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Charter Authorizers Face Challenges

Since the first charter school opened 20 years ago in Minnesota, charters have been a focus of school reform advocates and the subject of substantial research. Yet the regulators of the charter industry (called “authorizers” or “sponsors”) remain a mystery to many. In fact, many authorizers work in isolation, developing their own best practices, and are often just trying to keep their heads above water. Why is this? Is it that reformers have appropriately been focused on the charter schools themselves? Or is the notion of regulation within a movement that has autonomy as its lifeblood simply not a popular topic? Regardless, the quality of authorizing matters. Authorizers evaluate charter school applications, oversee charter schools once they are up and running, and decide, based on various performance measures, whether to renew or revoke the schools’ charters. Strong authorizing can create and support high-quality charter schools, and weak authorizing can enable lousy charter schools to open or stay open.

Public charter schools enroll about 5 percent of the nation’s public-school students. More than 2.3 million students attend 6,000 charter schools, and more than 600,000 students are on waitlists for seats in charter schools that are oversubscribed. The National Alliance for Public Charter Schools (NAPCS) anticipates that 400 to 500 new charter schools will open in 2013. The authorizing environment can directly determine whether the charter seats that are created and maintained are of high quality. While authorizers are not the operators, they set the standards and measure operators against those standards.

The work of authorizers is central to the charter compact: granting autonomy in exchange for accountability. What entity decides if the compact has been honored? The authorizer decides. As Lou Erste, charter schools division director at the Georgia State Department of Education, points out, “we are the guardians of the flexibility” held sacred by charter schools. While many reformers believe that market forces determine whether charter schools live

Quality control takes money and staff

by JOEY GUSTAFSON

or die, charter authorizers actually sign the charter renewal and school closure orders.

One would think that, given the authorizer’s central role in the charter sector, authorizing would be a permanent item in local and state budgets, but support for authorizers often reflects the political whims of lawmakers and education officials. While some authorizers charge a fee to the schools in their portfolio, these fees rarely cover costs. Most authorizers

must rely for basic funding on the year-to-year spending decisions of governments, universities, or philanthropies.

The Authorizing Landscape

With charter schools numbering in the thousands and the sector’s continual growth, one might expect that the authorizer world had developed a solid infrastructure. This is hardly the case. Instead, one finds a scattered and largely underfunded set of regulators, most of them within the traditional public-education system. As of 2011–12, 957 agencies serve as

authorizers, and fewer than 80 are entities other than school districts or state education departments (see Table 1). This means that 92 percent of all authorizers are “within the educational establishment,” and that 72 percent of all charter schools are authorized by these two types of organizations.

What does the typical authorizer look like? Most authorizers are tiny shops, typically consisting of about one-half of a staffer’s time up to the equivalent of two full-time staffers. Many school districts and state education departments do authorizing work via committee, whereby authorizing responsibilities are divided among various departments (authorizing is added to the normal workload of staffers hired to do something else). Only a few large authorizers have as many as 20 or 30 staff members. Due to this disparity between large and small authorizers, the average authorizer employs about 4 staff members; authorizers with few schools average about 2; and for authorizers with more than 10 schools, 7.5 staff members is the average.

Some 86 percent of all authorizing is done by authorizers that have fewer than five charters in their portfolios. Out of the non-school-district authorizers, a significant portion (38 percent) has more than 10 charter schools. Only 7 percent of school district authorizers have more than 10 charter schools.

There is, then, no typical authorizer. But there are good odds that a charter school has been authorized by a school district that has only a few charter schools, and that the district has about two staff members dedicated to chartering responsibilities.

What Determines Authorizer Quality?

