FOR THREE OPPORTUNITIES TO INCREASE THE IMPACT OF YOUR WORK ON STATE BOARDS OF EDUCATION

save the dates!

regional conference
Westin Atlanta Airport
Atlanta, GA
January 17, 2017

regional conference
Embassy Suites Airport
Denver, CO
February 2, 2017

legislative conference
Loews Madison Hotel
Washington, DC
March 19-21, 2017

new member institute
Renaissance Arlington Capital View
Arlington, VA
June 9-10, 2017
features

6 Charter Schools: The Landscape and the Horizon
Although still a small share of public education, the sector is growing, and several challenges loom ahead. BRYAN HASSEL

16 Encouraging Districts and Charters to Link Arms to Solve Problems
District-charter collaboration can help turn around low-performing district schools and increase charter quality. ROBIN LAKE

22 Vive la Difference: What It Means for State Boards to Embrace Two Models for Public Education
Two systems for delivering public education, two systems for state accountability. ANDY SMARICK

26 Charter Schools and Democratic Accountability
There can be no strong accountability at charter schools without strong oversight of public officials. JEFFREY R. HENIG

30 Who Watches the Watchers? How States Evaluate Charter School Authorizers
More state boards and departments are getting serious about authorizer accountability. NELSON SMITH

38 A Smarter Direction for Charter Schools
Teacher voice and a focus on diversity are key to fulfilling the promise of charters. RICK KAHLERBENG AND HALLEY POTTER

44 Charter Schools: A Critical Appraisal
By staying engaged in charter oversight, state boards can ensure that these schools improve their record for equity and excellence. SAMUEL HENRY

departments

2 editor’s note
3 news & notes
4 we, the media
5 NCOSEA voice
15 on the agenda
48 from the president’s pen
Most states have them. Many state boards of education have responsibilities and authorities for them. Whether you believe charter schools are the yeast in the loaf of public education, or that they are a better type of bread, or that they are a dry bread soaking up all the gravy that ought to go to traditional schools, charter schools will stay on the table.

The authors in this issue do not argue for more or fewer so much as they urge state boards to think systemically about what they have already. What will you do with your charter schools? If your state has a charter law and charter schools, what role do those schools play in the public school system, and what role should the state board play in ensuring that these charters are serving students well?

Public Impact’s Bryan Hassel kicks off the Standard with an overview of the charter landscape: Where are these schools, who are their students, what authorities do state boards have concerning charter schools, and what are the big issues on the horizon?

While this issue addresses the relevant state policymaking levers, the schools themselves are concentrated largely in several urban districts. Robin Lake of the Center for Reinventing Public Education focuses on the potential for district-state collaboration to increase charter quality and turn around low-performing schools.

The issue includes several perspectives on the question of charter accountability. Andy Smarick, president of the Maryland State Board of Education, argues that having two models for the delivery of public education requires state boards to adopt two approaches to accountability. Jeffrey H. Henig, professor of political science and education at Teachers College, Columbia University, reviews 25 years of history with the charter phenomenon, concluding that the success of the sector depends critically on public officials taking seriously the task of ensuring that charters align with public interests and values: that is, stronger accountability.

In an article entitled “Who Watches the Watchers?” Nelson Smith of NACSA talks about the linchpin in state board efforts to improve these schools—charter authorizers—and what state boards can do to make sure they are up to the task. Smith cites several states’ efforts to ensure that evaluations of charter authorizers are not an afterthought but rather an integral part of a system of accountability.

Rick Kahlenberg and Halley Potter tackle two critiques that have bedeviled charters—that they are hostile to teacher unions and that they are resegregating public schools—and they talk about how state boards can ensure charters are places that embrace diversity and teacher voice.

Another state board veteran, Samuel Henry, shares his own experience of charter skepticism based on its checkered history and charter pride in his home state of Oregon.

With the recent presidential election, it is certain that school choice and the role of charters in making it a reality will figure prominently in education policy dialogue in the years ahead. These authors all well equipped to guide the state board that seeks to rise above the trees and glimpse the shape of the forest.
President-elect Donald Trump campaigned on a few preK-12 initiatives: a new $20 billion federal investment in school choice—$5 billion more than Title I—and a new childcare tax credit. If his administration presses them, congressional deficit hawks are likely to push back. Yet the administration could find support among Republicans that back school choice and among state leaders of both parties who have been working to promote kindergarten readiness and close persistent achievement gaps. The early care strand could take the form of continuing funding for the Preschool Development Grant program, which was authorized in the Every Student Succeeds Act (ESSA), or as part of the administration’s expected focus on school choice.

The president’s selection of Betsy DeVos as secretary of education demonstrates his commitment to school choice and charters, but education policy observers should also watch other Education Department appointments. The assistant secretary for the Office of Elementary and Secondary Education will also be critical, as ESSA implementation could fall primarily on this office’s shoulders.

In addition to the new administration’s policy focus on school choice, ESSA implementation will head the department’s K-12 agenda in 2017, as the new team inherits responsibility for this task regardless of other plans and priorities. Given the timeline and the fact that a new team will not be fully in place until late winter or early spring, it would be difficult to fundamentally change the law’s regulatory structure. Thus, the new administration may have to settle for a few discrete near-term changes, which would still require public notice and comment.

The new team must quickly prepare to review states’ ESSA consolidated plans, which states are submitting in April or September, in order to implement the law fully by the 2017–18 deadline. State plans are likely to be approved without changes unless they clearly conflict with the statute or if peer reviewers highlight fundamental flaws.

The department published a final accountability rule for ESSA in late November 2016. The rule incorporates revisions NASBE sought in comments it submitted earlier in the year: longer time for implementation, more flexibility regarding the 95 percent test participation requirement, and emphasis on continuing stakeholder engagement as state plans are implemented.

Senate Health, Education, Labor, and Pensions Committee Chairman Lamar Alexander (R-TN) and ranking member Patty Murray (D-WA) will continue to lead that committee. Senator Alexander will remain focused on ESSA implementation; ensuring ED’s new leadership does not unduly influence states’ consolidated plans during peer review. He has also expressed interest in reauthorizing the Perkins Career and Technical Education Act and can be expected to champion restrictions of the education secretary’s CTE regulatory authority. He may also use the Higher Education Act (HEA) reauthorization as a lever for overturning or modifying new teacher preparation regulations. Senator Murray will no doubt use her position to protect ESSA’s accountability requirements and to continue as a leading voice for early learning policies and investment.

Virginia Foxx (R-NC) will replace retiring John Kline as House Education and Workforce Committee chairman. Bobby Scott (D-VA) will continue as the committee’s senior Democrat. The committee is likely to focus first on HEA and Perkins. Representative Foxx worked closely with Chairman Kline to support ESSA’s passage and opposed ED’s “supplement, not supplant” rule making. She can be expected to urge new ED leaders to address her concerns. Representative Scott is likely to continue advocating for a strong federal role in educational equity and accountability. Scott has also been a champion for early learning and could be an unlikely administration partner if it follows through on the president-elect’s proposals.

### Arts education as core subject and as a graduation requirement.

![Map showing state definitions of arts education](http://www.nasbe.org)

I started my career studying charter schools. Fresh out of college, I took a job with the Progressive Policy Institute, where I led an exploratory project to analyze the state of the charter school movement and identify areas for future study and investment. Ten years in, the “movement” was in its infancy. Despite some early successes, it struggled with spotty quality and stiff resistance from the status quo. Many of the people I interviewed for the project felt that the movement was at a juncture: To mature, sustain, and grow, supporters would have to focus on charter school quality foremost and develop clearer messaging to educate and inform potential allies.

Reading through the articles in this issue of the Standard, I’m struck by how much the charter school movement has evolved and grown, but I still see a consistent theme: continued collaboration and communication with stakeholders is vital for charters to remain viable. It’s not unlike the charge states have before them in implementing the Every Student Succeeds Act (ESSA), where broad, inclusive, ongoing stakeholder engagement is also critical for success.

Twenty-four state boards have authority over charter schools. Some are the sole charter authorizer or share authorizing responsibilities with the state education agency, while others serve a more advisory role where they are only consulted for high-stakes decisions. But even in the few states where the state board has no direct connection to charters, they still set their state’s vision for education and ensure that all the parts of the state’s education system work in unison. Toward this end, state boards must make an effort to understand how the charter sector works in their state and meaningfully engage with stakeholders on school choice—both allies and critics—to understand their perspectives.

One of the more powerful and valuable ways to understand how charter schools work in your state is to spend an afternoon in one. In his article, Samuel Henry wrote that as board chair in Oregon, he encouraged his board colleagues to visit area charter schools. He called the atmosphere of one of his favorite schools “electric.” I’ve had similar experiences bringing education reporters, civil rights leaders, policymakers, and others on field trips to charter schools in Washington, D.C., Chicago, and Indianapolis. Stepping into any school—charter or traditional, high-performing or low-performing—can be enlightening. For example, the reporters I hosted came away with a new understanding of charter schools and the research surrounding them, and their reporting thereafter became more nuanced and balanced.

In selecting school choice advocate and philanthropist Betsy DeVos to be his education secretary, President-elect Trump seems to be following through on a campaign promise to make education choice a priority. Time will tell what the opportunities for charter schools will be. But one thing is known: State boards of education will need to be knowledgeable about the school choice environment in their state so they can better navigate the policy challenges ahead and make decisions that help ensure that charter and traditional schools alike are working toward a common vision of education excellence for all students.

We, the Media

Renée Rybak Lang
Communications Director
Charter schools are not immune from the transformations the Every Student Succeeds Act (ESSA) are bringing. Some provisions of the law and elements of ESSA rule making may warrant a closer look as charters work on their plans for compliance.

ESSA swept away the “highly qualified teacher” definition and requirements that had been in Title I of the Elementary and Secondary School Act (ESEA). There was no transition period for this provision, so it was effective as soon as President Barack Obama signed ESSA into law on December 10, 2015. For Title I programs, teachers and paraprofessionals need only meet applicable state certification and licensure requirements. No ESSA provision or mandate applies to charter school teacher requirements, and charters are subject to whatever provisions exist in state charter law.

As states develop their state plans in response to ESSA and revise their licensure requirements, however, this could change. Under ESSA, if a state has charter schools, it is required to engage in timely, meaningful consultation with charter school leaders during the development of grant application plans, including Title I. Clearly, this is an opportunity for charter schools to work closely with their state education agencies to ensure inclusion of essential charter school objectives in these plans.

ESSA also expanded charter school opportunities (Title IV, part C of ESEA). State charter school boards, governors, and charter school support organizations are now eligible applicants for these charter school program funds, just as state education agencies have been, and this represents another avenue for charter schools to advance their goals.

There is some ongoing debate regarding systems of educator development, retention, and advancement. Proposed regulation 34 CFR 299.18, which instructs states on what to include in their state plans, has been criticized by some charter school advocates as requiring statewide definitions rather than deferring to local education agencies (LEAs) to establish criteria for effectiveness. Some also read the proposed regulation as mandating teacher evaluation systems. Charter school advocates are concerned that requirements for statewide definition of teacher evaluation would weaken the autonomy they enjoy under current state laws on requirements for teacher credentials and participation in educator evaluation programs. Charter schools can be expected to advocate for keeping their autonomy intact.

The proposed regulations also appear to impose additional requirements for charter schools to meet in regards to annual school report cards. Although not mandated by the statute, proposed regulations call for each authorized public chartering agency in a state to compare the percentage of students in designated subgroups in the authorized charter schools with the percentage of students in the LEAs from which the charter draws a significant portion of its students or the geographic community within the LEA in which the school is located. Additionally, the chartering agency is to compare academic achievement between the same groups. Charter schools may find that these proposed regulatory requirements contradict the overarching spirit of ESSA, which calls for more local decision making and authority.

Catherine T. “Terry” Hickey
President, the National Council of State Education Attorneys

NCOSEA Voice

ESSA and Charter Schools
The charter school sector is now 2.9 million students strong across 42 states and the District of Columbia. When Minnesota passed the first charter school law in 1991, few would have predicted that the sector would become this large. And most state boards of education (SBEs) have some degree of responsibility for this growing set of schools.

Before consideration of state board roles and the sector’s future, it is useful to consider why so many states have enacted charter school laws in the first place.

Why Charters? Theories of Change

The charter sector is not one thing: The schools within it vary widely, and the underlying motivations of charter school advocates are a mixed bag of theories about how to improve public education in the United States. These theories are not mutually exclusive; many advocates subscribe to more than one. Here are some of the big ones:

- **The autonomy-accountability bargain.** District schools, this argument goes, live under too many constraints, from state laws and regulations, to school board policies, to collective bargaining agreements. Free educators from those constraints, and they will be able to make schools work for the students they serve, adapting to their students’ needs and adjusting over time. In exchange, hold them accountable for student results, closing schools that don’t measure up. By opening new schools, closing bad ones, and expanding good ones, the “portfolio” of schools in a city or state will improve.

- **The laboratory.** The lab theory starts in the same place: Give educators the chance to try new approaches. Freedom from constraints will enable innovations to flourish. But then the laboratory theory goes in a different direction. The point of charter innovations is to test new ideas, which can then be adopted more widely by other public schools.

- **The power of choice: free-market edition.** Other theories of charters emphasize the value of parental choice. One flavor of this theory emphasizes the importance of choice itself. Families, this argument goes, know what is best for their children. They should not be told they must send their children to the school down the street or put them on the bus to cross town. Instead, they should be able to choose from among many schools that may vary in culture, instructional approach, or other key variables. The public education system will thrive when students are better matched to schools via choice.

