and agreed to by the  
8 [school's State or local educational agency? State or local  
9 educational agency applying for a grant on behalf of the  
10 school?];

11                   "(C) provides a program of elementary or secondary  
12 education, or both;

13                   "(D) is nonsectarian in its programs, admissions  
14 policies, employment practices, and all other operations, and is  
15 not affiliated with a sectarian school or religious institution;

16 [~~Are we trying to codify Establishment Clause case law here or~~  
17 ~~what? See §8004 of the current ESEA, which would apply.]~~

18                   "(E) does not charge tuition;

19                   "(F) complies with title VI of the Civil Rights  
20 Act of 1964, title IX of the Education Amendments of 1972,  
21 section 504 of the Rehabilitation Act of 1973, [What about the  
22 Age Discrimination Act?] and the substantive and procedural  
23 [requirements and?] safeguards of [part B of?] the Individuals  
24 with Disabilities Education Act; [This entire subparagraph is  
25 redundant of other applicable law.]

} part  
} agreed  
} set it to  
} being!

26                   "(G) admits students on the basis of a lottery, if  
27 more students apply for admission than can be accommodated;

1 "(H) complies with [agrees to  
2 subject to (at the time it applies?)?] the  
3 audit requirements as do [are?] other sch  
4 unless such requirements have been [or w  
5 waived for the purpose of this program [Wh  
6 waived for some other purpose, such as to achieve  
7 under the Goals 2000 Act?];

8 "(I) meets all relevant ~~[means what,~~  
9 "applicable"?) Federal, State, and local health and safety  
10 requirements; and

11 "(J) (i) in accordance with State law, is exempted  
12 from ~~[at least one? some? all? Ah, there's the rub!]~~ State or  
13 local rules governing public schools, except any rules relating  
14 to the other requirements of this paragraph [What counts as a  
15 rule? What about a labor contract, maintenance contract,  
16 transportation contract, or other legally binding agreement that  
17 may not be a "rule"?]; and

18 "(ii) with the agreement of the Secretary,  
19 ~~may be [will be?]~~ <sup>required</sup> exempted from ~~[one or more? some? all?]~~  
20 Federal statutory and regulatory requirements except for those  
21 relating to the other provisions of this paragraph [e.g.,  
22 historic preservation, FERPA?]. [This seems to bar an otherwise  
23 eligible charter school that, for whatever reason, doesn't  
24 want/need/ask for Federal waivers. Why would we want to do  
25 that?].

*Should the  
Secretary  
state charter law*

*Lucian*

1           "(2) The term 'developer' means an individual or group  
2 of individuals (including a public or private nonprofit  
3 organization), which may include teachers, administrators and  
4 other school staff, parents, or other members of the local  
5 community in which a charter school project will be carried out.

6           "(3) The term 'eligible grantee' means a State  
7 educational agency or local educational agency, in partnership  
8 with a developer [that desires to apply for, and carry out, a  
9 project under this part: I think these words aren't needed and  
10 don't add anything.].

11                           "AUTHORIZATION OF APPROPRIATIONS

12           "SEC. 2509. For the purpose of carrying out this part,  
13 there are authorized to be appropriated such sums as may be  
14 necessary for each of the fiscal years 1995 through 1999.

\* \* \* \* \*

[The specifications discuss the definitions and the authorization  
of appropriations early on, but my standard drafting practice is  
to have them be the last two sections, so I always know where to  
find them. Any strong feelings?]

oh

7/14/94

Note to Mike Smith

At your request, yesterday I spoke to Bayla White about her comments on the Charter Schools specifications. I walked her through our responses to her written comments and, for the most part, she didn't express either concurrence or disagreement with most of those responses. She did, however, make the following specific points.

