The Charter School Quality Agenda: What Comes Next?

Michael J. Petrilli and Ty Eberhardt

The last few years have seen big progress on the charter-school policy front. Partly in response to the federal Race to the Top competition, advocates in many states successfully eliminated or raised artificial caps on new charter schools, created new statewide charter authorizers, and unlocked resources for school facilities. This should lead to significant growth in the charter sector in the years ahead.

But what’s been happening in state policy on the quality agenda? What can be done, via state law, to improve the quality of new charter schools and to address the failure of weak charter schools already in existence? Which states (if any) are blazing that trail?

We see three main areas of focus for policy makers:

1. Strengthening charter-school authorizing;
2. Creating “smart caps” and other incentives for replicating high-quality schools; and
3. Instituting an “academic death penalty” for chronically failing charter schools.

Improving charter school authorizing

By far, the most important thing states can do to promote charter school quality is to make sure that charter authorizers have the incentives, skills, and tools to do their job well. An authorizer is an entity empowered to charter, oversee, and, if necessary, close down a charter school. In most states with significant numbers of charter schools, entities other than local school boards have been given the opportunity to become charter school authorizers. (Sometimes it’s the state board itself.) States with strong authorizers—such as Massachusetts and New York—tend to boast high-quality charter schools. Those with lackluster authorizing practices have struggled.

Since the charter movement began, we have learned a great deal about what is required of strong charter school authorizers. The National Association of Charter School Authorizers (NACSA) articulates the industry’s professional expectations of authorizers in its Principles and Standards for Quality Charter School Authorizing. These principles can inform the work of authorizers and they can be used to evaluate authorizers’ practices. The standards cover areas of authorizer practice throughout the life of every charter school, from reviewing applications, to writing and overseeing contracts, as well as renewal and closure decisions. And equally important, they balance three core principles: pursuing academic rigor; fostering school autonomy; and protecting the rights of students and the interests of the public.

But what can state lawmakers do to promote high-quality charter school authorizing? The National Alliance of Public Charter Schools’ model law suggests the following components:

- **Authorizer accountability system**, whereby all authorizers must affirm interest to become an authorizer and participate in an authorizer reporting program based on objective data, as overseen by some state-level entity with the power to remedy.
- **Adequate authorizer funding**, including provisions for guaranteed funding from authorizer fees, and public accountability for such expenditures.
- **Transparent charter application**, review, and decision-making processes, including comprehensive academic, operational, governance, and performance application requirements, with such applications reviewed and acted upon following professional authorizer standards.
- **Comprehensive public charter school monitoring and data collection processes**, so that all authorizers can verify public charter school compliance with applicable law and their performance-based contracts.
- **Clear processes for renewal**, nonrenewal, and revocation decisions, including school closure and dissolution procedures to be used by all authorizers.
- **Performance-based charter contracts**, with such contracts created as separate post-application documents between authorizers and public charter schools detailing at least academic performance expectations, operational performance expectations, and school and authorizer rights and duties.

States might also want to write the NACSA Principles & Standards into statute. States such as Louisiana have explicitly endorsed them, and states like Colorado have worked to establish state support of industry standards of best practice that imply the NACSA Principles and Standards. Others have incorporated them into other policies as the standards against which potential or current authorizers are judged. In summary, authorizers should volunteer for the job, be given the resources (via school fees or a state appropriation) to play their role effectively, and be held accountable for performance. On the latter point, Ohio recently adopted a new law that will bar authorizers from opening new schools if their current schools are particularly low performing. That’s an idea well worth trying elsewhere.

So which state statutes are particularly strong on charter school authorizing?

Minnesota, the state with the top-ranked charter law for two years straight, according to the NAPCS, provides a good primer. Authorizers are permitted to collect sufficient authorizing fees to oversee their charters effectively. Before sponsoring a charter, the state requires authorizers to undergo a thorough application and vetting process by the state commissioner of education, and then submit to a state review of
their school-evaluation practices every five years. At every step, from au-

1 Many policies which promote charter school growth also address charter school quality. For example: providing sufficient funding; shielding schools from onerous process regulations; and expanding authorizing beyond local school districts that may not want the job. The focus of this essay, however, is on elements most directly related to charter school quality and accountability.

2 To be clear, we prefer no caps to smart caps. Some of the best charter schools haven’t been dreamed up yet; and we’d hate to shut the door to promising innovations.

3 It’s critical that authorizers have the leeway to shut down schools even if they make it over the state’s minimal standards. The point is to force bad schools to close, not to provide a loophole for mediocre schools to stay open.

