

# Authorizing Charter Schools



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After two decades of experience with charter schools, state legislators want to ensure these schools are effective. Recent legislation deals more with expansion and quality than early charter school legislation did.<sup>1</sup> The process of authorizing charter schools addresses both the number of schools to be allowed and the quality of the schools. Thus, the topic of authorizing is relevant and important to current debates. Authorizing is the process of approving an application for a charter, negotiating a contract, overseeing a school and deciding whether to close a school at the end of its charter or renew its contract. State laws dictate which entities have authorizing powers and the roles they play in holding charter schools accountable for effectiveness.

Rigorous authorizing is critical to ensuring high-quality charter schools. State legislators pass laws about charter school operations and are publicly accountable for ensuring quality. The authorizers, however, directly hold charters accountable for results. Authorizers not only allow promising applicants to open schools, but also close ineffective schools.

When charter laws were first enacted, school districts were the main authorizers. Later, states allowed other types of organizations to become authorizers in order to allow growth of charter schools, create competition and ensure quality authorizing. Quantity alone, however, did not have the intended effect on quality. Now, stakeholders are focusing on quality in legislation and practices. This brief covers what authorizers do, identifies who authorizers are, discusses state authorizing policies and offers policy questions for consideration.

## What Do Authorizers Do?

The four primary responsibilities of authorizers are to review applications for charters, establish “charters” or contracts, ensure compliance and renew contracts (or not).

### Applications

The first step in charter school authorizing is typically a call for applications. Some authorizers post periodic formal requests for proposals, and others reply to applications as they are submitted.<sup>2</sup> At a minimum, applications usually include the following components, although many state laws include more:

- the mission of the proposed charter;
- financial plans for budgets and facilities;
- specific educational goals, such as graduation rates and test score benchmarks;
- involvement of for-profit or nonprofit management organizations; and
- other information relevant to the capacity of the charter school to succeed.

### Charter Schools in the States

Charter schools are publicly funded, privately managed and semi-autonomous schools of choice. They do not charge tuition. They must hold to the same academic accountability measures as traditional schools. They receive public funding similarly to traditional schools. However, they have more freedom over their budgets, staffing, curricula and other operations. In exchange for this freedom, they must deliver academic results and there must be enough community demand for them to remain open.

The number of charter schools has continued to grow since the first charter law was passed in Minnesota in 1991. Some have delivered great academic results, but others have closed because they did not deliver on promised results.

Because state laws enable and govern charter schools, state legislatures are important to ensuring their quality.

This series provides information about charter schools and state policy topics, including finance, authorization, limits to expansion, teaching, facilities and student achievement.



Some authorizers use outside experts to review applications, while others rely only on internal staff to review. Personal interviews with applicants commonly are held. Using both internal and external evaluators and personal interviews are recommended by the National Association of Charter School Authorizers (NACSA) as part of their “Principles and Standards for Quality Charter School Authorizing.” The overall rate of charter approvals has decreased in recent years. The decline could be because authorizers have more experience and are using more rigorous criteria. Since some states have limited the number of charters that can be approved, the decline also could be due to the fact that some have reached or are nearing their limits.<sup>3</sup>

## Contracts

Once applications are approved, the authorizer drafts a contract with operators of the proposed school. The contract or “charter” outlines the timeline of the agreement, requirements for a governing board and bylaws, exemptions to traditional school legal obligations, performance goals, the number of schools allowed under the charter, fiscal goals and reporting requirements among other terms.<sup>4</sup> Most authorizers enter into formal contracts with charter schools, unless state law does not require it.<sup>5</sup> When there is no formal contract, the authorizer and school rely on the charter application and legal precedent to bind the relationship. For example, the authorizer would use the specific educational goals outlined in the application—such as student test scores—to assess how well the school is meeting its obligations. The span of a contract can be between one and 15 years.<sup>6</sup> Alaska, Arizona, Georgia, Illinois, Michigan, Missouri, Nevada, New Mexico and the District of Columbia allow charter contracts to be longer than five years.<sup>7</sup>

## Oversight

During the contract period, the authorizers continue to monitor the school’s progress and compliance. They oversee specific items such as enrollment, academic achievement, student admissions, finances and compliance with regulations. Authorizers carry out oversight through financial audits, academic reports, site visits to schools, monitoring through electronic data systems and reviews by government agencies. Once the oversight tasks are completed, specific

actions are taken to address any problems. Authorizer involvement varies when a school is not meeting its goals. The school is typically informed about failures in writing and required to develop specific plans for improvement. Some authorizers dictate how the failures should be addressed and the specific changes that are to be made.<sup>8</sup> Flexibility is an important aspect of charter schools’ autonomy and definition. At this stage, authorizers must be specific about necessary improvements without prescribing specific solutions. These reviews can occur prior to or at the end of the charter term (period of operation written into the charter), typically five years.<sup>9</sup> While some authorizers have the discretion to determine term length, others are bound by state laws.