- **The power of choice: social justice edition.** Another flavor of choice theory goes like this: Better-off families already have plenty of school choice. They can move to the “right” neighborhood or town. They can work the system to gain admittance to the limited number of slots in special programs. Failing that, they can enroll in private schools or teach their children at home. But these options are not available to the vast swath of families who cannot afford to live in well-to-do areas, do not have the skills or knowledge to navigate special programs, and cannot afford private tuition. So chartering is about giving choices to the families and children who need better options the most.

Charter Schools: The Landscape and the Horizon by Bryan C. Hassel
From Zero to 3 Million

Whatever the driving forces behind charter schools, those forces have driven indeed. The number of states with charter school laws reached 25 by 1996 and is now at 43. The number of charter schools has more than tripled since 2001–02, with over 6,800 charter schools open in 2015–16 (figure 1). Just 400,000 strong in 2000–01, enrollment likewise grew, reaching nearly 3 million by 2015–16 (figure 2).

With US public school enrollment in the neighborhood of 50 million, charters still educate a relatively small share of the nation’s children. Within a growing number of cities, however, charter schools enroll a substantial share of students. As recently as 2010–11, only 18 districts nationwide had as much as 20 percent of their students in charter schools. By 2014–15, the number had risen to 45. Table 1 shows the districts with the 10 highest charter market shares. New Orleans and Washington, DC, are well-known charter hot-spots. But others make clear that high-market share cities are all over the United States.

Who Attends Charter Schools?

Charter schools are open to all students and are often required to hold random lotteries for admissions if they are oversubscribed. Yet open enrollment does not mean charter students will mirror the demographics of their district peers. Nationally, charter schools enrolled a lower percentage of white students, a higher percentage of African-American students, and a slightly higher percentage of Hispanic students in 2011–12, the last year for which comparable data are available (figure 3). The proportion of students who were eligible for free or reduced-price lunch was similar across the sectors (49.3 percent of charter students versus 45.3 percent).1

With regard to English language learners (ELLs), a 2013 GAO study threw up its hands in an attempt to compare charter and district enrollment patterns, citing a lack of reliable data.2 While the US Department of Education is developing data protocols that may address this challenge, it is impossible to make a comparison now.

A 2012 GAO study found that students with disabilities made up 11 percent of public school districts’ enrollment, compared with 8 percent of charter school enrollment.3 Subsequent research by the Center on Reinventing Public Education at the University of Washington observed that these national numbers mask significant variation at the state, district, and school level.4 That is a critical overall theme in the comparison of charter and district demographics. Averages are of some interest, but both sectors display wide variation across states, districts, and schools. State policymakers are well advised to understand the enrollment patterns within their own states, recognizing that individual districts and schools may also look quite different within their boundaries.

How Well Are Charter Schools Performing?

Policymakers naturally want to know whether charters or traditional district schools are

---

1. National Bureau of Economic Research
2. US Department of Education
3. Center on Reinventing Public Education
4. University of Washington
“better.” An important caution is that charter schools are not one kind of school. Their instructional models, cultures, performance, and other essential variables vary enormously.

Within that context, researchers have attempted to shed some light on differences in average performance. The first national study on charter schools’ academic performance, published in 2009 by Stanford’s Center for Research on Education Outcomes (CREDO), highlighted quality issues throughout the sector, with more charter schools lagging their district peers than outperforming them. But the 2013 study showed significant improvement. Whereas charter students gained seven days less in reading than their district peers in the 2009 study, for example, they gained eight days more than their peers in districts in the 2013 research.5 CREDO’s 2015 study of urban settings found even larger differences, with charter students achieving an extra 40 days of learning in math and 28 days in reading. Cities such as Boston and Newark—where charter school learning gains substantially outpace traditional public schools’ gains—outnumber cities like Fort Worth and El Paso, where charters are performing worse by a ratio of 2:1.

Charters’ critics often try to discount such findings, attributing the success of charter schools to selection bias: the idea that charters are serving a different student population that is more prone to academic success. In response, a second set of studies randomly separate students into two groups—those who applied and were admitted to charter schools and those who applied and were not admitted—based on the charter schools’ lottery selection systems. Because applicants were selected for admission at random, researchers are better able to attribute subsequent difference in their learning to their charter school attendance.6 These studies suggest there is higher performance in reading and math for charter school students overall, with particularly strong benefits for subgroups of low-income, urban, and minority charter students. There is also evidence that charter school students who previously had low levels of academic achievement benefit from a charter school environment. However, there is only limited evidence that these same benefits exist for ELLs and students with disabilities, and two studies indicate that nonurban charter school students actually perform worse than their traditional public school peers.

All of these studies use student test scores on reading and math assessment as the measure of student performance. As states deploy new measures in their accountability systems, a broader range of comparisons will be possible.

**Figure 3.**

State policymakers are well advised to understand the enrollment patterns within their own states.
The Charter Policy Landscape

State policy sets the context for all of the activity in the charter sector, at multiple levels. Legislatures set the broad parameters of chartering by passing charter school statutes. Some state boards of education or state education agencies (SEAs) enact regulations or policy to put the statute into action. Finally, additional policy setting happens within the agencies that authorize charter schools—deciding which operators obtain charters, overseeing charter performance, and making high-stakes decision about the renewal—or revocation—of charters.

State charter laws diverge in some critical ways:

- **Caps.** Some cap the number of charter schools or the percentage of students who can be in charter schools. Others allow an unlimited number.
- **Autonomy.** Some give charter schools automatic exemptions from most state education laws and regulations, with the exception of health and safety, nondiscrimination, accountability, and other bedrock elements. Others offer such exemptions but only if charters apply for them and are approved (sometimes by the state board of education). Still others subject charter schools to most laws and regulations, offering only limited exemptions. States also differ in how they treat specific questions of autonomy, such as whether charter teachers must be certified, whether charters can be operated by for-profit management companies, and whether charters must participate in the state pension system.
- **Authorizing.** In some states, only districts can issue charters. In others, state policymakers give charter schools one or more alternate routes, which may include the SBE/SEA, institutions of higher education, nonprofits, municipalities, and independent charter boards that do nothing but oversee charter schools. Some states have imposed systems to hold authorizers accountable for good practice and/or the performance of their schools.

### Table 1. Cities with Top Charter Market Shares

<table>
<thead>
<tr>
<th>Rank</th>
<th>District</th>
<th>Enrollment Share (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>New Orleans Public Schools (LA)</td>
<td>92</td>
</tr>
<tr>
<td>2</td>
<td>Detroit City School District (MI)</td>
<td>53</td>
</tr>
<tr>
<td>2</td>
<td>School District of the City of Flint (MI)</td>
<td>53</td>
</tr>
<tr>
<td>3</td>
<td>District of Columbia Public Schools (DC)</td>
<td>45</td>
</tr>
<tr>
<td>4</td>
<td>Gary Community School Corporation (IN)</td>
<td>43</td>
</tr>
<tr>
<td>5</td>
<td>Kansas City Public Schools (MO)</td>
<td>40</td>
</tr>
<tr>
<td>6</td>
<td>Camden City School District (NJ)</td>
<td>34</td>
</tr>
<tr>
<td>7</td>
<td>Philadelphia City School District (PA)</td>
<td>32</td>
</tr>
<tr>
<td>8</td>
<td>Indianapolis Public Schools (IN)</td>
<td>31</td>
</tr>
<tr>
<td>8</td>
<td>Dayton City School District (OH)</td>
<td>31</td>
</tr>
<tr>
<td>8</td>
<td>Cleveland Municipal School District (OH)</td>
<td>31</td>
</tr>
<tr>
<td>8</td>
<td>Grand Rapids Public Schools (MI)</td>
<td>31</td>
</tr>
<tr>
<td>8</td>
<td>Victor Valley Union High School District (CA)</td>
<td>31</td>
</tr>
<tr>
<td>9</td>
<td>San Antonio Independent School District (TX)</td>
<td>30</td>
</tr>
<tr>
<td>9</td>
<td>Natomas Unified School District (CA)</td>
<td>30</td>
</tr>
<tr>
<td>9</td>
<td>Newark City School District (NJ)</td>
<td>30</td>
</tr>
<tr>
<td>9</td>
<td>St. Louis Public Schools (MO)</td>
<td>30</td>
</tr>
<tr>
<td>10</td>
<td>Inglewood Unified School District (CA)</td>
<td>29</td>
</tr>
</tbody>
</table>

Accountability. Many charter laws leave accountability to authorizers with only very general guidance. A few states are more specific, requiring charter schools to close if they fall below certain performance thresholds.

Funding. Some state statutes seek to give charter schools a proportionate share of all public school resources: federal, state, and local. More commonly, states guarantee federal and state funding but leave local funding and/or facilities funding out of the equation. As a result, in most states charter schools receive a lower average level of per-pupil public funding than school districts or have to allocate a portion of their operational dollars to cover capital costs.7

State Board Roles

SBEs and SEAs play critical roles related to charter schools. First, charters fall under the state’s jurisdiction because they are public schools, and specifically for any policies that are not waived by the charter law. These always include federal policies around special education, English language learners, and use of federal funds—it is not within states’ power to exempt charter schools from any of that. And many areas of state policy continue to apply to charter schools even in the states with wide autonomy: assessment, accountability, financial stewardship, and more.

In this general policymaking role, a good rule of thumb for state board members is always to ask, how will this policy change affect charter schools? A policy that is well suited for the district context may work less well for charters. Understanding this in advance and then making whatever modifications or exemptions make sense can preempt a world of trouble down the road.

Second, state boards often develop and ratify the regulations that put a charter statute into action. State laws often fall short of providing the detail needed for implementation. This can be a good thing, enabling policymakers with more knowledge of the education field to take the policy to a more specific level. At the same time, it also introduces a risk of overregulation. While reasonable people can debate the merits of specific policy exemptions for charters, it is also the case that there is no point in having charter schools if they face all the same constraints as traditional public schools face.

Third, SBEs and SEAs often play some role in charter school authorization. Table 2 shows the range of possibilities. For a state board member, job one is understanding where your state falls. From there, members can see to it that the SBE and the SEA are carrying out their responsibilities as effectively as possible.

Big Issues on the Horizon

State board members are also in a strong position to scan the horizon for emerging issues and help their states get ahead of the curve. Here are six.

Chronically Failing Schools. States have struggled to make progress with chronically low-performing schools, despite a substantial federal investment over the last half-decade. With new flexibility under the Every Student Succeeds Act, states can rethink their approaches. They could consider enlisting operators of high-quality charter schools to run failing schools, an approach known as “restarts.”8 States can make this happen directly, as Louisiana, Tennessee, and other states have done through “recovery school districts” or “achievement school districts,” in which states have assumed control of struggling schools and then turned to charter operators to manage them. Or states can take an indirect role, encouraging districts to use this approach. Indianapolis, for example, is employing charter operators to lead Innovation Network Schools in the wake of Indiana legislation making that possible.

High Market Share. Charter schools make up a significant portion of public school enrollment in an increasing number of cities (table 1). When charters reach 20 percent or more, new issues emerge. Do families need help navigating the wider array of choices? Should there be a common enrollment system rather than asking families to submit applications school by school? How charters treat special populations also looms larger. Where charter schools are just 2 percent of the market, few would expect them to serve a representative slice of the student population. But at 40 or 50 percent, it becomes fair to ask whether charters are doing their part to meet the needs of the city’s students, including those who need more support due to disabilities,
Table 2. Charter Authorizing Roles for SBEs/SEAs

<table>
<thead>
<tr>
<th>State</th>
<th>Is the Sole Authorizer</th>
<th>Jointly Authorizes (with local board)</th>
<th>Is One Authorizer among Others</th>
<th>Is the Appellate Body</th>
<th>Has Role in Supplying Members for Independent Charter Board</th>
<th>Oversees Authorizers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alaska</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arizona</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arkansas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>California</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Colorado</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Connecticut</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delaware</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Florida</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hawaii</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Idaho</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Illinois</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indiana</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iowa</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>a</td>
<td></td>
</tr>
<tr>
<td>Kansas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Louisiana</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maine</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maryland</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Massachusetts</td>
<td></td>
<td></td>
<td>* b</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Michigan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mississippi</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>c</td>
<td></td>
</tr>
<tr>
<td>Nevada</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Hampshire</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Jersey</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td></td>
<td></td>
<td>* d</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North Carolina</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ohio</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oklahoma</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>e</td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rhode Island</td>
<td></td>
<td></td>
<td>* g</td>
<td></td>
<td>h</td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tennessee</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Texas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utah</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Virginia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washington</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wisconsin</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wyoming</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

English language acquisition, behavior issues, and so on. Fiscal issues become more pressing. Charters may be desperate for space, while district buildings lie vacant or underutilized. Transportation costs grow as more students choose to attend school far from home. And the list goes on. Often these issues are hard to address because neither the district nor the charter sector is putting the overall interests of the city first. State boards, in conjunction with municipal and civic leaders, may be best positioned to bring a “whole city” perspective to bear, advancing the ball on these issues in ways that the charter and district parties may struggle to do.

**Supply.** Often, states treat their charter sectors with a “if we build it, they will come” mentality. Yet in many places the supply of excellent charter school operators is not sufficient to meet demand. Simply setting up a structure for charters is not enough in such instances. State board members committed to quality charter schooling may additionally consider investing resources in incubating new school operators, incentivizing existing high-quality operators to expand their footprint, or attracting high-quality charter networks from elsewhere. The supply problem may be difficult for any one community to meet—especially smaller towns and rural areas. The state may therefore be in a strong position to make a difference, likely working through intermediate organizations like state charter support organizations or city-based education organizations.10

**Innovation.** One of the hopes policymakers have for the charter sector is that it will produce innovative school models that can spread and serve more students. Creating dramatically different schools within the traditional sector is challenging; chartering offers a chance to start something new, to iterate and improve the model over time with little restriction, and then to scale it. Yet some observers have suggested that despite many notable innovations, most charter schools resemble traditional schools.11 For state board members who feel the same, the board is a good perch from which to see what kinds of innovation might be valuable and then to encourage state policymakers to direct resources toward stimulating more of it.

