

February 23, 2018

Justis Tuia
U.S. Department of Education,
400 Maryland Avenue Room 4W251
Washington, D.C. 20202

Re: Proposed Waiver and Extension of the Project Period for the DC Opportunity Scholarship Program:
Docket ID Number ED–2018–OII–0003

Dear Mr. Tuia:

On behalf of the National Coalition for Public Education (NCPE), we submit these comments in response to the United States Department of Education's (Department) proposed waiver and extension of the project period for the DC voucher program that was published in the Federal Register on January 24, 2018. NCPE opposes all private school voucher programs, including the DC voucher program, as authorized through the Scholarships for Opportunity and Results Act (SOAR Act) and recently renewed through the Consolidated Appropriations Act of 2017.¹ Public dollars should fund public schools, not unaccountable private school voucher programs.

We write to urge the Department not to waive the requirement for a new grant competition in 2018. The DC voucher program lacks adequate accountability and oversight, and as multiple Government Accountability Office (GAO) reports have shown, it has a history of being mismanaged by the grantees administering the program. The Department's proposed waiver would serve only to further decrease accountability of the program.

The DC Voucher Program Repeatedly Lacks Competent Administration

Since its creation, the DC voucher program has demonstrated a lack of transparency and effective oversight. GAO reports from both 2007 and 2013 as well as recent congressional hearings demonstrate that the DC voucher program has repeatedly failed to meet basic and even statutorily required accountability standards.

The Washington Scholarship Fund (2007-2010)

The 2007 GAO Report on the DC voucher program discovered troubling facts about the operation of program. First, the GAO found that the Washington Scholarship Fund (WSF), the first administrator of the DC voucher program, had failed to ensure that the participating schools adhered to the rules of the program or even District of Columbia laws. WSF allowed schools to participate—and allowed students to attend schools—even though they lacked a valid DC occupancy certificate, neglected to submit required financial data, and failed to submit required annual operational reports with basic information on curriculum, teachers' education, and school facilities.² Indeed, some participating schools failed to submit information on accreditation or educational soundness, yet voucher students were directed to

¹ Pub. L. No. 115-31 §§ 901-13.

² U.S. Gov't Accountability Office, GAO-08-9, [District of Columbia Opportunity Scholarship Program: Additional Policies and Procedures Would Improve Internal Controls and Program Operations](#) 34-35 (2007).

and then attended those schools.³ WSF also paid tuition for students to some schools that actually did not charge tuition and made disbursements to other schools without requiring them to submit the proper paperwork.⁴ Furthermore, WSF failed to provide accurate or complete information to parents applying for the voucher program, including failing to report accurate tuition rates, accreditation status, or teacher qualifications at voucher schools.⁵

In 2009, the Senate Appropriations Subcommittee on Financial Services and General Government held a hearing that revealed further troubling facts about WSF's administration.⁶ During the hearing, Chairman Senator Dick Durbin (D-IL), revealed that WSF originally refused to report basic information about the program to the subcommittee⁷ and then may have inaccurately reported the number of students participating in the program. When the subcommittee could not obtain the information from WSF, it requested the information from the Department, only to find that it also lacked this information.⁸ Because of WSF's original refusal to provide a count and the Department's inability to do so, Senator Durbin's staff was forced to contact each individual school and ask how many voucher students attended.⁹ That count indicated that "for the last school year there are 389 missing students" and, as a result, "about \$3 million worth of DC vouchers unaccounted for."¹⁰ Although the administrator refuted this assertion,¹¹ it demonstrates that the administration of the program was at best disorganized, and at worst incompetent to the point of resulting in the loss of millions of taxpayer funds.

The DC Children and Youth Investment Trust Corporation (2010-2015)

In 2010, WSF was unwilling to continue administering the DC voucher program and the Department transferred the grant to a new organization, the DC Children and Youth Investment Trust Corporation (Trust).¹² Rather than hold a new competition for the grant just a few months after it had first awarded the grant to the Trust, the Department chose to waive the competition. Once the SOAR Act was reauthorized in 2011, however, the award was again extended without competition and the Trust continued as grantee of the program until 2015. Unfortunately, the Trust also proved to be an incompetent manager of the program, demonstrating the dangers of awarding the grant without competition and oversight.

In 2013, GAO issued another report on the DC voucher program. It concluded that the Trust, like the WSF before it, had continually failed to ensure the program operated with basic accountability

³ *Id.* at 34.

⁴ *Id.* at 22-23, 33.

⁵ *Id.* at 36.

⁶ *A Review and Assessment of the Use, Impact, and Accomplishments of the Federal Appropriations Provided to Improve the Education of Children in the District of Columbia: Hearings Before the Subcomm. on Financial Services and General Government of the S. Comm. on Appropriations*, 111th Cong. (2011) (Subcommittee Hearing).