## Renewal

The last step in the authorizing process is a renewal decision. When a charter school does not meet the goals in its contract, it typically would close when its charter term ends.<sup>10</sup> A charter school can be closed before the end of the charter term, however, if the authorizer revokes the charter or the school operators withdraw the charter. Most closures occur when the charter term ends. Common reasons for charter school closures include financial problems, low academic performance and lack of regulatory compliance. The rate of closures has increased as the number of charter schools has expanded. Most closures are concentrated in a few states—California, Florida, Ohio, Arizona and Wisconsin—but, with the exception of Arizona, they also have the most new school openings. Closure rates in other states vary; some states have never closed a charter school.<sup>11</sup>

## Who Are Authorizers?

States allow various entities to authorize charter schools. The most common are local school districts, which account for about 90 percent of all authorizers. Other types of authorizers, in order of prevalence across the country, are higher education institutions, state boards of education, nonprofit organizations, independent charter boards and municipal governments. As of late 2010, a total of 955 authorizers were responsible for 5,268 charter schools and 1.6 million students in the nation.<sup>12</sup> As the number of charter schools increases, so do the number of authorizers.

Survey results paint a general picture of who authorizers are. Most are small; they oversee fewer than five schools. Large authorizers, which oversee more than 10 schools at once, tend to be less prescriptive and allow charter schools more autonomy in addressing problems.<sup>13</sup> Perhaps reflecting other organization characteristics, the resources and functions dedicated to the authorizing process vary among authorizers. Some authorizers specifically exist as such, while others—including local districts and higher education institutions—have many other responsibilities. Funding for authorizer responsibilities comes from charter school revenues, existing organization operating budgets, state and federal grants and state and/or municipal appropriations.<sup>14</sup>

Since most authorizers have other responsibilities, not all have budgets allocated only for authorizing activities. A little more than half of authorizers surveyed by NACSA report budgets specifically for authorizing activities. The number of staff designated for authorizing duties averages about five full-time equivalents. In reality, however, some authorizers have no full-time staff for authorizing activities and, even among larger authorizers, one full-time staff person may oversee an average of six schools. Half the authorizers in the survey report a lack of specified resources set aside for authorizing within their organization.<sup>15</sup>

The various types of authorizers bring different qualities to the job of overseeing charter schools. State laws specifically outline how these entities hold charter schools accountable. In some jurisdictions, only one authorizer may decide the fate of charter schools. In others, several authorizers can approve applications, and some can repeal others' decisions. When charter schools were new and untested, the ability to appeal charter denials was established so an applicant could seek other options if the application was denied. Most state charter laws offer an alternative for the applicant to pursue if a charter is rejected.<sup>16</sup> The main types of authorizers states allow are described below:

- **Local school district** authorizers bring assets and challenges to the authorizing process because of their unique relationships with charter schools. For example, there may be competition for students and per-pupil funding between a local district and the charter school within a district. However, the authorizing district also

can be a useful partner to the charter school since it can provide technical assistance and help secure facilities.<sup>17</sup> Some local school districts may treat their charter schools as traditional schools, and the relationship typically results in less charter school autonomy. Local districts are more likely to be directly involved in decision-making, especially when a school is underperforming, by prescribing specific solutions and such. Local school boards historically have authorized more charter schools that were converted from traditional schools than other authorizers.<sup>18</sup>

- **Institutions of higher education** are natural choices as authorizers because they receive students from the K-12 systems. They have a stake in ensuring quality education for college and career readiness at the K-12 level. When surveyed, most authorizing higher education institutions reported that authorizing was part of their overall mission to improve education and viewed it as an opportunity to use their expert knowledge.<sup>19</sup> Although they often are involved in K-12 teacher preparation and other areas, they do not have the existing infrastructure and specific knowledge about K-12 day-to-day operations that school district authorizers do.<sup>20</sup> In addition, they usually have limited resources and capacity for authorizing responsibilities.
- **State boards of education** have advantages as authorizers. They can be effective because of their statewide outlook, institutional knowledge and expertise.<sup>21</sup> However, according to NACSA's analysis, since state education agencies have the most limited staff and resources among authorizers of the same size, authorizing can be low on the list of priorities.<sup>22</sup> At the same time, many state boards have unique powers in the authorizing process. More than half of the states with charter laws allow the state boards of education to repeal or override denials from other authorizers.<sup>23</sup>
- **Nonprofit organizations** can serve as authorizers because they often have knowledge about specific needs of a population, neighborhood or community, so they have incentives to hold charter schools accountable for educational achievement. They also bring experience in fundraising, organizational operations and manage-

ment. However, they often have limited resources and do not have experience in school operations. They have the least rigorous application process and the highest approval rates among large authorizers.<sup>24</sup> Only Minnesota and Ohio currently allow nonprofit organizations to authorize.