**Virtual Charters.** One category of charter schools in the news lately is virtual charters, also known as cybercharters or online charters. Students at these schools work from home rather than coming to a brick and mortar facility. Often, they have a statewide catchment, 

---

**Footnotes for Table 2**

1. Appoints members of appeal panel.
2. Both the state board and the local school committee must approve within-district “Horace Mann” charters, some of which must also be approved by the local teachers’ union.
3. In addition to hearing appeals from rejected applicants, the state board may also disapprove the granting of a charter by any of the state’s authorizers.
4. The state board of regents, the State University of New York, or local school boards may approve charter school applications, but the state board is the only entity authorized to issue a charter.
5. Can only sponsor charter schools for charters in low-performing group homes serving youth in the custody or supervision of the state.
6. SEA is the sole authorizer for “cyber charters.”
7. Sole authorizer for nondistrict charters and “mayoral academies.”
8. Jointly authorizes district charters with local school committees.
9. State board does not authorize, but must review and recommend outcomes to local entity.
drawing thousands of students from across the state. Whatever the overall promise of online learning, the track record of large virtual charter schools has been weak so far. Stanford’s CREDO computed that online charter students achieved 180 fewer days of learning per year in math than comparable district school students and 72 fewer days of reading learning. The authors concluded that the results leave “little doubt that attending an online charter school leads to lessened academic growth for the average student.”12 These results present a challenge for state boards. On the one hand, state boards with any influence over charter authorizing are well advised to cease and desist from authorizing statewide virtual charter schools similar to the ones producing the aforementioned results. On the other hand, states should not give up on the idea of virtual schooling for the fraction of students who need a virtual option. Policymakers need to find ways to stimulate online models that are vastly different from prevailing cyber schools, such as seeking an elite corps of excellent teachers whom the state enlists to teach online.

Authorizing Quality. Policymakers have become increasingly aware of the importance of authorizing to the success of the charter strategy. Authorizers determine who receives a charter in the first place. They set the performance expectations by which charter schools will be judged. And they make the decisions about which charters to close, renew, or expand. The quality of a state’s charter sector hinges on the quality of its authorizing. Thanks to the National Association of Charter School Authorizers, these agencies have access to top-notch technical resources and advice. Still, authorizing is not where it needs to be. State boards can play a pivotal role in boosting authorizer quality—whether they are the authorizers themselves or oversee other authorizers. One challenge is to exert quality control without imposing bureaucratic constraints and paperwork on a sector that needs flexibility to serve its function in the public education system. The best way to do that is to focus oversight increasingly on the outcomes achieved by the schools in an authorizers’ portfolio, a prospect that is more and more in sight as state data and assessment systems improve.

Conclusion

Few would doubt that charter schools are an enduring feature of the educational landscape in most US states, and that presence is likely to grow. Whether because of the choice they provide, the promise they hold to create better schools through greater flexibility, the market pressures they create, or the innovation they spark, charter schools can play a role in state policymakers’ strategies for ensuring great schools for all students. That will not happen by chance. State board members who think strategically about the charter opportunity and act accordingly have the best chance of making good on the promise of charter schools.

4Robin Lake et al., “New York State Special Education Enrollment Analysis” (Seattle: Center on Reinventing Public Education, 2012).
5CREDO’s studies have their critics. CREDO makes a practice of posting critiques and responses to this webpage: https://credo.stanford.edu/research-reports.html. Its national studies, however, remain the only ones to use student-level data nationwide to compare charter and district students.
6Since these studies can only include charter schools for which the number of applicants exceeds the number of slots, the results may not generalize to less popular charter schools.
7This overview is of limited use to a policymaker in a specific state. Resources to help policymakers understand how their own state compares to others include the National Alliance for Public Charter Schools’ ratings of state laws against their model law (revised October 2016) and the Education Commission of the States’ 50-state roundups.
8For more information about school restarts, visit www.schoolrestarts.org.
10To see charter school support organizations by state, visit http://dashboard.publiccharters.org/ and click on any state with a charter law. For a state-by-state list of city-based education organizations focused on increasing the number of high-quality schools, see http://education-cities.org/our-members/.
Charter schools are far from uncharted territory for state boards of education: Boards in all states with charter laws have a role in strengthening the charter system. Five state boards serve as their state’s sole charter authorizers. Others act as authorizers in specific situations, oversee independent authorizers, or appoint members of independent charter boards (see table 2 in Bryan Hassel’s article in this issue).

In state board meetings during the summer of 2016, nearly half of all state boards included charter schools on their agendas. In the 24 states that considered charter-related topics in their June, July, or August meetings, 53 percent of the relevant agenda items addressed charter authorization. The vast majority of those authorization items involved initial approval of charter schools and modifications of approval stipulations, such as opening dates. Only one in ten authorization items on state boards’ agendas were related to charter renewal and termination.

The remaining 47 percent of charter school items ranged broadly. Some boards considered charters’ roles in state budgets or strategic plans, while others heard presentations on charter efficacy or how charters serve minorities. Boards also confronted issues ranging from charter funding models to the approval of waivers to grant noncharter public schools the same flexibility received by charters in their districts. State boards took action on 75 percent of the charter school items they considered, while the remaining 25 percent were informational.

Some states, such as Utah, considered the impact of statewide legislation on charters in addition to traditional public schools. During its meeting, the Utah State Board of Education learned that a change in the control of a statewide data system could disproportionately affect charter schools’ ability to constructively use and safeguard students’ personal data.¹


Charter Schools’ Share of Total Public Schools, 2013–14

Charter schools and school districts have been at odds since the first charter school law passed in 1991. Districts resent the competition and subsequent funding loss for traditional schools. Charters resent the lack of access to facilities and other resources and attempts to infringe on their autonomy. This bifurcated approach to public schooling carries high costs for charters, districts, and—most importantly—for students and their families.

Yet a fast-growing number of school districts and charters are working together to resolve challenges and reduce costs. States, which have largely sat on the sidelines of these conflicts, have the opportunity—perhaps the obligation—to do more. In particular, state boards of education can leverage local cross-sector collaboration opportunities through policymaking, the bully pulpit, and a strengthening of charter authorizing. As part of their efforts to support and improve low-performing schools under the Every Student Succeeds Act (ESSA), they should want to do so.

Detroit is a painful example of what can happen in the absence of coordination and collaboration. In the city’s public schools, half of which are charter, competition for students is fierce. Yet many schools in both sectors are low performing or failing.1 Schools focus more on the competition for students than on the quality of teaching and learning. As a result, parents face many choices but few quality options. And families struggle to navigate enrollment, transportation, and special education in the absence of systems that make these areas clear, coordinated, and transparent.

Even in more highly functioning “high choice” cities, failure to coordinate across charter and district lines creates missed opportunities, inefficiencies, and inequities:

- Fewer students benefit from effective instructional practices when they are not shared.
- Charter schools cannot access equitable funding, economies of scale, or expertise to support students with special needs.
- Inconsistent approaches to school discipline result in inequitable treatment of students, and the district can become the option of last resort.
- Families—especially low-income and those with less formal education—can have trouble accessing high-quality options in the absence of coordinated enrollment, transportation, and information systems.

Backed by Cleveland’s mayor and the district CEO, the Cleveland Plan for Transforming Schools set a goal of ensuring every child attends a high-quality school, whether district-run or charter, and formalized the district’s strategy to give schools greater autonomy and accountability. Voters subsequently approved a four-year operating levy that earmarked $77 million a year for the district and $5.5 million a year for charters that partnered with the district.

Collaboration efforts in places like Cleveland are not feel-good exercises. They are a grown-up response to the urgent need to create more great schools and close achievement gaps—something no sector, organization, or agency can do alone.

As part of its work monitoring and studying collaboration efforts over the last five years, the Center for Reinventing Public Education (CPRE) has talked

by Robin J. Lake

State boards that encourage district-charter collaboration can advance solutions to turn around low-performing district schools and increase charter quality.
In its SKY Partnership with KIPP and YES Prep charter organizations, Houston’s Spring Branch Independent School District co-located the charter schools within three struggling district schools. The arrangement exposed the district schools to the charter schools’ college-prep culture, extended the charter schools’ impact, and gave their students on the co-located campus access to district electives and extracurricular activities. District leaders also provide equitable per-pupil funding for YES Prep and KIPP charter school students. As part of the funding model, the district provides YES Prep and KIPP with food, transportation, facilities, technology, and maintenance services. District and charter leaders still must negotiate unanticipated costs.

In Hartford, Connecticut, district leaders tapped a high-performing charter school operator to help prepare promising candidates to fill principal posts in district schools. Achievement First’s Residency Program for School Leadership trains dozens of new administrators across three districts.

In Boston, educators in district, charter, and Catholic schools received a three-year sequence of professional development to improve instruction for underserved students, including English learners, special education students, and black and Latino males. Local schools with strong academic results among male students of color also received grants to share instructional practices across sectors.

In Central Falls, Rhode Island, district and charter schools share efforts to improve instruction in struggling schools, including teacher professional development around math, reading, bilingual and special education, and the use of restorative justice to reduce exclusionary discipline. In addition, the district superintendent and a local charter school worked together to find a closed Catholic school building that was then renovated and opened in 2014 as a new charter elementary school.

Innovation, Transparency, and Equity

Charter schools’ autonomy allows them to experiment and innovate. Many charter schools see themselves as laboratories from which school districts can learn. Districts have collaborated with charters on leadership training methods, instructional strategies, professional development, and co-location of charter and district schools (see box 1). In addition, districts often partner with high-performing charters to improve or replace chronically low-performing schools. Charters often partner with districts to access specialized expertise, facilities, or to realize economies of scale.

District and charter leaders commonly collaborate to make it easier—and more equitable—for families to navigate an array of public school choices. In Denver, Washington, DC, and New Orleans, most or all public schools—district and charter—participate in “unified enrollment systems” that include standardized forms, timelines, and a centralized lottery and assignment process. The OneApp unified system covers some 89 percent of public schools in New Orleans, as well as 29 private schools in the Louisiana Scholarship Program and early childhood programs, including private schools and childcare centers receiving public funding. In Washington, DC, and Denver, common enrollment systems have led to greater transparency around admissions, better school information, and a more manageable and fairer enrollment process.2

Enrollment can skew in undesirable ways if not well planned and monitored. For complex reasons, special education students or English learners may not attend with leaders in more than 50 districts who are engaging with their local charter sector. Active collaboration efforts are under way in big cities with large numbers of charter schools, such as Denver, Boston, Indianapolis, and Cleveland, as well as in small, rural, and suburban districts like Tulsa, Oklahoma, and Spring Branch, Texas. In the largest-scale formal collaboration effort yet, the Bill & Melinda Gates Foundation initiative, launched in 2010, supported District-Charter Collaboration Compacts signed by district and charter leaders in 21 cities.

This work is politically and technically difficult. And in many places, resistance to partnerships remains steadfast. Yet there is enough of a record to establish what characterizes successful collaborations and how state boards can help.
problem solving, and political pressures. But it is important for districts, charters, and families to try to get past these barriers for students’ sake: CPRE research shows this is possible if district and charter leaders can do the following:

- Avoid treating collaboration as a side project or a one-way street with one party dominating;
- Map clear, shared objectives (like expanding high-quality seats and equity);
- Identify leaders in both sectors who can focus on making common cause and not on differences;
- Include provisions for accountability on collaboration progress;
- Recognize and accommodate diverse charter, community, and district interests;
- Elicit commitment from more than just a handful of leaders;
- Benefit from “boundary spanner” leaders who bridge district and charter cultures; and
- Tackle issues that can produce early, tangible wins and build from there.

Making Collaboration Work

Despite the many potential positive outcomes, collaboration is not always possible or productive. Efforts can easily stall due to leadership changes, lack of deep commitment to ongoing

charters schools at similar rates.3 Varying charter and district policies on discipline and mid-year entry complicate the picture on which students schools wind up serving, and these policies can color policy debates around academic accountability.4 Many cities have collaborated to address these thorny issues and have wrought some important successes (box 2).5

Collaboration has also improved relationships, programs, and bottom lines, according to a 2015 Thomas B. Fordham Institute report. In Boston, Denver, and Washington, DC, interviewees from both sectors said they speak more regularly, trust each other more, and feel like they can reach out to someone in the other sector if the need arises. In Boston, the district reduced its annual busing costs by $2 million by coordinating school start and end times with charters; some charter leaders report that transportation services improved in the process.6

Box 2. Collaborating on Special Education

- In Denver, a push to replicate district-run special education center programs within the charter sector has nearly eliminated an imbalance between the share of special education students served in district versus charter schools. District and charter leaders traveled the country together to research special education service delivery models, resulting in the creation of two district and two charter schools with high percentages of students with a disability and high rates of classroom-level inclusion.

- In 2014, New Orleans’ state-run Recovery School District (RSD) tried to address the fiscal challenges around serving special education students by aligning special education dollars with the level of service a student needs, sharing catastrophic costs across schools, and incentivizing high-performing schools to expand their special education offerings. A charter-run fellowship program provides professional development to special education coordinators citywide. The RSD and New Orleans schools also created a centralized expulsion system to make final determinations on student expulsions fairer.