- o In the definition of a charter school, the specs state that such a school would have to comply with Title VI, Title IX, Section 504, and the substantive and procedural requirements of IDEA. In her written comments, Bayla asked if Federal and State workplace and employment laws would also apply. I told her that our attorneys believe those laws would automatically apply and that application of the specific statutes would not have to be set forth in the bill. She asked why the same reasoning would not then apply to the civil rights laws.  
*Can't rights were in the symbolic program. Do we need to be 44-404 in employment?*
- o Under "Project Selection," Bayla strongly believes that we should drop the 7th selection criterion, national significance and potential for replication, because it is too difficult to judge, on the basis of an initial application, whether a project would really be nationally significant and replicable. *OK*
- o Bayla's final written comment concerned the relationship of charter schools to other ED programs. She asked whether a charter school would be considered part of an LEA and whether it would be allowed to participate in other Federal programs. I pointed out that, under "Application Process," an application would have to describe how the school would be managed and the relationship between the school and the LEA or SEA acting as grantee. This should provide the Department with sufficient information on the school's governance structure and whether it would be a school of an LEA, a free-standing LEA, or some other type of entity under State law. This should also clarify the school's legal standing to participate in Federal programs, and any ambiguity might be cleaned up through Federal waivers. She still, believes, however, that the Department would need to know whether and how the school would participate in Federal programs during the period of the grant. Add to application

While you had also asked me to talk to her about Migrant Education, we did not get into details because the Department is

now working on a new proposal incorporating elements of the Ford-Goodling bill. OMB will want to see the next draft.

*Tom*  
Tom Corwin

cc: Jack Kristy

ROUTING AND TRANSMITTAL SLIP

Date

JUL 15 1993

Tom PAYZANT  
Comments

7/20/93

TWP

To: Paul Riddle  
Rm 4093

TO: (Name, office symbol, room number, building, Agency/Post)

Initials

Date

1. Ben Cornia, MTB/CEO

2. Jack Knisty

3.

4.

5.

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
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REMARKS

For your pre-circulation review + comment: draft bill language to authorize a charter school program. I think the tough nut here is the minimum amount of freedom from business-as-usual that must be granted a school to make it a charter school. See [2508(1)(3) Ep. 10]. Comments? Do we need to meet?

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

Paul R.

Phone No.

Thank!

5041-102

OPTIONAL FORM 41 (Rev. 7-78)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.308

GPO : 1987 O - 196-409

"PART E--CHARTER SCHOOLS

"FINDINGS AND PURPOSE

"SEC. 2501. (a) FINDINGS. The Congress finds that--

"(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging academic standards, if sufficiently diverse and high-quality choices and [an?] opportunity<sup>ies</sup> to take advantage of such choices are available to all students;

"(2) State and communities should, therefore, experiment with methods of offering teachers, parents, and other<sup>educators and</sup> members of the public the opportunity to design and implement new public schools;

"(3) the new schools developed through this process should be free to test a variety of educational approaches and should, therefore, be exempted from certain rules and regulations [How does "certain" comport with the related elements of the State definition of "charter school", §2508(1)(J)(i) and (ii)?] if<sup>law on</sup> their leadership commits to attaining specific and ambitious<sup>charter</sup> educational results for students consistent with State content<sup>should</sup> and [student?] performance standards;<sup>govern</sup>

"(4) charter schools, as they have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from unnecessary regulations, and a focus on [learning gains/gains in learning]; and

See comment p. 10



1 grant under this part shall submit an application to the  
2 Secretary at such time and in such manner as the Secretary may  
3 require.

4 "(b) SCOPE OF APPLICATION. Each such application may  
5 request assistance for a single charter school, or for a cluster  
6 of schools, which may include a high school and its feeder  
7 elementary and middle schools, within a community.

8 "(c) APPLICATION CONTENTS. Each such application shall  
9 include, for each charter school for which assistance is sought--

10 "(1) a description of the educational program to be  
11 implemented through ~~(by)~~ <sup>(at? in?)</sup> the proposed charter school,  
12 including--

13 "(A) the grade levels or ages of children to be  
14 served; and

*curriculum and instructional practices* ✓

"(B) the ~~curricular~~-<sup>1</sup>approach to be used;

16 "(2) a description of how the school will be managed;

17 "(3) a description of--

18 "(A) the educational results that the school will  
19 seek to attain;