- **Specialized independent charter boards** are authorizers in eight jurisdictions. These organizations are created for the sole purpose of overseeing charter schools. They have the advantage of focusing on charter school quality and innovation, but also face the challenges that come with starting a new institution. Members usually are appointed by state officials or nominated by education agencies. They can be representatives of the business community or traditional public schools, charter school operators, teachers or others with valuable skills and backgrounds that represent state residents.
- **Municipal governments** are allowed to authorize in two states. Indiana empowered the mayor of Indianapolis to authorize within the city, and Wisconsin allows the Milwaukee city council, among other entities, to authorize for city schools.<sup>25</sup> Although these city-wide officials have broad knowledge about education needs and can be powerful leaders, they often do not have education expertise and in-depth knowledge about education reform. In addition, turnover among municipal leaders occurs regularly, and they already have many other responsibilities.

## Components of Effective Authorizing Policies

Stakeholders and researchers have accumulated general lessons learned about rigorous authorizing. The lessons center around setting goals, determining authorizing powers, ensuring accountability and providing funding.

### Goals

Clear goals stated in law are first steps to ensuring quality in charter school authorizing. The authorizer not only should see charter school success as part of its own mission, but also should keep school flexibility and innovation in mind

during oversight of school operations. Authorizers can be involved in tasks such as engaging the community and parents who support the charter school without treading on the school's autonomy. Authorizers can have specific missions, such as replicating promising practices among the schools they oversee. One such example is the Colorado Charter School Institute. Among its goals—set in law—are to open charter schools to meet the needs of at-risk youth and to set an example for high-quality authorizing.

### Authorizing Powers

Authorizing powers are important components in charter laws. Competition among several authorizers can lead to more rigorous oversight, but more authorizers may not always be better. The availability of different types of authorizers in addition to local school districts may allow charter school growth within a state, but the quality of authorizing depends on various other factors, such as resources, capacity and an organization's mission that includes charter quality. If authorizers are lax, less promising applicants can seek them out. This not only negates the rigorous work of other authorizers, but also may discourage competition. Quality depends more on a uniform standard among all authorizers in a jurisdiction than sheer numbers of them to drive quality. Research shows that authorizers with a higher volume of charter schools under their jurisdiction actually perform better.<sup>26</sup> Arizona and California allow local district authorizers to oversee schools only within district geographic boundaries. This can provide district incentives to help the charters meet their goals and ensure that oversight is practical,

### Accountability

Just as accountability for charter schools is important to their success, so is accountability for authorizers to ensure quality in their work. Clear expectations and standards are key components of an accountability system for both charter schools and authorizers. Results should be measurable, and the means of assessing quality should be reasonable. Along the same lines, reporting requirements that detail measurable results without unnecessary, onerous paperwork for schools and authorizers can be useful accountability tools. Authorizers can be required to apply to become authorizers. Just as underperforming charter schools would be closed

by authorizers, revoking authorizing powers is warranted if the goals clearly stated in law are not met. Minnesota laws passed in 2009 hold the authorizer directly accountable for performance of the charter schools it oversees and requires the state education department to approve authorizers every five years.<sup>27</sup>

## Funding

Adequate resources and capacity can ensure that authorizing duties are not overshadowed by other core responsibilities. What is adequate? According to NACSA, funding levels for

authorizing need not match funding for traditional school operations. Approval and oversight can be carried out efficiently by a small staff with experience in charter school quality. NACSA recommends a novel approach to authorizer funding: it combines a set amount of money from the state with a percentage of charter school revenues. If authorizers depended on revenues from schools as their only source of funding, it might offer an incentive to keep more schools open. This approach, they argue, lessens the incentive for authorizers to keep poorly performing schools in operation, since funding for authorizing would not be solely tied to the number of schools they oversee.<sup>28</sup>

## Policy Questions to Consider

- Who are authorizers in the state? How many schools do they oversee? How many authorizers are large and how many are small? What is the extent of their authorizing powers?
- How do organizations become authorizers? Do they apply, or are some organizations automatically identified as appropriate authorizers?
- What accountability measures are in place to evaluate authorizers? Who oversees this process? Are the measures specific and objective?
- How much and through what means do authorizers receive state funding?
- How often do authorizers review charter schools? For charter schools with terms of 10 years or more, are authorizers conducting regular performance reviews?
- How many schools have authorizers closed? Are the closure and charter approval decisions driven by concrete data such as test scores, financial reports, independent audits, etc.?
- Do authorizers allow enough autonomy within their contracts with charter schools for innovation and risk?
- Are methods in place for effective authorizing practices to be shared among authorizers and charter schools?
- Do authorizers in the state have uniform standards of approval and renewal?

## Notes

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