Does the type of authorizer influence the quality of the schools? Maybe. Greg Richmond, president of the National Association of Charter School Authorizers (NACSA), suggests that most of the school districts that authorize a small number of charter schools understand the charter concept differently than does the charter community at large. Instead of viewing charters as independently operated public schools, school districts open these schools to add innovative programs to the district. In these cases, the charters likely meet a particular need of the district, which employs the charter staff. Many of these schools have been converted

from traditional schools to charters. Conversions are often referred to as “charter in name only,” since they do not usually have the full set of charter autonomies, such as freedom from the teachers union contract.

For the rest of the charter world, is there an ideal type of authorizer? Richmond explains that K–12 education is not the core business of several types of authorizers (such as universities and nonprofits). K–12 education is the core business of school districts, but they have a multitude of priorities besides charter schools, and authorizing is a sideline activity. For example, they may have a conflict of interest if they are competing for the same students. State education departments may have the most difficulty as authorizers because their purpose is to enforce regulations, not to offer autonomy in exchange for performance. The structure of independent chartering boards likely affords the least resistance to high-quality authorizing, but structure alone does not ensure quality. Factors such as

targeted training, consistent resources (especially human resources), and the scale of the enterprise seem to matter more.

Does the size of the portfolio matter? We know that authorizers with fewer than 10 charter schools are less likely to implement national best practices, as enumerated by NACSA. It may be that authorizers that have less authorizing to do fail to receive appropriate training and support. They may also lack the resources required to adopt best practices like external reviewers, performance management systems, or a rigorous application process.

Susan Miller Barker, executive director of SUNY’s Charter Schools Institute, contends that in order for authorizing quality to be maximized, education stakeholders, including schools, policymakers, and the public, all need a better understanding of what authorizers do: “We are not evil regulators.... We are ‘venture bureaucrats,’ safely utilizing public funds for the best offerings of education, but also managing risk in a way that most people overseeing government funds don’t usually have to. Many people in public education don’t talk about loss of funds or funds not being spent in a way that leads to the highest level of quality education for those funds.”

Are policymakers ready for “venture bureaucrats” to conduct regular assessments of school quality and then to act

Overseeing Charter Schools (Table 1)

Most authorizers are local school districts.

Authorizer Type	Number in 2011-12
School districts	859
Higher education institutions	46
State departments of education	20
Nonprofits	20
Independent chartering boards	10
Municipalities	2
Total	957

SOURCE: National Association of Charter School Authorizers

on their findings? And are the same policymakers ready to provide consistent funding to those who “ruffle feathers” for the sake of accountability? Let’s hope so, because the accountability compact relies on it.

The Money Question

Is it too simple to suggest that authorizers may be under-resourced and that this is an obstacle to authorizing quality? Richmond notes that “good authorizing does not cost a lot of money, but it is not free.” This sentiment is echoed by authorizers. One points out that a charter management organization in its state has five lawyers while the authorizer has two.

Authorizing is a labor-intensive business. According to NACSA, a good authorizer needs at least five to six staff members for a portfolio of 50 to 70 schools. But the accuracy of this formula depends on the type of authorizer organization. If the authorizer can rely on a special education department, for example, or an IT department, or other infrastructure assets of a larger organization, this level of staffing is appropriate. If not, the authorizer will need additional expert staffing and may need to invest in large systems such as data management on its own. The budgetary requirements of authorizers also vary depending on the particulars of the charter state law (e.g., special monitoring requirements, the quality of the student performance measurements, and other criteria). But even by this staffing formula, it is clear that most authorizers have too few staff members.

Providing an extreme example of need, with approximately 515 schools under its purview (with 18 that opened in 2012), the Arizona State Board for Charter Schools has a staff of eight. Executive director DeAnna Rowe must rely on Arizona’s state attorney general for legal support. Another authorizer notes that as the office has added more schools, the staffing level, already inadequate, has stayed the same. Many authorizers rely on staff funded by grants. Authorizers even have voluntary boards that oversee their work. This chronically inadequate and unstable funding makes it hard to become a great authorizer.