20 "(B) how those results relate to the State's  
21 content and ~~(student?)~~ performance standards, if any, approved *yes*  
22 under title III of the Goals 2000: Educate America Act; and

23 "(C) the methods by which the school will  
24 determine its progress toward ~~achieving~~ those results; *yes*

*or authorize approve*  
*not the correct term confused with grant*  
*Issue the grant*

1 "(4) a description of the administrative relationship  
2 between the charter school and the local educational agency or  
3 State educational agency that will act as the grantee;

4 "(5) a description of how parents and other members of  
5 the community will be involved in the design and implementation  
6 of the charter school;

7 "(6) an assurance that the State or local educational  
8 agency, as the case may be, will assume full financial  
9 responsibility for operation of the school once the Federal grant  
10 has expired; *is this knowledge because federal funds*  
*are for planning + start up, not operations?*

11 "(7) a request and justification for waivers of any  
12 Federal statutory or regulatory provisions that the applicant  
13 believes are necessary for the operation of the charter school  
14 [compare to §2508(1)(J)(ii)], and a description of any State or  
15 local rules [, generally applicable to public schools,?] that  
16 will be waived for, or otherwise not apply to, the school;

*again let state law determine not applicable*

17 "(8) a description of how the grant funds would be  
18 used;

*as determined by state charter law*

19 "(9) a description of how all eligible students [means  
20 what?] in the community will be--

21 "(A) informed about the school; and

22 "(B) given an equal opportunity to attend the  
23 school [compare to language in definition of "charter school"  
24 relating to civil rights and lottery requirements; what does this  
25 requirement get you that those definitional requirements don't?];

*commitment in the application that is explained in operational terms*

1           "(10) an assurance that the school will comply with the  
2 civil rights statutes listed in section 2508(1)(F), and  
3 regulations thereunder [this is unnecessary and duplicative of  
4 our civil rights regulations, which apply to all recipients of *OK*  
5 Federal financial assistance, and appears in the preprinted  
6 application form we use for all grant applications]; and

7           "(11) an assurance that the applicant will annually  
8 provide the Secretary such information as the Secretary may  
9 require to determine if the [~~project~~ charter school<sup>(s) are</sup>] is making  
10 satisfactory progress toward its <sup>(then)</sup> objectives; and

11           "(12) such other information and assurances as the  
12 Secretary may require.

13           "(d) STATE EDUCATIONAL AGENCY APPROVAL REQUIRED.--(1) A  
14 local educational agency that desires to receive a grant under  
15 this part shall obtain the State educational agency's approval of  
16 its application before submitting it to the Secretary.

17           "(2) A State educational agency that approves an  
18 application of a local educational agency shall provide the local  
19 educational agency, and such local agency shall include in its  
20 application to the Secretary, a statement that the State has  
21 granted, or will grant, the waivers and exemptions from State  
22 requirements described in such local agency's application.

*state law  
may  
define  
what they  
are.  
so much  
separate  
waivers  
is not  
needed*

23           "SELECTION OF GRANTEES; WAIVERS

24           "SEC. 2504. CRITERIA. The Secretary shall select projects  
25 to be funded on the basis of the quality of the applications,  
26 taking into consideration such factors as--

*and instructional practices*

- 1           "(1) the quality of the proposed curriculum;
- 2           "(2) the degree of flexibility afforded by the State  
3 [and the LEA?] to the school; *with this to be defined by state law?*
- 4           "(3) the degree of innovation involved in the plan for  
5 the school;
- 6           "(4) the extent of community involvement in designing  
7 the school and community support for the application;
- 8           "(5) the ambitiousness of the objectives for the  
9 school; *The quality of the plan for assessing achievement of the school's ~~goals~~ <sup>objectives</sup>*
- 10           "(6) the likelihood that the school will meet those  
11 objectives and improve educational results for students; and
- 12           "(7) the national significance and potential for  
13 replication of the project.

14           "(b) PEER REVIEW. The Secretary shall approve applications  
15 under this section after obtaining and considering the advice of  
16 [experts/expert reviewers].