- In the Franklin-McKinley School District in San Jose, California, Compact leaders realized charter schools were serving fewer students with special needs than the district. They worked to increase families’ awareness that charter schools offer special education services through efforts like an enrollment fair for families in one of San Jose’s most underresourced neighborhoods. Districtwide expansion of this fair is now being contemplated. And charter and district school leaders have jointly visited Los Angeles schools with successful inclusive education models.
A 2016 Mathematica evaluation of the seven district-charter partnerships that the Gates Foundation selected in 2012 for intensive investment pointed to similar strategies. Researchers asked central office and school leaders from both sectors in those partnerships for ideas to improve future collaboration, and they suggested the following:

- commit to the long haul;
- involve more than just a small minority of schools or school staff to boost the supply of innovative ideas;
- create transparency about school effectiveness across schools in both sectors so schools can see how they are doing relative to others in the city;
- invest in implementation support for shared best practices (like coaches or school leader oversight) to avoid getting diminishing returns for collaboration; and
- promote successes by identifying, publicizing, and investing in successful forms of collaboration.

Effective district-charter collaboration is a careful balancing act and a fragile endeavor in an often highly politicized environment. Years of animosity and distrust cannot easily shift to a productive partnership. Leaders from both sectors are wise to spend time establishing ground rules and identifying clear objectives and efficient processes to maintain momentum and build on small wins. While the word collaboration implies friendly cooperation, efforts to bring formerly warring education parties to the table are often laden with political landmines. Determined and artful leadership is required. State boards have an important role to play in making that possible.

**How State Boards Can Help**

Experience to date tells us that effective district-charter collaboration is more likely to grow out of a long-term, voluntary commitment from both sectors. State boards needn’t be in the forced marriage business, but they can help set the tone and start or advance the collaboration conversation in their state. Depending on the authorities and roles in a given state, state boards can provide policy guidance, give political support as education leaders with a bully pulpit, and strengthen charter authorizing.

**Policymaking.** ESSA hands states new opportunities to use federal funds creatively to support collaboration. Under ESSA, states can prioritize start-up grants for schools that are part of collaborative efforts, dissemination grants to focus on replicating solutions to common collaboration challenges such as unified enrollment or facilities sharing, and resources to help the best charter schools and the most successful district-charter collaborators share their practices more broadly. Using these new flexibilities, states could create funding set-asides for districts and charters that partner to turn around the lowest-performing district schools.

States like Florida have used the power of the purse to foster collaboration, awarding competitive district-charter collaboration grants. Adam Emerson, the Florida education department’s charter school director, explains why the state stepped in to promote district-charter collaboration:

Our State Board of Education has made it clear that it wants our charter school sector to become one that is more focused on lifting the state’s lowest achieving and educationally disadvantaged students. But we hadn’t, until now, focused on getting charters and districts to work together to tackle our greatest needs. Charter schools and school districts need to collaborate to surmount the challenges facing our lowest-achieving neighborhoods. But we didn’t launch the Florida District-Charter Collaborative Compact to foster collaboration for its own sake. We wanted to effect system-wide change by harnessing the best of both sectors.

Skepticism about whether charter schools in a community are truly open to all or are avoiding serving (or underserving) the costliest students can fuel opposition to collaboration; taking the funding issue off the table can help. To that end, states can revise funding formulas to ensure they more accurately reflect the needs of the students each school serves. For example, state
special education finance mechanisms could be adjusted to better align funding to student need or to create emergency risk pools, as Louisiana recently did. On the federal front, ESSA encourages states to channel Charter School Program (CSP) spending toward improving charter school access for students with disabilities and who are English learners.

State boards can also set the stage by focusing on accountability and equity:

- Include charter school performance scores in district accountability ratings. Districts are more inclined to partner with strong charter schools if the partnerships “count” toward district ratings in the state accountability system.

- Encourage localities to adopt common performance metrics. Such metrics create more transparency, making it easier for charters and districts to work together to address performance and equity problems so the state need not step in.

- Target collaboration efforts on issues important to families, such as common discipline and enrollment systems across the district and charter sectors to boost transparency and simplify the system to promote fair and equal access. Such efforts can put educators and local leaders on a path to further collaboration as they increasingly see their public education landscape as a “system of schools” rather than two sets of schools on opposite sides of a divide.

Some districts resist collaboration because they believe charter schools enjoy unfair advantages around autonomy and flexibility. They ask: If something is good for charters, why isn’t it good for all public schools? State boards who wish to provide all their state’s public schools such advantages can work toward making that a reality by creating innovation zones that give select district schools more autonomy.

Manning the Bully Pulpit. State school boards can use their bully pulpit to encourage collaboration and highlight collaboration successes. They can boost trust across the sectors by building connections, both informally and formally. State boards can convene groups for specific challenges, such as blue ribbon commissions and study groups that bring together people who might not otherwise work together. They can help build coalitions to support collaboration, such as recruiting a mayor or a business coalition to get involved. Broadening the tent can also help insulate collaborative efforts from the common plague of local leadership turnover.

Strengthening Local or State Authorizing. District leaders who believe area charters are low quality or run by shady operators have little incentive to collaborate. Improving authorizing can increase the quality of charter schools. As Florida’s Emerson says: “Strong authorizing is essential to create the conditions for collaboration.” Florida has worked to boost local authorizer capacity by developing voluntary statewide authorizing standards with districts and charter operators and by awarding grants to districts that want to strengthen their authorizing practices.8 And Florida has tried to manage charter school supply—and avoid having some neighborhoods be quality school deserts—by crafting incentives in their federal Charter Schools Program grant for charter operators to open schools in high-need areas.

State boards should ensure that state and local authorizers apply clear performance expectations, performance contracts, and predictable renewal procedures based on performance. States can use or connect local authorizers with the National Association of Charter School Authorizers’ standards and policies that support merit-based authorizing. State boards that have authorizing authority themselves can prioritize charter applicants’ commitment to collaboration in their charter approval, appeals, and renewal criteria.

Collaboration Helps State Boards

CPRE’s research shows that collaboration is a necessity, not a nicety. Struggling districts that operate in isolation risk a downward spiral of lackluster results and declining student enrollment. Collaboration with high-performing charter schools can be part of an effective strategy to help districts turn around chronically low-performing schools and increase enrollment. For charters, collaboration offers the chance to access specialized district expertise.
Chartering differs fundamentally from the district-based model of public education delivery that is still dominant in every state. Most conspicuously, chartering casts government in a role different from the one it has played for the last century. Instead of creating government bodies that directly operate all of an area’s public schools, the state approves entities that authorize and oversee schools run by nonprofit organizations. Accordingly, members might find it useful to take a fresh, expansive look at the principles underlying this alternative model and how it fits into the broader statewide system of K-12 education.

The new federal K-12 law, the Every Student Succeeds Act (ESSA), may be the perfect opportunity for state boards to bring to life a vibrant two-track approach. As board members are crafting their state’s new accountability system under...
ESSA, they should probably resist the impulse to create a streamlined, “unified” approach. If the state has embraced two delivery models based on different organizing principles and theories of action, the state accountability system should reflect that.

**With Great Responsibility, Great Authority**

State constitutions put state governments on the hook for public education. The state government has the ultimate obligation to ensure that all boys and girls are offered successful public schools. For about a hundred years, state governments delegated these activities to districts. This course was sensible for lots of reasons: It recognized the state government’s limited capacity, it enabled localities to control how their kids were educated, and it respected the different histories and priorities of the state’s many communities.

But the legal and constitutional duty remained at the state level; state leaders could hand off execution of the task but not the responsibility for its success. This is why high-profile K-12 litigation has the state government as the defendant. When plaintiffs believe their local schools are unfairly funded or are producing inequitable results, they make their case in the state capital.

But along with that obligation comes great authority. Courts have given states’ political leaders a wide berth when it comes to the “how” of fulfilling their responsibilities. While the district model prevails for most students and schools, it is by no means the only arrow in the state’s quiver.

While the district model prevails for most students and schools, it is by no means the only arrow in the state’s quiver.

**Steering, Not Rowing**

The distinction between government as provider and government as regulator was explained (and cheered) by the 1992 book *Reinventing Government.* The idea is that when the government wants to go somewhere, it doesn’t always need to row; it can steer. It can set the direction but empower others to carry out the work.

A wide array of governmental functions—social services, health care, and transportation—have gravitated toward this approach. For the charter sector, the authorizers, which are charged with enabling nonstate bodies to operate charter schools, animate this approach to governing. Authorizers do not direct the day-to-day activities of the schools they oversee. Instead, they run an application process for prospective school founders, monitor schools’ performance, allow the expansion of successful schools, and close failing schools.

Instead of feeling the need to choose between the district model and the charter model, state board members could instead simply recognize that both are permissible, rational ways for the state to carry out its responsibilities. Each has benefits that should be understood and appreciated. Such a perspective could better inform state boards’ decisions and turn down the heat on what has, in too many locations, become a boiling ideological fight between partisans of chartering and traditional districts. But this also requires appreciating the differences between the two models and developing expectations and policies accordingly.

The district-based approach is orderly and efficient, and it aims at equity. The central administrative body can control all personnel decisions, negotiate contracts, set rules on curriculum and schedules, and much more. It can assign all kids to schools based on their home addresses, run all bus routes, and own all facilities. It can aspire to provide a similar educational environment to every single child in its area. And with an elected governing board, the district has democratic legitimacy, reflecting the will of the community’s majority.

Chartering emphasizes a diversity of schools and maximizes parental choice. It respects
American pluralism and places faith in the capacity of civil society's voluntary associations to build social capital. It focuses on outcomes more than inputs, and it trusts families and communities to make wiser decisions than central administrators can. It fosters social entrepreneurialism and allows the decisions of parents, neighborhoods, and educators to drive the evolution of their schools.

Governing in a Two-Model World

It would certainly make the state board member’s life a whole lot easier if the two models were completely aligned. But in truth, they are not. More challenging, sometimes the features of the two models are incompatible. For example, either there is a single government provider of schools or there is not. Either kids are assigned to schools based on where they live or families can exercise choice. There is no way to avoid the resulting tensions, which will reveal themselves in a whole host of areas: funding, facilities, transportation, school offerings, and regulatory burdens.

Yet there are ways of getting the most out of both approaches simultaneously. Doing so will require state board members to accept that the mind-set that applies to one might not always fit the other. Since most of us grew up in and are acclimated to the contours and underpinnings of the district model, it is worth focusing on a few of the changes in perspective that charting necessitates.

The first relates to school differentiation. In the district model, schools need to be similar to one another in important ways. Because there is just one operator and because kids are assigned to schools, each school must be able to serve all the students in its catchment zone. Since the district central office simply cannot continuously adjust every feature of each school it runs to match the changing needs and interests of its students, a great deal of standardization is required. The district paradigm tends to value school commonality. And most important for our purposes here, state board members consequently tend to think in terms of, “What is the right answer?” Since schools are alike in this model, policy must often come up with a single answer—the answer that does the most amount of good for the most number of kids and adults.

What follows from this perspective is an understandable state-board focus on compliance. We must ensure that districts and schools faithfully implement the state’s mandates and follow the state’s rules. So the state’s department of education assiduously tracks whether schools and districts are complying with various rules, and the board receives a bevy of monitoring reports and program audits.

This is not a criticism of state education agency staff or members of state boards; it is an unavoidable consequence of the model. Because of the state’s adoption of the district model, families are limited to one public school operator; and because of the district’s assignment-based system, families are limited to one public school. Families without the financial means to choose a private school or move to another district have no power of “exit.”

Chartering starts from a different place. It assumes no single “right” mode and allows a wide variety of nonprofits to run schools. It allows those schools to differ from one another in significant ways. It allows families to choose from among these schools based on their assessment of what is in the best interests of their child.

In numerous ways, the state board member can feel chastened by chartering. Charters will have statutorily protected freedom from many of the rules state board members have decided are best. Charters will be created in response to perceived deficiencies in the district-run schools that many board members believe to be excellent. Families will choose charters that state board members might never choose for their own kids. As such, chartering delivers a dose of humility to government leaders: It hands power to parents, communities, and educators—power that had long resided in districts and the state.

There will always be the temptation for state boards to try to recapture some of this power. This might include trying to reapply standardized rules to charters or opposing the creation of new charters. It might take the form of giving districts more authority over charters or forcing charters to file more district-like state reports. Such actions could be defended in the name of performance (“the state knows what’s best”)
or tidiness (“it doesn’t make sense to have two different models”).

But such temptations should be kept at bay. These inclinations stem from a district-model mind-set. They unarguably fit well with districts and district-run schools. But since chartering is premised on pluralism, operator diversity, school diversity, and parental choice, such inclinations undermine what this model aspires to bring to public education.

An alternative mind-set might instead amplify the effects of chartering’s principles. For instance, state board members could seek to enable varied groups to start schools, prioritize the development of different types of schools, and facilitate families’ acquisition of school information (to help parents choose). All such strategies would be counterproductive in a single-provider context and therefore outside of the century-old state-board playbook. But chartering is essentially a new game.

The second change in perspective relates to outcomes. In the district model, the state regulates a whole host of inputs: teacher licensure, textbooks, curriculum, professional development, class size, length of school day and year, course access, discipline, attendance, nonclassroom-based staff. But chartering is designed to be outcomes-based; via its authorizers, the state is meant to set performance expectations and then set schools free.

With chartering, the state must stay out of the business of inputs, but it must zero in on outcomes. In other words, state board members should be clear about what school success looks like. Historically, states have focused on a limited set of narrow outcome measures (like reading and math scores and graduation rates) both because they were readily available and because the state could change district behavior through rules governing inputs.

But if the state’s only influence is exercised by setting results, those explicit outcomes become critical. Set the wrong ones, and charter behavior will be warped. Set too few, and charters will not focus on all of the things policymakers want. Set too many, and charters will not have the operational freedom to do innovative things. This perspective on charters strongly suggests at least two important activities for boards: spending much more time discussing what exactly we want charters to accomplish and ensuring that the state’s charter authorizers are up to their job. Said simply, what do we want charters to do, and how do we make sure that they do it?