⁷ Senator Durbin explained: "When we contacted your office and said . . . 'Send us the names and addresses of the schools that participate in the voucher program; how many students you acknowledge are part of that program in each of the schools—just by number; how many of the teachers in each of the schools have college degrees; how many of the teachers in each of the schools have been judged safe, in terms of the fire safety code, for example, but the District of Columbia'—that you declined, and said, 'I won't provide that information.'" Subcommittee Hearing at 50-51.

⁸ *Id.* at 51.

⁹ *Id.*

¹⁰ *Id.* at 4.

¹¹ *Id.* Before the second date of the hearing, the administrator provided a count of students and argued that the information provided by the schools was not the accurate count. *Id.* at 136-141 (written testimony of Mr. Cork and correspondence between Mr. Cork and Senator Durbin).

¹² U.S. Dep't of Educ., [District of Columbia Opportunity Scholarship Program Awards](#) (last visited Feb. 20, 2018); Waiver and Extension of Project Period, 75 FR 41,836, 41,837 (August 18, 2010).

measures and quality controls¹³ and failed to maintain adequate records on its own financial accounting.¹⁴ Many of the shortcomings that GAO found in 2007 continued to persist six years later, including the Trust's lack of enforcement of SOAR Act requirements like whether schools were maintaining valid certificates of occupancy, were providing information on student achievement and accreditation status to parents, were financially viable, and employed only teachers with bachelor's degrees for core subjects.¹⁵ The interim executive director of the Trust at that time even admitted that "quality oversight of the program as sort of a dead zone, a blind spot."¹⁶

Serving Our Children (2015-present)

In 2015, a new organization, Serving Our Children, was awarded the grant to administer the DC voucher program. Since that time, GAO has not issued any reports to determine whether the persistent weaknesses in administration have been resolved. Thus, we do not know if Serving Our Children is adequately administering the program or not. Yet, in a Congressional oversight committee hearing in December of 2015, the new administrator of the program was unable to provide basic program to the committee, such as what percentage of each voucher school's population comprised students using a voucher.¹⁷

The GAO reports and congressional hearings make clear that the Department should take steps to provide better oversight of the DC voucher program, not less. Given the history of the program's repeated mismanagement, it would be appropriate for the Department to call for increased oversight and accountability measures, including allowing for a new grant competition in 2018.

The Department Should Verify Information from Serving Our Children

The Department states that extending the project period and waiving the competition this year will help Serving Our Children "fully implement the new recruitment and marketing strategies" it has created to increase student participation. But the organization has already had three years to employ those strategies. And without more information on whether these strategies have been implemented or successful, it is difficult to know whether the continuation of the grant is merited. The Department should verify that Serving Our Children has been fulfilling these objectives and not simply extend the period of the grant.

Furthermore, in order for a grantee to continue to receive a continuation award it must meet the requirements of 34 CFR 75.253, including submitting annual performance reports and financial expenditure reports. In an effort to increase transparency, the Department should confirm and verify that these reports have been submitted and determine whether they demonstrate that Serving Our Children has been adequately administering the program.

Conclusion

One of the reasons that the Department gives for its proposed waiver is that few organizations have applied to administer the DC voucher program in the past. It is true that there have been only a few organizations to apply, but it does not follow that there would be no competition for the grant in 2018. In 2015, two organizations submitted applications for the grant: Serving our

¹³ U.S. Gov't Accountability Office, GAO-13-805, [District of Columbia Opportunity Scholarship Program: Actions Needed to Address Weaknesses in Administration and Oversight](#) 19 (2013).

¹⁴ *Id.* at 28.

¹⁵ *Id.* at 20-23.

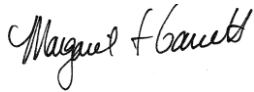
¹⁶ Lyndsey Layton, [D.C. School Voucher Program Lacks Oversight, GAO Says](#), Wash. Post (Nov. 15, 2013).

¹⁷ [Reauthorizing the D.C. Opportunity Scholarship Program: Hearing before the S. Comm. on Homeland Security and Government Affairs](#), 114th Congress (2015) (testimony of Kevin Chavous, Serving Our Children).

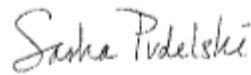
Children and DC School Reform Now. It cannot be assumed that there would be no other interested parties in applying for the grant or that would be capable of administering the DC voucher program.

The Department should ensure the only federally funded private school voucher program is administered in a way that will provide accountability to the nation's taxpayers. The long record of mismanagement of the DC voucher program points to a need for greater accountability and transparency of the taxpayer-funded program. At a minimum, a new grant competition would provide oversight of the current administrator and make available information from Serving Our Children about how it has administered the grant over the past three years. Accordingly, we urge the Department not to waive the competition requirement for grantees.

Sincerely,



Maggie Garrett
Co-Chair of NCPE



Sasha Pudelski
Co-Chair of NCPE