Barker of SUNY believes that the real challenge of authorizing is establishing long-term stability. SUNY’s Charter Schools Institute’s budget (like that of many other authorizers) is a stand-alone line item in each year’s state budget. Barker explains that if budgets could be stabilized, then authorizers could assess how much capacity it takes to be an

innovative authorizer, one that conducts research internally, not just a “check the boxes” kind of authorizer. Erste agrees. “The technical aspects [of authorizing] are straightforward. It is the strategic aspects that make the difference between a good and great authorizer.”

Why not fund authorizers for the long term as we do local districts (based on a per-pupil rate)? Why not have a minimal funding threshold based on a number of schools and simply add this into state laws? Why not provide start-up funding for authorizers to support the creation of their major systems?



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The Right People

Lou Erste of Georgia points out that a strong authorizer must assemble a staff that has the right combination of skills and knowledge: people who understand how to operate a successful charter school, who understand how to measure school performance, who can think strategically, who understand legal and fiscal issues, who have experience in the public sector, who have worked with large foundations and the federal government, and most importantly, who are skilled in relationship management. Relationship management may be the essential authorizing skill because of the complex working relationships an agency has with the state education department, state charter-school association, districts, schools, funders, and the legislature.

The need for long-term stability of expert staff is echoed by Rowe of Arizona. She notes that while she has a small team, several members have been there since the early 1990s, and this has enabled her team to handle the oversight load. She also explains that technology and transparency have contributed greatly to their efforts (e.g., online applications and a metric-driven accountability framework), but people are still the key. Rowe does hope for more staffing in the future, as it will allow for greater speed in authorizing good charter schools to open in her state.

Who provides support for authorizer development? NACSA, state charter-school associations, and a few consultants do. The

National Charter School Resource Center offers professional development and networking for a group of state education department authorizers. Is this enough support for authorizers? Not by a long shot. Maine recently passed what is considered to be one of the best charter-school laws in the country, and its newly formed statewide commission was given no start-up funds to facilitate learning about authorizing from others around the country before it had to begin its work. Despite some philanthropic support, there is not enough investment in the training organizations that could consistently assist authorizers that lack funds for development. The lack of training and ongoing support for authorizers is especially acute for authorizers with only a few schools.

Remarkably, most authorizers do not complain much about the high caseload of schools and the small numbers of people to do the work. Members of the Los Angeles Unified School District explained that as can happen with students in a classroom, a few “troubled schools” require 80 percent of authorizer time. Authorizers do worry that being understaffed may become a larger problem as larger charter networks continue to expand. In this case, risks become more serious, and a small authorizing mistake may have enormous rippling implications due to network scale.

Changing Charter Laws

Each state’s charter law can create an environment that either supports professional charter-school operations and high-quality authorizing or does not. And every year, states pass comprehensive school-reform laws and make simple tweaks to charter laws that have an impact on authorizing. Since 2011, several states have lifted caps on charter school growth, and 14 states have moved to strengthen charter school authorizing and accountability (see Table 2). Four states created independent statewide charter authorizers. Three states—Hawaii, New Mexico, and Rhode Island—passed charter school quality-control measures. In Georgia, where in 2011 the state supreme court abolished the statewide charter authorizer, the state’s legislature proposed a constitutional amendment that would allow the authorizer’s reinstatement. Voters approved the amendment in November 2012.

State-level charter school-law developments are closely monitored by Todd Ziebarth, senior vice president at NAPCS. Ziebarth believes that the ideal scenario is for charter laws to require at least two authorizers in the state (preferably one statewide authorizer and one large district that is interested

in authorizing). In the past several years, there has been a significant advocacy push to create “multiple” authorizers in each state. But the policy of having dozens of low-quality authorizers has turned out to be a mistake for several states. In theory, having more than one authorizer should raise charter quality, but the magic number of authorizers depends on the state’s particulars (size, political dynamics, strength of charter law, among other factors).