That is a fundamental question for a state accountability system to answer, but its provisions will differ depending on the model under which a school operates.

For instance, when district-run schools are found to be persistently underperforming, it makes sense for the state’s approach to intervention to focus first on closely monitoring a range of district activities and, in the case of ongoing failure, on a spate of state mandates. This kind of traditional, directive approach is suited to the district’s single-operator, school-assignment model.

But state accountability-system provisions tailored to chartering might focus on whether there actually are a diversity of operators and a diversity of schools in the sector. It might ask whether families have access to the information needed to make choices and whether families believe the available options match their preferences.

Similarly, since outcomes are of such singular importance in the charter sector, the accountability system should almost certainly pay close attention to charter authorizers. Are they prioritizing the right results? Are they preserving school-level freedom? Are they supporting parental choice?

Perhaps in the years to come, state policymakers will find a way to unify their state’s K-12 system and integrate the best features of both models. But for the time being, most states have a system with two distinct sectors. Rather than forcing a single ideology or set of policies to fit both, state board members might more fruitfully embrace a “vive la difference” mentality. We can best serve kids and schools by appreciating, honoring, and adjusting to the particular characteristics of each.

The hybrid nature of charter schools—which occupy a nebulous space between the private and public sectors—accounts for much of their appeal. On the one hand, charters are intended to act more like private businesses, innovating and responding to parents’ demands lest they lose their student “customers” and the governmental financial support that follows the students. On the other hand, charters were meant to be public institutions, open to all and accountable for meeting public needs as articulated through democratic processes.

Proponents of charter schools portray them as a model for marrying efficiency, responsiveness, and innovation to the collective interests, social justice concerns, and democratic accountability associated with government and civil society. But their private/public character complicates how we think about holding them accountable. Does the private market side of charters mean they should be accountable primarily to the goals, values, and desires of the families who choose them? Or does the public side of charters mean that they should meet the education needs of the broader community and be subject to closure when they fail to do so?

Twenty-five years of experience with charter schools makes it clear: Keeping the charter phenomenon aligned with public interest and public values depends critically on public officials and those who elect them. To lay out this case, I provide an overview of charter schools in theory and in practice, with particular attention to competing notions of what it means to say charters are “public” schools and what this in turn means in terms of their accountability to state and district school boards that act as authorizers or have other policy, regulatory, and financing roles.

Charter Schools and Democratic Accountability

by Jeffrey R. Henig

Charter Schools and Market Theory

In 1991, Minnesota became the first state to pass enabling legislation for charter schools, driven less by economic theory than by the desire of a collection of parents, educators, and policy leaders for a less rigid, bureaucratic, one-size-fits-all vision of public education.

The law was passed during a period of sharp debate about whether private markets might be better than government in meeting public goals, in education but also in other policy arenas. President Ronald Reagan had created a special privatization commission in 1987 to explore ways transportation, housing, prisons, and health care might be turned over to private business. President Reagan twice tried to get Congress to establish a federal school voucher, and between 1981 and 1996 school voucher referenda had been proposed (and defeated) in five states and Washington, DC. The state of Wisconsin enacted the first large-scale school voucher program, the Milwaukee Parental Choice Program, in 1989, and Ohio passed a voucher program for Cleveland in 1995.

Against this backdrop, charter schools came to be seen by many as a testing ground for ideas about how market forces would work in the education arena. The original vision of charters as a form of public sector decentralization gave way, at least in national debates, to the vision of charters as a market-based reform.

Framed in terms of market theory, the primary method for holding charter schools accountable was to rely on parent choice and competition among schools. Traditional public schools, from this perspective, were seen as government monopolies. While it was true that dissatisfied parents in principle could choose to send their children to private schools or
move to a different school district, most could not afford to do so. Public monopolies, some economists argued, had no incentive to improve quality: Even if students exited to private schools, the revenues to support the system would not diminish because they were generated by compulsory taxation. But if parents were empowered to leave bad schools and have the attendant public support travel with them, schools would be forced to compete to attract and keep families or suffer financially. Such a system requires that parents have the know-how to judge which schools are good for their children and the willingness and capacity to move to a different school based on information they gathered about relative school performance.

**Theory Meets Politics**

For some influential conservatives, pursuing charters was a politically more viable route to demonstrating that choice and competition would work in education. Charters did not raise the same concerns as vouchers did about dismantling public education or government entanglements with religious schools. Because popular support for the traditional model of public school systems was resilient, even those who preferred vouchers saw a tactical argument for provisions to assuage fears that choice would favor the already advantaged by "creaming" off white, affluent families.

States that passed charter laws struck a set of tactical bargains: accepting laws that established lottery-based admission to oversubscribed schools (so charters could not enforce their own selection criteria), prohibiting charters from charging tuition beyond the public funding that accompanied the student (so that schools could not use the tuition add-on as a way to exclude poorer families), and agreeing that charter students would take state-mandated achievement tests (so responsible officials would know whether charters were delivering on their promise of improving educational outcomes).

But the economic theories that made market advocates believe choice would improve education also made them deeply wary that public bureaucracies would do everything in their power to maintain a dominant role. They assumed that teachers, elected school boards, and others with vested interest in the existing system would battle to protect it by blocking charters or making it more difficult for charters to compete.

Accordingly, organizations that supported charters as a form of market-based accountability fought for state policies that placed fewer obstacles in the way of opening charter schools and lightened the oversight and regulatory pressure that government could apply. The result was the institution of formal provisions that multiplied the number and types of charter authorizers, allowed certain nonprofit groups or institutions of higher education to issue charters, gave applicants opportunities to appeal to the state if initially turned down at the local level, and granted longer periods between charter renewals. In some instances, charter authorizers received limited funding and personnel for oversight, which succeeded in creating a culture in which authorizers were induced to believe that they needed powerful reasons to reject applicants rather than strong reasons to accept them.

Many public school teachers and liberals also saw charters as a first step down a slippery slope toward vouchers and more complete privatization, and their political strategies were based on that belief. They mobilized to fight charter laws and, when they failed to accomplish that, to have caps placed on the number of charters and limits placed on the amount and type of funding they could receive.

But Democrats were divided on charter schools. While some hoped to cram the charter genie back into the bottle, others returned to the vision of the Minnesota founders and sought to reclaim the argument that charters represented sensible governmental flexibility, decentralization, and a pragmatic strategy for diversifying schooling options. So-called New Democrats, including then President Bill Clinton, embraced charters while rejecting both vouchers and the premise that market forces were reliable alternatives to good government. They argued that charters could be a valuable tool in the government's arsenal for improving education. But they also noted that public officials would need to ensure they were self-consciously designed, effectively managed, and rigorously held accountable.

**What Have We Learned?**

When charter schooling first erupted on the scene, policymakers and citizens had little
choice but to base their reactions on theory, ideology, or hunch. The phenomenon was too new, the range of specific state and local examples too variable, the time for either positive or negative outcomes to have become manifest too short for a robust, reliable research base to materialize. Twenty-five years in, there is still hot contestation around what the evidence shows about the nation’s charter experiment and how it should be interpreted. But it is also the case that much has been learned.

While researchers wrangle over whether charters or traditional public schools are better on average or at the median, what has become increasingly evident is that both sectors contain many good and many bad schools. Indeed, the range of variation in school performance within each sector appears notably greater than the degree of difference between the sectors. Probably the most widely cited and influential research establishing this pattern comes from the Center for Research on Education Outcomes (CREDO), which is housed at Stanford University. CREDO has performed two major national studies as well as a large number of more focused studies on particular states and on the online charter sector.

CREDO’s approach of comparing learning gains by charter students to those of composites of similar students in nearby traditional public schools is not without controversy. But the relative breadth and detail of the data, rigor of analysis, and stature of the researchers have made its work central to the national discussion. So, too, has the fact that both critics and proponents of charters can point to CREDO’s work to bolster their arguments.

CREDO’s 2009 study covered 16 states (including the District of Columbia) that, among them, housed about 70 percent of the nations’ charter school students. It concluded that 17 percent of charters outperformed local options, and 37 percent showed results that were significantly worse than their students would have realized had they remained in traditional public school, and many took this to be an indictment of the charter sector. CREDO’s 2013 study, which expanded its scope to 26 states, concluded that charters were improving, with 25 percent significantly stronger and 19 percent significantly weaker than traditional schools in reading and 29 percent of charter schools significantly stronger and 31 percent significantly weaker in math. In separate studies, CREDO found charters in some places doing worse than traditional public schools (e.g., Ohio), while in other places they performed very well (e.g., New York City and Boston). Its 2015 study of online charters was sharply critical, showing that, compared against similar students in traditional public schools, most online charter students had “far weaker” academic growth in both math and reading, equivalent to losing, in one school year, 72 days of learning in reading and 180 days of learning in math.

CREDO’s results align with a number of other studies that make it clear that charters are not a panacea. Important for public officials with responsibility for overseeing charter policy and authorization, some of these studies indicate that stronger performance occurs where the authorization process is more centralized and has higher capacity. There are many dramatic stories about charter school abuse—where charters have mismanaged funds, engaged in outright fraud, or seriously compromised the quality of education provided to their students. Where charters are working well, in other words, their success depends on a combination of parental choice and good government and cannot be attributable to market forces alone.

Defining the Public in Public Charters

Whether one likes or dislikes charters, two things seem reasonably clear. First, charters are here to stay. They are embedded in many states and communities and are protected by devoted and potent constituencies. Second, charters are not like the Energizer bunny: Public officials cannot simply wind them up and hope they will keep on running in the right direction.
Responsible regulation and oversight require tough decisions that will at times rub against family preferences. As charter authorizers have discovered, and as many charter supporters now concede, parents will often rally around even the worst of charter schools. Where and how proactively public officials intervene depends partly on what they see happening in their own jurisdictions. Charter performance varies based on local context and the specifics of local operators, so officials may need to fine-tune their judgment rather than rely on a universal thumbs up or down about charters in general. But deciding when and how to intervene also depends on how officials and those who select them understand the role of government and democratic accountability for the collective good.

The notion that public education critically contributes to stable, robust democracy has deep roots in American thinking. And because of its critical importance, most accept that there is a need for a system of public schooling and a need for government to be both strong and judicious in how it nurtures that system. But policymakers and citizens differ in their understanding of what this means in operational terms. I think of this in terms of a continuum—from thin to strong democratic control.

The thin notion of democratic accountability argues that putting the “public” in “public school” requires only that they serve a public purpose and that governmental regulation of how and the extent to which they do this should be kept to the minimum necessary. From this perspective, not only charter schools but also both secular and religious private schools should be considered “public” as long as they contribute to the national well-being by producing a capable work force, innovative technical and entrepreneurial leaders, and informed, engaged citizens. A contemporary manifestation of this thin notion of public accountability can be seen in the lawsuit filed in July 2016 by the Electronic Classroom of Tomorrow (ECOT), an Ohio-based online charter school. Despite receiving about $100 million in public dollars for the roughly 17,000 students it claimed on its books, ECOT argued the state does not have authority to require it to keep detailed attendance records.

At the other end of the continuum, a strong notion of democratic accountability requires more. For public schools to meet their public responsibilities, a wide range of factors should be considered in the process of identifying, measuring, balancing, and enforcing these needs, and this consideration should take place in a public arena where multiple values and interests are articulated, negotiated, and ultimately enforced.

This view emphasizes important, legitimate goals for public education beyond academic performance and parent satisfaction. These considerations raise tough questions about keeping values in tension: how to balance the need for order and respect for authority versus the need for innovation and critical thinking, the need to prepare workers versus the need to prepare citizens, the need to promote tolerance for difference versus the need to inculcate common core values, the need to respect parent preferences versus the need to protect children, whose health and well-being their parents may sometimes put at risk.

Applied to charter schools, a strong notion of democratic accountability calls for robust attention to the processes by which charters are approved and extended. Charter authorizers are the most direct extension of public authority, but their nature, capacity, and behavior vary widely. One measure of their capacity is the ratio of charters to authorizer staff. According to the National Association of Charter School Authorizers (NACSA), the schools per full time equivalent (FTE) employee ratio for large authorizers was 1 FTE for every 10.59 schools in 2014–15. The number of schools per FTE has increased every year since 2010–11, when the ratio was 1 FTE for every 6.37 schools overseen. More than 10 percent had 21 or more schools per FTE in their portfolio.

In addition, the large number of authorizing organizations in some states has encouraged a pattern of “authorizer shopping,” wherein would-be charter operators scout around for an authorizer least likely to aggressively scrutinize their application. And though it is as yet insufficient, there is some evidence of a relationship between authorizers and school performance. One high-quality study, for instance, compared the performance of students across different types of authorizers. Students at schools authorized by universities and other nonprofits performed less well than those at schools authorized under public entities like the state board of education or local school districts. State boards that are interested in identifying positive steps for improving the authorizer landscape in
Charter schools have thrust state boards of education into new roles. Some directly authorize charters, some do so only on appeal, and some do neither. This article examines a relatively recent addition to this task list: evaluation and oversight of charter authorizers, the entities charged with approving and monitoring charter schools.

The Authorizing Landscape

Each state decides who can fulfill the role of authorizer, responsible for creating and managing a portfolio of schools but not running them directly. Almost all states start with local school districts, but most have made other options available: higher-ed institutions like Central Michigan University and the State University of New York, large nonprofits in Minnesota and Ohio, and single-purpose statewide commissions such as the Colorado Charter Schools Institute and the DC Public Charter School Board, now found in 14 states. In 19 states, the state education agency (SEA) plays a role in authorizing, usually in combination with the state board of education (see box 1).