2011 PIE Network Summit Policy Briefs

Creating incentives for the replication of high-quality charter schools

One of the most promising developments of recent years has been the rise of networks of high-performing charter schools, such as KIPP, Achievement First, and Uncommon Schools. Other lesser-known, but equally powerful, models have sprung up in particular regions of the country. Policy makers would be smart to find ways to recruit these networks to their states—and to encourage the widespread replication of effective models. But how to do so? Here are some options:

• Encourage districts to share facilities. Ohio passed an innovative law that allows school districts to include high-performing charter schools’ test scores in their performance ratings—if they provide facilities to them. This makes sense because facilities challenges are often the reason that high-quality schools are unable to expand or replicate. And it worked; Columbus Public Schools, for example, opened up space to a new KIPP school in part because of this incentive. New York City was also able to lure several top-notch networks to Gotham by providing high-quality space.

• Create a pipeline of talented teachers and leaders. As successful schools expand, they need access to a pool of great teachers and leaders in order to continue excelling. Streamlining licensure policies to encourage non-traditional teachers from programs like Teach For America or The New Teacher Project to come to and stay in a state benefits all schools, charter and district, by increasing the talent available. Expanding alternative licensure, as Ohio did this year, and easing reciprocity rules are important steps towards achieving this.

• Create smart charter caps. If policy makers are determined to put a limit on the number of charter schools allowed in the state, it’s important to allow exceptions for excellent charter schools (from inside or outside the state) to expand and replicate. That’s what “smart caps” do. In Michigan, for example, state universities authorize most of that state’s charter schools, and have hit the state-imposed cap of 150 university-authorized schools. In response, the legislature established a “schools of excellence” classification that high-performing charters can convert to after meeting rigorous criteria. This creates an opportunity for authorizers to sponsor new schools and replicate their success. In addition, the legislature created ten slots for start-up “schools of excellence” modeled after successful charter schools. Connecticut restricts charter school enrollment, but allows the state board to waive the caps for schools with a track record of success.

While state officials should try to make the policy environment friendly to charter schools writ large, they should make it especially friendly to high-quality charter schools. Lawmakers should be just as aggressive about recruiting the nation’s best charter school chains to their states as they are about enticing job-generating businesses.

An academic “death penalty” for chronically low-performing charter schools

Finally, lawmakers need to get serious about addressing instances of chronic failure in the charter sector. A 2010 Fordham Institute report, Are Bad Schools Immortal?, found that 72 percent of the low-performing charter schools in 10 states were still open—and still low-performing—five years later. That’s absolutely contrary to the fundamental theory of charter schools, which is that bad schools get fixed or get closed. Yet we’ve learned from experience that shuttering a bad charter school is just as politically challenging as closing a bad district school.

Most authorizers lack the incentives to take action; after all, if they shut a school down, they lose its authorizer fees. What is a state to do about this conundrum? The short answer is that if authorizers don’t have the fortitude or will to address school failure, state law must step into the breach.

Ohio provides a sound model for putting strict accountability into practice. Since 2006, Buckeye charter schools in a persistent state of “academic emergency” (generally for three years) have been legally subject to automatic closure. This provision has already led to the shuttering of seventeen charters, with three more scheduled to close in June of 2012. Strict enforcement has coincided with better performance: The Ohio Department of Education reports that the percentage of charters on the state’s “Academic Watch” or “Academic Emergency” lists dropped from sixty-four percent in 2007-8 to forty-three percent in 2010-11. In part that’s because some bad schools did close; but it’s also because some others got better. In one instance, the Columbus Preparatory Academy was one more “F” away from closing two years ago; today it is one of five charters in Ohio to earn an “A++” from the state.

This provision isn’t perfect—“dropout recovery” schools are exempted, for example, because it’s hard to define “success” or “failure” for schools that serve such a high-risk population. But it’s been an effective lever for forcing long overdue action.

Conclusion

The charter school sector will never be 100 percent full of off-the-charts schools. Not only would that be unrealistic, it would also indicate a misunderstanding of the charter concept. Chartering provides an opportunity for educators to try innovative approaches; many will succeed but some will not. What’s critical is to put in place policies that expeditiously move the failed efforts off the stage and create room for stronger ideas to take their place. State policy makers would be smart to upgrade their charter policies with an eye toward high-quality authorizing, incentives for replication, and automatic closure for chronically low-performing schools. Such laws won’t solve everything—there’s always a limit to what legislative language can accomplish—but they can create a more vibrant, higher-performing charter school sector.

Michael J. Petrilli is executive vice president of the Thomas B. Fordham Institute and executive editor of Education Next. Ty Eberhardt is a research fellow at the Fordham institute.