17           "(c) DIVERSITY OF PROJECTS. The Secretary may approve  
18 projects in a manner that ensures that they--

- 19           "(1) are distributed throughout different areas of the  
20 Nation, including in urban and rural areas; and
- 21           "(2) represent a variety of educational approaches.

22           "(d) WAIVERS. The Secretary may waive any statutory or  
23 regulatory requirement that the Secretary is responsible for  
24 enforcing, except for any such requirement relating to the  
25 elements of a charter school described in section 2508(1) if--

1           "(1) the waiver is requested in an approved application  
or by a grantee under this part; and

3           "(2) the Secretary determines that granting such a  
4 waiver would promote the purpose of this part.

5 [Can he waive, for example, the requirement of equitable services  
6 to private school children? See other limitations on the waiver  
7 authority in §310(c) of the Goals 2000 Act.] *This is a legal issue  
for attorney to call*

8                           "USES OF FUNDS

9           "SEC. 2505. A recipient of a grant under this part may use  
10 the grant funds only for-- *can't use funds until award made*

11           "(1) post-award [post-application?] planning and design  
12 of the educational program, which may include--

13                           "(A) refinement of the desired educational results  
14 and of the methods for measuring progress toward ~~achieving?~~ *yes*  
those results; and

15                           "(B) training of teachers and other staff who will  
16 work in the charter school; and

17           "(2) initial implementation of the charter school,  
18 which may include--

19                           "(A) informing the community about the school;

20                           "(B) [<sup>acquiring</sup> purchasing/obtaining?] necessary equipment;

21                           "(C) purchasing or developing curriculum  
22 materials; and

23                           "(D) other operational costs that cannot be met  
24 from [<sup>resources provided by the</sup> ~~normal? regular? no adjective?~~ State or local sources. *LEA*

25 [As I read the specifications, we don't want to pay for pre-award  
26 (or at least pre-application) costs. Is that right? Wouldn't  
27

~~I discussed~~  
~~part~~

*yes?*  
*otherwise we would  
have to provide for  
separate planning grants*

*typically charter will  
receive lump sum  
allocation to cover  
all costs.*

1 such costs be a significant portion of the total cost of  
2 launching a charter school? ] *yes*

"CONTINUATION AWARDS

4 "SEC. 2506. The Secretary shall not provide funding beyond  
5 the first year of any project under this part unless the  
6 Secretary determines that the grantee is making acceptable  
7 progress toward meeting the objectives of the project.

8 [Under EDGAR, 34 CFR 75-253(a)(2), the grantee must have either  
9 (i) "made substantial progress toward meeting the objectives in  
10 its approved application"; or (ii) obtained the Secretary's  
11 approval of changes in the project that: (A) do not increase the  
12 cost of the grant; and (B) enable the grantee to meet those  
13 objectives in succeeding budget periods. Do we dislike that test  
14 here?]

*test OK.*

"NATIONAL ACTIVITIES

15 "SEC. 2507. The Secretary may reserve [up to?] ten percent  
16 of the funds appropriated for this part for any fiscal year for--

"(1) peer review of applications under section 2504(b);

19 "(2) a national evaluation of the program authorized by  
20 this part; and

21 "(3) other activities designed to enhance the success  
22 of such program, such as bringing grantees together to share  
23 ideas and information.

"DEFINITIONS

24 "SEC. 2508. As used in this part, the following terms have  
25 the following meanings:

26 "(1) The term 'charter school' means a school that--  
27

*No. it could be an existing school that is developing in new directions*

1 "(A) is [newly? means what?] created by a  
2 developer as a public school, or is adapted by a developer from  
3 an existing public school [but otherwise meets the requirements  
4 of this paragraph? That's true in any case; why not leave out?];

*leave out*

5 "(B) operates in pursuit of a specific set of  
6 educational objectives, including intended student learning  
7 gains, determined by the school's developer and agreed to by the  
8 school's State or local educational agency? ~~State or local~~  
9 ~~educational agency applying for a grant on behalf of the~~  
10 ~~school?];~~

11 "(C) provides a program of elementary or secondary  
12 education, or both;

13 "(D) is nonsectarian in its programs, admissions  
14 policies, employment practices, and all other operations, and is  
15 not affiliated with a sectarian school or religious institution;

*ok*

16 [Are we trying to codify Establishment Clause case law here or  
17 what? See §8004 of the current ESEA, which would apply.]