Oddly, early charter laws treated authorizing as an afterthought. Authorizers were the silent partner to charter-school contracts: They were to read applications, grant charters, and come back in a few years to decide on renewal. This absence of definition was one reason that a group of early authorizers got together in 2000 to found NACSA, the National Association of Charter School Authorizers, which went on to articulate principles and standards of effective practice, now incorporated directly or by reference in the laws of 18 states.¹

State-level Authorizing. Massachusetts was the first state to house authorizing in the state agency, with the state board weighing in on all high-stakes decisions, a system that has remained in place since 1993. Since then, other states including Connecticut, Arkansas, New York, Rhode Island, Arizona, and Louisiana have given the SEA and state board a leading if not exclusive role.

NACSA conducts annual surveys of charter authorizers and publishes results broken down by agency type. As a distinct group, here is how SEAs stack up:

- The 18 SEA authorizers constitute just 1.7 percent of the national total. But they have larger-than-average portfolios, and the majority of them oversee more than 50 schools each.
- SEA authorizers now account for about 20 percent of all charter schools in the United States. (That number gets a boost from the Texas Education Agency, with its 632 charters.)
- SEA authorizers have a substantially higher ratio of schools per staff member than other authorizer types, and their portfolios have been growing (table 1). With an average 5.8 FTEs per office, the offices that prepare state board decision materials may be understaffed for the volume of work they are handling.²

NACSA also asks whether authorizers use 12 “essential practices” that have been identified as critical to quality authorizing, ranging from published timelines for application submissions to formal renewal and revocation protocols. Averaging 10.5

More states get serious about adopting formal processes for oversight and evaluation of charter authorizers.

by Nelson Smith

Who Watches the Watchers?

How States Evaluate Charter School Authorizers
Box 1.
State agency and state board involvement comes in many flavors, among them the following:

- In **Texas**, the state board formerly was a direct authorizer; now it can only overturn a proposed approval by the state commissioner.
- **California’s** state board can directly authorize charters of “statewide benefit” to operate in multiple districts.
- **New Mexico** has no state board, but its Public Education Commission (which advises the state secretary of education) is also a chartering agency.
- **Oklahoma’s** state board approves charters that will serve youth in custody.
- **North Carolina**’s state board votes on charters after approval by a state-level Charter School Advisory Board.
- **New Jersey** has a state board but houses all chartering powers within the executive branch; the buck stops with a state commissioner appointed by the governor.
- A few states require signoff at both the local and state levels. These include **Connecticut, Alaska, Delaware, Iowa, Kansas, New Hampshire, Rhode Island, and Virginia**.
- **Georgia’s** state charter commission can only review applications turned down at the local level. Once it rules, the state board then has 90 days to review and approve or deny the petition.
- **New York State**’s Board of Regents must sign off on local-board approvals and issues all charters for the state, including those approved by the State University of New York. But if the regents decline a SUNY approval and the university’s trustees decide they want that school to open, the regents must issue a charter anyway.
- **Arkansas** moved most day-to-day authorizing duties away from the state board and into a new Charter Authorizing Panel (CAP) comprising the heads of SEA bureaus, but the state board retains final decision authority.


on the 12-point scale, SEAs are roughly in the middle of the pack in deploying these essential professional practices (figure 1).

**Appeals.** The earliest form of accountability for charter authorizers was tapping a higher power to review and possibly overturn their decisions.

Eighteen states allow state boards some form of appellate review over authorizer decisions to approve or renew charters. Ten states provide no explicit appeal path, and the rest fall in-between, allowing applicants to take their case to another authorizer or directly to court. Alabama, Nevada, and Illinois provide that a denied applicant can go next to the state’s charter schools commission. Florida, Pennsylvania, and Indiana all have special charter-appeal commissions. Oklahoma’s state board hears appeals from the state’s single-purpose virtual charter school board.3

Colorado was one of the earliest states to enact appeals opportunities and uses a standard of review commonly seen in family law. The state board is charged with determining whether a district’s decision is “contrary to the best interests of the pupils, school district, or the community.”4 Though open to interpretation, this sets a high bar.

In Tennessee, when the state board receives an appeal of a new charter petition, it is required to do a *de novo* review and reach its own judgment about application worthiness.5

**The Path to Serious Accountability**

Early charter laws were all about schools, specifying their corporate form, their autonomy over staffing, budget, and curriculum; how they would be approved and renewed; how their funding would be calculated; and requirements for the size and composition of their governing boards. Yet no state created any serious guidance for evaluating how well authorizers met the challenge of monitoring these matters. States basically pointed at this or that institution and said “you get the job”—regardless of its interest in charter authorizing. Busy superintendents and school boards or overworked college administrators received one more burden, which some welcomed but many took on because state law required them to do so.

This “by-right” approach to designating authorizers, 90 percent of which are local school districts, created a roadblock to development of serious accountability systems. If a district is doing a lousy job of authorizing, what is the recourse? State
takeover of its charter schools? Stripping the district of its powers, which would entail legal and political turmoil? Legislators were unwilling to venture there in the early days, so serious state-level evaluation was a moot issue.

A first step toward making authorizing an earned rather than categorical responsibility was taken in 2004 when Colorado established a Charter Schools Institute with statewide scope. Local districts could ask the Colorado State Board of Education for “exclusive chartering authority” within their attendance zones by demonstrating “a recent pattern of providing fair and equitable treatment” for their charter schools.6 Denver was grandfathered in due to its unique status under the state constitution, and more than 130 other Colorado communities now enjoy exclusive chartering authority.

A similar approach was tried when the Florida Schools of Excellence Commission was created in 2007. Its enabling statute required local districts to apply to the state board for “sole oversight” of charters within their boundaries. After the state board rejected all but three district applications, a group of districts sued. In 2008, the state court of appeals ruled the commission unconstitutional.7

Who Is Responsible? A more philosophical question has also helped stall authorizer accountability: If charter schools are autonomous, should their performance reflect in any way on the body that grants the charters? This point exposes a divide within the charter community itself. Some who favor a laissez-faire, hundred-flowers-blooming approach hold that the authorizer’s job is to approve the charter, get out of the way, and point a thumb up or down at the end of the contract term. And if schools fail—well, that’s their problem.

This attitude has been eroding since the early 2000s, when the charter sector began taking serious stock of its own performance, and leadership made a collective decision to work toward quality rather than shooting solely for growth. In NACSA’s Principles and Standards of Quality Charter School Authorizing (2004) and in Renewing the Compact (2005), a statement by the National Alliance for Public Charter Schools, the movement’s two leading organizations affirmed the centrality of choice but set out to ensure that parents would have high-quality options, not just a larger collection of mediocre ones.

For authorizers this meant owning accountability—not just for school outcomes, but also for their own craft. Their work would have a definable set of practices and skills, and they would become subject to scrutiny by the states that granted them the right to authorize.

Sunlight. State laws have always required a degree of transparency for charter schools, including annual financial audits and public hearings at renewal time. For authorizers, the requirements were less stringent. States asked for reports, but of the bean-counting sort: the number of schools opened and closed, the addresses of schools and contact information, and perhaps some already-available data such as school ratings. These requirements have been amplified in recent years as states have begun asking how well schools are actually performing.

In Illinois, for example, the statewide charter commission and other authors require

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>HEI</td>
<td>2.32</td>
<td>2.55</td>
<td>4.04</td>
<td>2.94</td>
<td>5.87</td>
</tr>
<tr>
<td>ICB</td>
<td>17.55*</td>
<td>8.28</td>
<td>8.11</td>
<td>6.05</td>
<td>8.42</td>
</tr>
<tr>
<td>LEA</td>
<td>8.28</td>
<td>6.04</td>
<td>6.84</td>
<td>6.61</td>
<td>7.54</td>
</tr>
<tr>
<td>NEG</td>
<td>4.80</td>
<td>5.75</td>
<td>5.20</td>
<td>5.14</td>
<td>6.00</td>
</tr>
<tr>
<td>NFP</td>
<td>4.32</td>
<td>4.49</td>
<td>4.82</td>
<td>3.97</td>
<td>3.99</td>
</tr>
<tr>
<td>SEA</td>
<td>7.94</td>
<td>9.82</td>
<td>8.30</td>
<td>9.44</td>
<td>12.64</td>
</tr>
</tbody>
</table>

*Substantially influenced by one ICB Authorizer with a very high schools per FTE ratio
biennial reports. The state board then reports to the General Assembly every two years on charter performance, including comparisons to similarly situated schools, and makes suggestions for any needed regulatory changes.8

**Direct Intervention.** Although state boards have plenary power over public education, it has been relatively rare for them to intervene in the relationship between a charter school and its authorizer. One such case did take place in Missouri. Six St. Louis charters, all managed by for-profit Imagine Schools, had compiled dismal records of underperformance yet enrolled more than 3,800 students. Their authorizer, Missouri Baptist University, was slow to act but finally responded to pressure from state and local leaders, closing two schools in December 2011. In April 2012, the university relinquished its governing authority to the state board, and then, at the urging of then Education Commissioner Chris Nicastro, the state board promptly voted to close its remaining schools.9

**Accountability Strategies**

A complete system of authorizer accountability includes several components: annual reports establishing authorizing standards in law; a system for evaluating authorizers; and sanctions.10 The National Alliance’s recently revised model state charter law includes tough provisions for reviewing authorizer performance by a state-designated entity, holding that “all authorizers should be held accountable for their work.”11 Eleven states and the District of Columbia now feature formal processes for authorizer evaluation and accountability.

NACSA CEO Greg Richmond explains this trend: “I tend to encounter two arguments for authorizer accountability. One is the belief that authorizers are too hostile to charters, and the other is that authorizers are too lax. In states such as Florida and California, where districts have a monopoly on authorizing, charter school supporters push for authorizer accountability because they believe districts are hostile. In states like Ohio and Minnesota, even many charter school supporters believe that authorizing has been too lenient.”12

Leading states have adopted a number of strategies in response.

Minnesota established the Minnesota Authorizer Performance Evaluation System (MAPES) in 2010. The first full-scale evaluation system, it required all incumbent authorizers to apply for permission to continue. Many took the opportunity to bow out of the business. Today, just three local districts remain as charter authorizers. (Minnesota abolished its state board in 1999, so the education commissioner is the sole decision maker for approving and renewing authorizers.)

Amendments to Indiana’s charter law adopted in 2011 give the state board a powerful transparency tool. When an authorizer renews (or

---

**Figure 1. Use of Essential Practices by Authorizer Type**

<table>
<thead>
<tr>
<th>Authorizer Type</th>
<th>Mean Essential Practice Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>HEI</td>
<td>10.3</td>
</tr>
<tr>
<td>ICB</td>
<td>10.7</td>
</tr>
<tr>
<td>LEA</td>
<td>8.5</td>
</tr>
<tr>
<td>NEG</td>
<td>11.5</td>
</tr>
<tr>
<td>NFP</td>
<td>11.4</td>
</tr>
<tr>
<td>SEA</td>
<td>10.5</td>
</tr>
</tbody>
</table>

---

Eleven states and the District of Columbia now feature formal processes for authorizer evaluation and accountability.
fails to close) a charter not meeting minimum standards, the state board can require it to appear at a hearing, with 30 days’ notice. This provision was recently invoked when Ball State University renewed Hoover Academy Virtual, which had compiled five “F” grades in the state accountability rankings. Although the state board can close a school or transfer it to another authorizer, the board decided to wait until 2017 to review the renewal and so far has not taken any action against Ball State.

Under legislation passed in 2012, Hawaii’s chartering operation moved out of the state education agency and under a new statewide commission. The state board evaluates authorizers and must approve new ones. There are no local district authorizers because the entire state is a single local education agency, but statute allows universities, nonprofits, and county agencies to authorize. None has applied so far, but activism is under way for a second authorizer. The state board is working its way through a series of rule makings to establish standards of approval.

Washington’s charter law was originally passed in 2015, overruled by the state supreme court in 2015, then reinstated by the state legislature in 2016. The law created a statewide charter commission and also charged the state board with deciding whether local districts could join the ranks of authorizers. A detailed application adopted by the state board spelled out the requirements: a strategic vision for chartering; a plan to support the vision presented; evidence of budget and personnel capacity; and drafts of proposed application processes, performance frameworks, and renewal or revocation processes. Districts granted authorizing powers receive renewable six-year contracts. Amid the legal tumult, only one district has stepped forward so far; Spokane has approved two charters.

Ohio boasts arguably the most comprehensive authorizer accountability system, although it got off to a rocky start when a state agency staffer decided to leave the generally low test scores of large virtual charters out of portfolio-performance calculations. The state board’s responsibilities range from approving guidelines governing entry of new authorizers to receiving results of evaluations conducted by the Ohio Department of Education. ODE’s review covers three areas: the academic performance of charter portfolios; compliance with applicable laws; and authorizers’ own “quality practices,” based on NACSA’s Principles and Standards.

