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Organizations

October 14, 2009

(Submitted via Federal eRulemaking Portal)

Office of Innovation and Improvement
Attention: Investing in Innovation Comments
U.S. Department of Education
400 Maryland Avenue, SW, Room 4W321
Washington, DC 20202

Re: Investing in Innovation – Docket ID ED–2009–OII–0012

The Council for American Private Education (CAPE) welcomes the opportunity to comment on the “Notice of Proposed Priorities, Requirements, Definitions, and Selection Criteria” (NPP) for the Investing in Innovation Fund (i3) published in the *Federal Register* October 9, 2009. CAPE is a coalition of 18 national organizations (listed left) that serve religious and independent PK-12 schools. One in four of the nation’s schools is a private school; eleven percent of all students attend them. That translates into 34,000 schools, more than six million PK-12 students, and over \$48 billion in tax savings through the efforts of families who choose a private school education. CAPE and its 33 state affiliates represent about 80 percent of the private school community nationwide. More information about CAPE, its member organizations, and state affiliates is available at <http://www.capenet.org>.

The fundamental purpose of CAPE’s comments is to urge that the final priorities allow successful programs with a proven record of serving high-need students in religious and independent schools to participate in the i3 program and to serve as models for improving student achievement on a wider scale.

Statutory Rationale

Sec. 14007(1) of the *American Recovery and Reinvestment Act of 2009* (ARRA) defines the entities eligible for funding under the Innovation Fund to include “a partnership between a nonprofit organization and...a consortium of schools.” The language does not read “public schools,” as is the case with other sections of the same division that in fact limit eligibility only to public schools (for example, Sec. 14003(a), which refers to the repair of “public school facilities”). When the term “schools” is used in much of federal education law, it generally applies to both public and private schools, and when Congress intends legislation to apply only to public schools, it uses the term “public schools.” The NPP, however, defines “consortium of schools” as follows: “Consortium of schools means two or more public elementary or secondary schools acting collaboratively for the purpose of applying for and implementing an Investing in Innovation Fund grant jointly with an eligible nonprofit organization.” Inexplicably, the NPP takes the statute’s inclusive term “schools” and modifies it with the limiting adjective “public.” We urge that the clear intent and language of the statute be accurately and faithfully reflected in the notice of final priorities and that “consortium of schools” be defined to include public or private schools.

Policy Rationale

The i3 program is designed to “expand the implementation of, and investment in, innovative practices that are demonstrated to have an impact on improving student achievement or student growth (as defined in this notice) for high-need students (as defined in this notice), as well as to promote

CAPE's Comments on i3 Notice

October 14, 2009

Page 2

school readiness, close achievement gaps, decrease dropout rates, increase high school graduation rates, and improve teacher and school leader effectiveness.” Religious and independent schools have an outstanding record of serving high-need students. By any objective measure of student achievement, such as national and state standardized tests (including NAEP, SAT, ACT), college-going rates, and graduation rates, students in private schools perform well above the national average. Many private schools provide innovative and successful approaches to serving students at risk. The Cristo Rey Network of Schools, for example, which educates inner-city students through an innovative work-study model, has 99 percent of its graduates accepted into college. What’s more, numerous well-implemented, well-designed, large-scale experimental studies (the kind the Education Department is looking for to support Scale-up Grants) have documented the effects of various private school programs. Patrick Wolf, the lead researcher for the U.S. Department of Education’s gold-standard study of the D.C. Opportunity Scholarship Program, which allows students to attend religious and independent schools, recently reported that the program “has proven to be the most effective education policy evaluated by the federal government’s official education research arm so far” (“Lost Opportunities,” *Education Next*, Fall 2009).

If the Education Department is interested in finding and scaling-up successful programs to improve performance, close the achievement gap, and prepare students for college, the workplace, and life, it should enlist the efforts of all schools—public and private—that have a history of exemplary accomplishment. Excluding an entire group of proven programs from eligibility for the fund is not in the best interests of the nation or its students. The most promising models for education reform can best be identified by inviting a wide array of applicants with a record of success. We urge you to expand the program to allow nonprofit organizations that have successfully worked with a consortium of religious and independent schools to compete for a grant so that their success might be replicated on a greater scale and serve an even more expansive number of high-need students.

Specific Questions

Although we hope the NPP will be amended as urged above, we also have several specific questions seeking clarifications about the notice in its current form.

1. As stated above, the notice defines a consortium of schools to mean two or more public schools, but once that requirement is satisfied, may a consortium also include one or more private schools?
2. May a private school or a network of private schools be the eligible nonprofit organization that collaborates with an LEA or a consortium of schools? (If so, the NPP would have to amend its “Note about Eligibility for an Entity that Includes a Nonprofit Organization” to permit the nonprofit organization to demonstrate that it has a record of meeting the eligibility requirements through the assistance it has provided one or more *schools* in the past, rather than one or more *LEAs*, as is currently written.)
3. In addition to serving students and teachers in public schools, may an applicant elect to serve students and teachers in private schools using i3 funds?

Conclusion

In remarks at a conference of private school leaders that the Education Department sponsored September 23, Education Secretary Arne Duncan said he wanted to hear the private school community’s “ideas and recommendations for education reform and how the federal government can help advance those reforms.” That same enlightened openness to ideas from various sectors of the education community should mark the i3 program. The nation will have its best chance for school improvement only by drawing upon, and learning from, the accomplishments and successes of all segments of American education.

Sincerely,



Joe McTighe
Executive Director