18 "(E) does not charge tuition;

19 "(F) complies with title VI of the Civil Rights  
20 Act of 1964, title IX of the Education Amendments of 1972,  
21 section 504 of the Rehabilitation Act of 1973, [What about the  
22 Age Discrimination Act?] and the substantive and procedural  
23 [requirements and?] safeguards of [part B of?] the Individuals  
24 with Disabilities Education Act; [This entire subparagraph is  
25 redundant of other applicable law.]

*appropriate to list these in separate reasons + then add other...*

26 "(G) admits students on the basis of a lottery, if  
27 more students apply for admission than can be accommodated;

I think agree to comply with  
because when charter is granted  
to a "new" school there is no track record.

1 "(H) ~~complies with~~ agrees to comply with? is  
2 ~~subject to (at the time it applies?)?~~ the same Federal and State  
3 audit requirements as do ~~[are?]~~ other schools in the State,  
4 unless such requirements have ~~been~~ <sup>are</sup> ~~[or will be?]~~ specifically  
5 waived for the purpose of this program <sup>charter.</sup> [What if they've been <sup>should be</sup>  
6 waived for some other purpose, such as to achieve systemic reform <sup>part of</sup>  
7 under the Goals 2000 Act?]; <sup>charter</sup>  
<sup>program</sup>

8 "(I) meets all relevant ~~[means what,~~  
9 Yes "applicable"?) Federal, State, and local health and safety  
10 requirements; and

11 "(J) (i) in accordance with State law, is exempted <sup>add concept of great flexibility-</sup>  
12 from [at least one? some? all? Ah, there's the rub!] State or <sup>State</sup>  
13 local rules governing public schools, except any rules relating <sup>law on</sup>  
14 to the other requirements of this paragraph [What counts as a <sup>charter</sup>  
15 rule? What about a labor contract, maintenance contract, <sup>will</sup>  
16 transportation contract, or other legally binding agreement that <sup>specifically</sup>  
17 may not be a "rule"?]; and <sup>what</sup>  
<sup>rules</sup>  
<sup>charter</sup>  
<sup>schools</sup>  
<sup>are exempt</sup>  
<sup>from.</sup>

18 "(ii) with the agreement of the Secretary,  
19 may be [will be?] exempted from [one or more? some? all?]  
20 Federal statutory and regulatory requirements except for those  
21 relating to the other provisions of this paragraph [e.g.,  
22 historic preservation, FERPA?]. [This seems to bar an otherwise  
23 eligible charter school that, for whatever reason, doesn't  
24 want/need/ask for Federal waivers. Why would we want to do  
25 that?]. <sup>let's start</sup>  
<sup>law.</sup>  
<sup>degree</sup>

anything that may not be exempted  
should be covered in (F) 10

Other permissible waivers would be triggered by request of  
These pending charter school applications.

1           "(2) The term 'developer' means an individual or group  
2 of individuals (including a public or private nonprofit  
3 organization), which may include teachers, administrators and  
4 other school staff, parents, or other members of the local  
5 community in which a charter school project will be carried out.

6           "(3) The term 'eligible grantee' means a State  
7 educational agency or local educational agency, in partnership  
8 with a developer [that desires to apply for, and carry out, a  
9 project under this part. I think these words aren't needed and  
10 don't add anything.]. *Agree*

11                               "AUTHORIZATION OF APPROPRIATIONS

12           "SEC. 2509. For the purpose of carrying out this part,  
13 there are authorized to be appropriated such sums as may be  
necessary for each of the fiscal years 1995 through 1999.

\* \* \* \* \*

[The specifications discuss the definitions and the authorization of appropriations early on, but my standard drafting practice is to have them be the last two sections, so I always know where to find them. Any strong feelings?]

*I think it is helpful to have definitions up front for ease of reading, but I don't have strong feelings.*