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Ziebarth contends that the real public-policy issue is how to hold authorizers accountable: Should there be several regional charter commissions created in each state instead of one statewide commission? Should state laws and regulations require that each authorizer apply to do this work and be reviewed for its own performance? Should there be provisions in state laws that allow authorizers to be closed for shoddy performance? (Minnesota recently shut down 40 of its 70 authorizers, and Ohio has closed one.) Should there be requirements regarding an authorizer-staff-to-school ratio or other authorizing practices? Should state laws put an end to schools “shopping for a new authorizer” as is allowed in certain states? And who has authority over authorizers (state departments of education, state legislatures, the courts, state ballot initiatives)? Do the regulators need to be regulated to improve their practice?

Moving Forward

Experimentation with different authorizing structures and resources will be needed, as no silver bullet approach has emerged thus far. But there are clear signs of progress. Minnesota’s education department has created an authorizer application and continues to improve the state’s authorizing capabilities. Another attempt at improving authorizer quality via state law that deserves attention is an effort in Cuyahoga County, Ohio, to create authorizer standards. As a result of a school reform law (the Cleveland Plan), experts recently created a set of regulatory authorizing standards that will be rolled out in 2013.

Carolyn Bridges, senior director of the Office of Magnet, Choice, and Charter Schools in Polk County, Florida, is a founder of the Florida Association of Charter School Authorizers (FACSA), whose members include 36 of the state's 42 authorizers. The association has created a shared renewal process, application process, and model contract, and has built a best practices website, all with a series of federal grants. The federal resources permitted the authorizers to have product retreats and to create uniformity in practices, despite many different authorizing structures and levels of expertise. The funds also permitted Bridges to hire staff to create these best practices and products for Florida authorizers. Michigan and Ohio also have created state-level associations of authorizers in order to pool resources and talent and to focus on authorizer quality.

Peer-to-peer networks of authorizers seem to be filling some of the gap between support and need. In each of these examples, success has come from individuals working in small teams determined to improve authorizing. The teams had a vision and spent time and found resources to deliver it. The problem with these stories of authorizer accomplishments is that they are not the norm.

Richmond explains that good authorizing has relevance for public education as a whole: "Authorizing is a small R&D activity within public education that is helping us explore how we can organize public schools better. On a macro-level, authorizing is helping us to understand how to give schools autonomy, what is the [best] way to hold schools accountable in meaningful ways, and how do we promote innovation and offer families more variety for differentiation for kids."

For choice and deregulation advocates, some of the findings about charter authorizing have been difficult to absorb. The assumption that local and state policymakers will naturally understand what quality authorizing looks like or costs has proved incorrect. If we want poorly performing charter schools to be closed, we have to ensure more than subsistence funding for authorizers; taking strong action requires adequate staffing and legal support, to name some of the costs.

Gaining Ground (Table 2)

Since 2011, legislation in several states has improved the environment for charter schools.

State	Lifted Caps	Eased Access to Funding and Facilities	Strengthened Authorizing and Accountability	Passed New Charter School Law
Arkansas	●			
Colorado		●	●	
Connecticut		●		
Delaware			●	
Georgia			●	
Hawaii	●	●	●	
Idaho	●			
Illinois			●	
Indiana	●	●	●	
Louisiana			●	
Maine				●
Michigan	●		●	
Nevada			●	
New Hampshire	●			
New Mexico			●	
North Carolina	●		●	
Ohio	●	●	●	
Oklahoma	●	●		
Rhode Island		●	●	
South Carolina		●	●	
Tennessee	●	●		
Texas		●		
Utah	●	●		
Wisconsin	●	●		

SOURCE: National Alliance for Public Charter Schools, press release, June 07, 2012

If charter school accountability is to exist as intended, we have to fund authorizers on a secure and permanent basis. If local and state policymakers decide how much to fund authorizing bodies on an ad hoc basis instead, then we will continue to get accountability that is hit or miss. Only high-quality authorizing will ensure that only high-quality charter schools open and grow.

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