States allocate duties in various ways (table 2). In four states—Hawaii, Indiana, Ohio, and Washington—state boards participate both in

<table>
<thead>
<tr>
<th>State</th>
<th>Evaluations: Years Passed</th>
<th>Evaluation Responsible Body</th>
<th>Sanction Responsible Body</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>2015</td>
<td>SEA</td>
<td>SEA</td>
</tr>
<tr>
<td>Arizona</td>
<td>2015</td>
<td>Auditor General</td>
<td>Legislature</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>Pre-2012</td>
<td>Comptroller General</td>
<td>n/a</td>
</tr>
<tr>
<td>Georgia</td>
<td>2015</td>
<td>SEA</td>
<td>n/a</td>
</tr>
<tr>
<td>Hawaii</td>
<td>2011</td>
<td>SBE</td>
<td>SBE</td>
</tr>
<tr>
<td>Indiana</td>
<td>2015</td>
<td>SBE</td>
<td>SBE</td>
</tr>
<tr>
<td>Maine</td>
<td>2012</td>
<td>SEA</td>
<td>n/a</td>
</tr>
<tr>
<td>Minnesota</td>
<td>Pre-2012</td>
<td>Commissioner</td>
<td>Commissioner</td>
</tr>
<tr>
<td>Missouri</td>
<td>Pre-2012</td>
<td>SBE</td>
<td>SEA</td>
</tr>
<tr>
<td>Nevada</td>
<td>2014</td>
<td>SEA</td>
<td>Unclear</td>
</tr>
<tr>
<td>Ohio</td>
<td>Pre-2012</td>
<td>SBE</td>
<td>SBE</td>
</tr>
<tr>
<td>Washington</td>
<td>2016</td>
<td>SBE</td>
<td>SBE</td>
</tr>
</tbody>
</table>

n/a = not applicable
the evaluation process and in deciding consequences. DC and Arizona invite non-education agencies into the evaluation process, while the rest leave it in the hands of the state education commissioner. A few states provide for an evaluation process but leave undetected the question of who acts on the results and how.

Look for This Idea to Spread

Creating a thoughtful authorizer accountability plan requires some real deliberation, not only about the usual questions of measuring and reporting performance, but also about what should be attributed to authorizing itself. This is especially tricky for authorizers with diverse portfolios. Will an authorizer be treated fairly, for example, if its portfolio includes dropout-recovery schools that don’t report strong numbers on a four-year graduation rate? These are discussions the state should have with its authorizers as it considers its course.

Once in place, these guidelines should be used to reinforce a central point: No one should be in the business of authorizing unless they have a real commitment to quality practice and the capacity needed for the work.

As this essay has sought to demonstrate, there are now models to look at with several years of implementation and plenty of “lessons learned” to ponder. Perhaps this additional carrot from the federal government will help more states focus on an important link in the chain of charter school accountability.

1Ohio, Wisconsin, Louisiana, Colorado, and Illinois mention NACSA specifically. Alabama, Delaware, Hawaii, Indiana, Maine, Minnesota, Mississippi, Nevada, New Mexico, South Carolina, Tennessee, Texas, and Washington require nationally recognized standards.
9Indiana Code, Title 20, Article 24, Section 13, http://iga.in.gov/legislative/laws/2016/ic/titles/20/articles/24/chapters/2/.
economies of scale, and resources like facilities, enabling them to help more students than they could by simply opening more schools.

Without leadership, however, local collaboration efforts will get mired down. States must enter the fray—not just because it’s nicer to get along. States can pull the available levers to promote district-charter collaboration because it can help them meet their goals of greater equity and public school improvement. States can help districts and charters leverage what they learn from one another and better coordinate the benefits to all students—regardless of what kind of public school they attend.

The costs of not collaborating fall squarely on students and families. Critically, district-charter collaboration can help states achieve key goals, like developing effective, evidence-based support and intervention strategies for struggling schools, as called for in ESSA.

Bottom line: State boards of education can lead on school improvement and equity by leading on support for district-charter collaboration. States that leave matters to chance risk leaving many students and their families behind, and they squander opportunities to meet the goals they set.

2CREDO, Multiple Choice: Charter School Performance in 16 States (Stanford, CA, 2009).
5On charter abuses, see, e.g., The Center for Popular Democracy and The Alliance to Reclaim Our Schools, “The Tip of the Iceberg: Charter School Vulnerabilities to Waste, Fraud, and Abuse” (Brooklyn, NY, and Washington, DC, 2015).
7Molly Hensley-Clancy, “Online K-12 School Fights Attempt to Check if Students Really Show Up,” BuzzFeed News (September 2, 2016). A county judge rejected ECOT’s request to block the state’s department of education from collecting the attendance data. ECOT is appealing the state’s original challenge to its figures, and in mid-October the state approved half a million dollars to enable the state’s attorney general to pursue the case. Catherine Candisky, “ECOT Appeals Attendance Finding,” Columbus Dispatch (October 11, 2016); Alan Johnson, “State to Spend $500,000 in Online Schools Legal Fight,” Columbus Dispatch (October 18, 2016).

8ESSA also encourages states to use federal Charter Schools Program dollars to improve charter oversight.
Teacher voice and a focus on diversity will put charter schools back on the road to being the laboratories of innovation in public education.

by Richard D. Kahlenberg and Halley Potter

A Smarter Direction for Charter Schools

Charters have long drawn the ire of teachers unions, and more recently of civil rights groups such as the NAACP and Black Lives Matter, which have called for a moratorium on their expansion. This dissension has made it easy to forget that these groups once embraced the vision of charter schools—one in which teachers would innovate in educational laboratories where students of different backgrounds would learn from each other. Charters have not lived up to this promise, but we believe they can.

To do so, they have to return to their roots. The charter school movement was jumpstarted in 1988, when education reformer and teacher union leader Albert Shanker proposed a new kind of public school that would allow teachers to experiment with innovative
The Importance of Teacher Voice

Teachers’ engagement in school decisions and their collaboration with administrators and each other lead to many positive outcomes. School climate improves, which promotes a better learning environment for students. These conditions in turn raise student achievement and improve the working environment for teachers, which reduces teacher turnover. We briefly review the research that bears out these connections.

Stronger School Climate. Richard Ingersoll, an expert on teacher workplace issues, describes teachers as people “in the middle,” “caught between the contradictory demands and needs of their superordinates—principals—and their subordinates—students.” When teachers have the right amount of control, Ingersoll argues, they are able to do their job successfully, earning respect from principals, coworkers, and students.

Looking at data from the National Center for Education Statistics’ Schools and Staffing Survey (SASS), Ingersoll found that the amount of conflict between students and staff, among teachers, and between teachers and the principal all decrease as teacher control in “social decisions” such as student discipline and teacher professional development policies increases. As he summarized in a later article, “Schools in which teachers have more control over key schoolwide and classroom decisions have fewer problems with student misbehavior, show more collegiality and cooperation among teachers and administrators, have a more committed and engaged teaching staff, and do a better job of retaining their teachers.”

Increased Student Achievement. A strong teacher culture also improves student performance, research shows. Valerie Lee and Julia Smith measured the effects of teachers’ work conditions and school climate on student achievement using longitudinal data tracking individual student learning gains from 8th to 10th grade. They found that, after controlling for student and school characteristics, student achievement is higher across all subjects when teachers take collective responsibility for student learning and when the staff is more cooperative. The study also showed that schools with high levels of collective responsibility and staff cooperation had more equitable distributions of...
citizens in a democracy and skilled workers in a free market economy.

Integration and Democratic Citizenship. Separate schools for rich and poor and white and minority students undercut the primary lesson of democracy—that we are all social equals. American public schools—whether district schools or charter schools—are not only about raising academic achievement and promoting social mobility; they are also in the business of promoting an American identity, social cohesion, and democratic citizenship. In an increasingly diverse nation, public schools are the glue that reminds students what they have in common as Americans.

Segregation by race and class undercuts that goal by increasing the risk of students having discriminatory attitudes and prejudices. For instance, children are at risk of developing stereotypes about racial groups if they live in and are educated in racially isolated settings. Diverse schools, by contrast, can help prevent bias and counter stereotypes.9 When school settings include students from multiple racial groups, students become more comfortable with people of other races, which dramatically decreases discriminatory attitudes and prejudices.10 Numerous studies have found that racial integration in public schools is important to producing tolerant adults and good citizens.11 As Justice Thurgood Marshall noted, “Unless our children begin to learn together, then there is little hope that our people will ever learn to live together.”12 Research confirms that students who attend racially diverse high schools are more likely to live in diverse neighborhoods five years after graduation.13

Integration and School Quality. In addition to offering important civic advantages, integrated schools—particularly those that bring together students of different socioeconomic backgrounds—produce stronger academic outcomes for students of all backgrounds. Fifty years ago, the congressionally authorized Coleman Report found that the single most important predictor of academic achievement is the socioeconomic status of the family a child comes from, and the second most important predictor is the socioeconomic makeup of the school attended. Students generally perform significantly better in schools with strong middle-class populations than they do in high-poverty schools.
Virtually all the things that educators talk about as desirable in a school—high standards and expectations, good teachers, active parents, a safe and orderly environment, a stable student and teacher population—are more likely to be found in economically mixed schools than in high-poverty schools.

While it is possible to make schools with high concentrations of poverty work, it is extremely uncommon. Douglas Harris found that middle-class schools are 22 times as likely to be consistently high performing as majority low-income schools.14

Students in middle-class schools perform better in part because middle-class students on average receive more support at home (including better nutrition and health care) and come to school better prepared. But the vastly different educational environments typically found in middle-class as contrasted with high-poverty schools also appear to have a profound effect on achievement. On the 2011 National Assessment of Educational Progress (NAEP) given to fourth graders in math, for example, low-income students attending more affluent schools scored substantially higher than low-income students in high-poverty schools. The gap in their average scores is roughly the equivalent of almost two years of learning.15 Moreover, low-income students given a chance to attend more affluent schools performed more than half a year better, on average, than middle-income students who attend high-poverty schools.

The Need for a New Direction

The decision of leaders in the charter school movement to largely abandon early ideas about the importance of student integration and teacher voice may help explain why the charter school movement has not produced more powerful results. While there are excellent charter schools and there are also terrible ones, on average, charter students perform about the same as those in traditional public schools.16 In our view, the charter school movement, once brimming with tremendous promise, has lost its way.

The good news is that within the varied charter school world, a small but growing number of leaders and institutions are resurrecting the original idea behind charters. In our book, A Smarter Charter: Finding What Works for Charter Schools and Public Education, we profile 15 exciting charter schools that promote teacher voice or economic and racial diversity, or—in a few cases—do both. To us, these charter schools offer the right approach because, based on extensive research, students have a better chance of building deep knowledge and honing critical thinking skills in schools where teachers have voice and student bodies are integrated.

Moreover, these schools offer a sensible way out of the charter school wars—rejecting competing visions in which charter schools are either to be utterly vanquished or completely victorious. On the one hand, we disagree with charter school opponents who would abandon the experiment entirely. Because of their freedom and flexibility, charters can provide excellent learning environments for students, and many do. Moreover, as a practical matter, even fierce critics such as Diane Ravitch note that charter schools are “here to stay.”17 Public support for charters has continued to grow, from less than 40 percent in 2002 to 68 percent in 2013, according to annual Phi Delta Kappan/Gallup polls.18

On the other hand, we disagree with some enthusiasts who believe charters should completely replace traditional public schools. Despite their enormous growth, charters still educate only about 5 percent of public school students. The abiding purpose of charters must be not only to educate the students under their own roofs but also to bring lessons to the traditional public schools, which will educate the vast majority of American students for the foreseeable future.

How State Boards of Education Can Support Smarter Charters

State boards of education could be critical supporters of a new, better direction for charter schools. Boards could work with state legislatures to embrace important policies on teacher voice and integration that would support what we call “smarter charters.”

Policies to Support Teacher Voice. When we use the term “teacher voice,” we are referring to formal mechanisms in a school for teachers to participate in decisions about instruction, organizational issues, and workplace conditions.
Unionization is neither a necessary nor a sufficient condition for having teacher voice in a school, but it can be a helpful tool for channeling teacher participation. Charter schools, however, have a mixed record of openness to teacher unions, which in part explains why 93 percent of charter schools are nonunion. Furthermore, forming a union at a charter school can be a complicated process, and laws differ from state to state. Below are some ideas for reform:

- **State charter school laws should give teachers at charter schools the option to bargain collectively, including joining the district teacher union.** Five states (Illinois, Maine, New Hampshire, Pennsylvania, and Washington State) currently bar teachers at charter schools from joining the district collective bargaining unit. Forming a separate collective bargaining unit may afford teachers more flexibility, but it also requires more work to form a union from scratch. Teachers at charter schools should have the option to join with other teachers in their district to bargain collectively if they want.

- **State charter school laws should give charter teachers the option of forming their own union.** Because charter schools thrive on flexibility, automatic involvement in the district's collective bargaining agreement may not always be appropriate. At the same time, because charter schools are usually small and therefore cumbersome to organize, charter school laws should provide teachers an opportunity to create a union during the charter school's first year of operation. Instead of making a nonunion environment the charter school default option, as is usually true today, teachers would be given an affirmative choice to decide whether or not to form a union and could also vote again on the matter at any time.

- **Charter schools could appoint teacher representatives to their governing boards.** Unions are not the only way to facilitate teacher voice. When Minnesota’s charter school law was first passed, it required a majority of each charter school's board to be composed of teachers employed at the school. (The law has since been relaxed to require at least one teacher on the board.) Currently, six states (Connecticut, Delaware, Hawaii, Minnesota, Nevada, and Virginia) require charter school boards to include a teacher representative, while two states (Louisiana and Missouri) forbid charter teachers from sitting on governing boards. Where unions do not represent charter teachers, we favor the model of reserving seats for teachers on charter school boards.

**Policies to Encourage Student Diversity.** Charter schools need tools and incentives for promoting diverse enrollment, as well as protections against choice-driven segregation, to be effective vehicles for integration. State boards could encourage the adoption of the following types of policies:

- **Allow charter schools to enroll students from across a region.** In states where charter schools are bound by district lines or other smaller zones, new provisions for interdistrict charter schools should be an option. Likewise, when charter schools are required to give preference to applications from the surrounding neighborhood, these preferences could be capped below 100 percent of seats so that charters may balance serving the immediate neighborhood with increasing integrated options across the region.

- **Require that funding be provided for transportation to charter schools, at least for low-income students.** Many state charter school laws fail to provide charter schools with funding for student transportation that is equitable to that of other public schools. Charter schools that do not provide transportation may exclude families who are unable or unwilling to provide their own transportation, a group likely to be disproportionately low-income. Providing transportation funding will remove this potential barrier as well as make it easier to use charter schools to integrate students across a region.

- **Require charter schools to participate in the National School Lunch Program to provide free or reduced-price meals to eligible students.** Based on a nationally representative sample, the federal Schools and Staffing Survey found that 17.2 percent of charter schools did not participate in the federal free or reduced-price lunch programs as of 2011–12, compared with just 3 percent of traditional public schools. Low-income families may
be deterred from enrolling at a charter school that fails to provide these meals.

■ Allow charter schools to use a variety of weighted lotteries to promote integration. Many states require charters to use a blind lottery, which strips charters of an essential tool for diversifying student bodies. We should not leave diversity literally up to chance. Unfortunately, states have varied and often unclear policies on the legality of weighted lotteries.24

The charter school wars have gone on for too long—virtually since the first charter school law passed 25 years ago. In the next quarter century, states and districts can forge a new path for charters that provides genuine voice to teachers and integrates students. A wide body of research supports this approach. But it will take a critical coalition of civil rights groups, teachers unions, and visionary charter school leaders—allied with and supported by state boards of education and other state leaders—to make it happen.


2E. Frankenberg et al., Choice without Equity: Charter School Segregation and the Need for Civil Rights Standards (Los Angeles: The Civil Rights Project at UCLA, 2010).


11Richard D. Kahlenberg and Halley Potter are fellows at The Century Foundation and are coauthors of A Smarter Charter: Finding What Works for Charter Schools and Public Education (Teachers College Press, 2014), from which this essay is drawn. Kahlenberg is also the author of Tough Liberal: Albert Shanker and the Battles Over Schools, Unions, Race and Democracy (Columbia University Press, 2007). Potter is a former charter school teacher.
The record is clearly mixed. Charter schools have been racialized, radicalized into business-generation schemes, scorned by teachers unions, and, according to some of my sources in my hometown of Washington, DC, rammed down the throats of poorer communities. But charter schools sometimes have spotlighted best practice in urban education. As a critical reader of research, education faculty member, and former policymaker, I share an observer’s experience of the “good, bad, and ugly” of charter schools nationally, along with suggestions for creating the best charters.

Fifty years ago and five days after release from Army active duty, I entered a recently desegregated Washington, DC, high school as an English teacher. Since then, I have served as teacher, community school administrator, school desegregation researcher, and regional federal assistance center leader, and in faculty and administrative roles in higher education and in school reform, concluding my service with three policymaking entities advising the governor and two terms on the Oregon State Board of Education. In that time, I have visited several dozen charter schools—in my state and elsewhere—and visited more than a hundred regular public and private schools in 15 countries. I have learned there are no panaceas in education—save great teaching, which, when accompanied by the focused, actualized commitment of educators, community members, and policymakers, produces solid educational results for kids.

Charter schools, with their mixed record of successes and failures, can address “soft spots” in public education practice, but they have not made the case that semi-independent entities can better address the many issues and inequities that public education faces. These schools must be endorsed and authorized by those who are competent and insightful enough to insist on high quality and powerful enough to terminate charters where necessary. In my experience, this responsibility has encompassed detailed school oversight and decisive action, including dissolving a charter board and closing schools.

As chair of the state board, I insisted that board members participate in annual charter schools review so that policy met practice. Kids’ lives are at stake with every policy decision, and I made it my leadership role to include a critical consciousness in the complete charter approval process.

As a parent, I appreciate school choice. High-quality science instruction was
not a local option for my daughter, whose grandmother was one of the first black female chemists at the National Institutes of Health in the 1950s, and her mother, educated at the prestigious Simon Bolivar Institute in Venezuela, was a Latina organic chemist. We monitored our local school closely, finding the graduation rates and other indices to be completely unacceptable. We first tried to be active in school change, and then we voted with our feet and changed our daughter’s high school enrollment to get the kind of instruction we wanted for her. Thus from my personal and professional perspectives, I support choice for students, parents, and communities.

One of my favorite places for K-12 education is a bilingual/dual-language charter school in Oregon. I visit whenever I can because the learning and teaching atmosphere is electric, the leadership is inspiring, and community members regularly meet there, with some serving as literacy volunteers. Four Rivers Charter School is an intellectual and emotional delight—a wonderful educational space that honors the languages and cultures of the local community, employs sound curriculum approaches, and celebrates great teaching, skillful administration, and home visitation. Four Rivers is the sort of place every educator hopes for on entering the profession.

Over the objections of three local school boards, the state board authorized the school. Scores of community members embrace the school and its dual-language mission, many sending their kids there to support the unique educational and social-capital role it has served for over a dozen years. It is a charter school success, with a record of student achievement and producing college-bound graduates.

Located in a rural town of 30,000, surrounded by sheep and cattle ranches, and in a different time zone from the state capital, the school faces real challenges. Its very remoteness can be daunting: It is hard to hire and maintain good teachers, the nearest teacher preparation program is over a hundred miles away, and it persists despite a decade of struggle with local districts.

As a matter of policy, the Oregon state board has presumed that a part of its job is maintaining direct contact and an active role with the charter schools that the board directly authorized. Charter schools in our state may be authorized by the local district, or in exceptional cases, by the state board of education. As vice chair and then board chair from 2012 to 2015, I urged each board member to take on this active role. By working with the Oregon Department of Education’s staff director for charter schools and through site visits, we could help assure the state legislature and the governor that the board was responding faithfully to its legislative charge.

Charter School Controversies

The controversies that beset charter schools have real roots. Many proponents for charters emerged in early years, including parents seeking to avoid sending their kids to schools with black children and those frustrated by the bureaucracies of large, mostly urban, school districts. Decades later, these roots still show, sometimes blatantly.

In "The Racist History of Charter Schools," Christopher Bonastia puts fears about charters in the context of past segregation: “The now popular idea of offering public education dollars to private entrepreneurs has historical roots in white resistance to school desegregation after Brown v. Board of Education, 1954. . . . [T]he desired outcome was few, or better yet, no, black students in white schools. In Prince Edward County, Virginia, one of the five cases decided by Brown, segregationist whites sought to outwit integration by directing taxpayer funds to segregated private schools.” This past necessitates stiff scrutiny for the charters of the present, he adds. “[I]n some cases charter schools deliver what they promise. . . . [I]n others, . . . this sparkling veneer masks less attractive realities that are too often dismissed, or ignored, as the complaints of reactionaries with a vested interest in propping up our failed system of public education.”

Parents and state boards of education need to determine whether all schools are addressing equity issues, but with charter schools in particular. Charter schools should be supported when 1) all students are benefiting from quality educational experiences, including teaching, as shown in graduation rates and postsecondary success; 2) charter structures and personnel are accountable to local communities and to state and local school boards; and 3) charter schools support the educational aspirations of the community and society as a whole.
Charter schools run into trouble when stakeholders discern that they do provide quality education experiences, are not accountable, and do not serve their communities’ aspirations for their children. Recurring controversies arise over charters’ enrollment of fewer special education children and over whether cost-cutting and curriculum streamlining narrow the curriculum.

In a number of districts, local citizens have accused charter schools of draining resources from the school resource pot. In a 2014 report about the Pennsylvania charter sector, Representative James Roebuck of the Pennsylvania House Education Committee listed many of these concerns: “1) [M]ost are not helping kids, 2) some charters are actually hurting kids, 3) too many charter schools are ‘cash cows,’ 4) the charter school provider ‘industry’ has a lot of fraud and corruption, 5) charter schools have a lack of transparency and accountability, 6) some charters practice skimming and weeding out [of good students] strategies, 7) charters can contribute to re-segregation in US education, 8) charters drain resources from struggling school districts, 9) charter school openings sometimes come at the expense of opening and continuing traditional public schools, 10) it is hard to get rid of bad charter schools, 11) there is a lack of innovation at many charter schools, and 12) choice as a solution is very ‘neo-liberal’… free market ideology has turned parents into consumers, rather than public citizens participating in a common good.”

### Keeping Charter Schools on Target

Charters have been used as a tool to aid urban white flight, to resegregate, and to differentially resource schools. This history notwithstanding, Oregon’s experience demonstrates that there nonetheless can be a positive, substantial role for charter schools. This experience suggests that these conditions need be present: 1) monitoring to ensure that all students are benefiting from quality educational experiences, including teaching, as shown in graduation rates and postsecondary success; 2) design and enforcement strategies such that charter structures and charter personnel are accountable to local communities and to state and local school boards; and 3) an insistence that charter schools support the educational aspirations of the community and society as a whole.

There must be consequences for failing to meet these conditions. The Oregon board terminated a charter school for moving from its assigned district and failing to take corrective action, a charter school board when members threatened violence by bringing and displaying firearms at a board meeting, and an online charter for enrollment difficulties. Board members found support for these actions when they checked in with both pro-charter and not-so-pro-charter legislators and citizens.

### Conclusions

Oregon’s experience suggests that state boards of education in particular can and should support the exemplar charter school and insist on nothing less for charter school sponsorship. Good charter schools authorized at the state level are characterized by sound policy and effective leadership, continually evolving best practice and assessment, a stated equity framework that includes the ongoing participation of diverse communities, and clear authority to terminate schools. Citizens must watchdog state policymaking authorities to ensure that charters reach this high bar. Policymakers must be courageous and transparent in their decision making, with the sure knowledge that kids’ futures are at stake with every decision.

---


3Bonastia, “Racist History.”

My state board of education is a NASBE member. So what do I get?

- **NATIONAL MEETINGS** held every year: Annual Conference, Legislative Conference, New State Board Member Institute
- **REGIONAL MEETINGS**, such as ones held recently in St. Louis on standards-based leadership and in Pittsburgh on science standards
- **CONVENINGS** of states that receive competitive NASBE grants
- **NASBE STAFF VISITS** tailored to the needs of specific state boards: on standards-based leadership, school climate, student data privacy, deeper learning, leadership development, board governance issues, strategic planning, and more
- **CONNECTIONS WITH EXPERTS** through publications such as the State Education Standard, webinars, e-newsletters, conference calls, and face-to-face meetings
- **NATIONAL VOICE** on federal education matters before the administration, Congress, and the US Department of Education
- **OPPORTUNITIES TO SERVE** on association committees and NASBE’s board

“With the passage of a ESSA, it is important that state boards of education remain engaged in fully understanding the changing federal landscape and in advocating for an implementation to that new federal law that does right by all of our students across this diverse country.”

—Jay Barth, Arkansas State Board of Education
Putting out a magazine takes a lot of lead time. We started planning this issue at the beginning of 2016. Our decision wasn’t affected by the political campaign, since it was made well before the first votes were cast in primaries and caucuses. Instead, it was the result of our reading of state board of education (SBE) agendas, a regular practice at NASBE.

Again and again, we saw issues related to school choice appearing on board agendas. In 24 states, the SBE authorizes charter schools, and in 5 of those states, the board is the only authorizer. Like other public schools, charters must be held accountable to their communities. When charters are proposed for revocation, it is often the SBE that makes the final call.

Our goal with this issue was not to provide all the answers on choice. But we hope that readers will at least develop a set of questions to be answered before they make decisions on issues before their boards.

Following the election, however, the topic seems prescient. In the wake of the president-elect’s proposal to promote school choice, some readers may look to these pages for the “official” NASBE response. It isn’t there. Our approach to choice, both in these pages and in our public statements, is grounded in some realities and in our overall philosophy.

Over its nearly 60 years, NASBE has held as its central tenet that education governance is primarily a state and local matter. That philosophy has underpinned NASBE’s dealings with every secretary of education since Shirley Hufstedler, who was the first to serve in that role.

It is why we support the Every Student Succeeds Act, which the *Wall Street Journal* calls “the biggest devolution of federal authority in a quarter century.” It is also why we opposed the Obama administration’s “supplement not supplant” rules, which we saw as unnecessarily restricting state authority. Simply put, we think that education leaders in states and localities, who are closest to students, are best equipped to make education policy decisions for them.

We also will temper our response to any new federal focus on school choice with this reality: Less than 9 percent of the $600 billion spent on U.S. education comes from the federal government. Most of that 9 percent is specifically designated for students with disabilities and students in low-income communities, and ESSA has already authorized a $300 million charter school program. Under existing budget caps, it will be very hard (though not impossible) for Congress to redirect additional funding to the ESSA charter school program or another new initiative. An increase would likely require a change in the Budget Control Act’s spending caps and a new congressional appropriation.

Regardless, state and local governments will still bear primary responsibility for funding public schools and ensuring charters effectively serve all students, especially historically underserved subgroups. In many cases, their budgets are stretched thin, which suggests that even with some additional federal money on the table, it is unlikely that many states will add any new program.

NASBE’s positions on choice will undoubtedly be reviewed and discussed by our members this year. But I fully expect that our foundational belief in the primacy of state governance will remain unchanged.
NASBE State Ed SmartBrief

A weekly e-newsletter dedicated to keeping education decisionmakers on top of the news.

SIGN UP TODAY: SmartBrief.com/NASBE
Find Out How States Can Better Equip Principals to Enhance Teaching and Learning

Building Principal Pipelines: A Job That Urban Districts Can Do
How school districts can build pipelines of effective school principals.

School Leadership Interventions Under the Every Student Succeeds Act (Volume I)
New possibilities for federal support of efforts to improve school leadership under the recently-enacted Every Student Succeeds Act (ESSA).

COMING SOON! An Online Field Guide for Elevating School Leaders
Resources states can use as they construct their plans to improve school leadership under ESSA

You’ll find these and other resources online at no charge: www.wallacefoundation.org