

***Considerations in Charter School
Authorization and Management***

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Considerations in Charter School Authorization and Management

One of the most interesting developments in public education in recent years is charter schools, of which there are now over 3,600 serving nearly 2,000,000 students in 40 states. There is considerable variety among schools *within* states on such dimensions such as mission, curriculum, and instructional approaches. There are also wide differences *between* states on how these schools are authorized, how much freedom they have from regulation, and how success will be measured. (See Appendix A.)

One of the key components of a state's educational policy is the decision about who may serve as charter school authorizers – that is, who will approve and oversee charter schools. The ongoing challenge is to balance the desire for schools to fulfill their goals as they think best along with the state's need to ensure public accountability.

During the 2004-05 school year, there were more than 800 charter school authorizers across the country. The great majority – over 700 – were local school boards. The rest were “alternative authorizers” including:

- Regional educational entities (44)
- Universities and colleges (37)
- State boards, commissioners and departments of education (22)
- Nonprofit organizations (17)
- Independent special-purpose charter boards (5)
- Mayors and city councils (2).

WHY ALTERNATIVE AUTHORIZERS?

There are a variety of reasons for allowing entities other than local school boards to authorize charter schools:

- **Stepping outside “the district box”:** Most districts are so focused on the efforts to improve their existing schools, that they become resistant when asked to approve and monitor largely autonomous schools which are taking radically different approaches. Consequently, it appears in some states that the task of working with charters is given to staff who already have more than enough to do. Given these circumstances, authorization is often a low priority for districts, even those not openly hostile to charters.
- **Giving applicants a choice:** Sometimes potential operators are located in districts that are skeptical of or even hostile to charter schools. Alternative authorizers provide a viable route to possible sponsorship, which districts may resist for either practical or ideological reasons.

- **Providing incentives for district improvement:** Alternative authorizers may introduce a competitive dynamic by creating competition for students and dollars between charter schools and existing districts. The hope is that all schools would be more motivated to improve in order to increase enrollment and subsequent funding.

The intent of this report is to help state policymakers think through what kind of alternative authorizing structures may make sense for Nevada. Advantages, disadvantages, and policy considerations are presented for three types of alternative authorizers. Some critical design issues facing states interested in creating alternative authorizers are also addressed.

TYPES OF ALTERNATIVE AUTHORIZERS

This section explores the advantages, disadvantages, and policy considerations for the three most likely authorizing alternatives for Nevada charter schools – the State Board / Department of Education; Regional Professional Development Programs; and an Independent Charter Board.*

State Boards / Departments of Education

In 12 states, the state board of education, the state commissioner of education, or the state department of education may directly authorize schools throughout the state. In Nevada this role is taken by the State Board of Education, either after a district has denied a charter application or as the result of a direct application to the Board. The states that have undertaken the most authorizing activity are Arizona, Massachusetts, New Jersey, North Carolina, and Texas, but the numbers in Nevada have increased recently with districts imposing caps on their own sponsorships.

Potential Advantages

- **Innovation:** If a state allows its board or department to authorize charter schools, it can provide opportunities to create laboratories for developing new policies and practices for all public schools based on the innovations that work in charter schools. If a state is to take full advantage of this opportunity, it should hire staff with certain skills – perhaps more along the lines of an entrepreneur than a bureaucrat. Some states (such as Minnesota and Massachusetts) are creating new departments to undertake these activities.

- **Credibility:** State backing provides a certain amount of credibility to the charters that it authorizes. This credibility may be most helpful to charter operators as they navigate the financial and facility markets in search of support for their fledgling school – which is often a daunting process.

- **Capacity:** State agencies often have existing capacity that would help them oversee charter schools or provide valuable services such as professional development and technical assistance. Sometimes this is better handled by the state than by outside entities.
- **Needs Assessment:** In partnership with stakeholders both inside and outside of the traditional public education system, a state entity could identify the greatest needs in the state and directly solicit proposals for charter schools that fulfill those needs. It also could encourage collaborative efforts among various organizations to meet the identified needs.

Potential Disadvantages

- **Focus on Compliance:** Requiring an existing state entity to authorize charter schools may be a problem if compliance-focused routines, cultures, and practices do not match well with what is required for approving and overseeing largely autonomous public schools based on performance.
- **Agency Overload:** In a tight fiscal environment, many state agencies already feel overburdened. They may not have the ability to hire new – and perhaps more entrepreneurial – staff to lead their charter authorizing work. A state's charter authorizing responsibilities could then be an additional burden for an already overworked staff member.
- **Stability:** The election of new Board members – or in some states, governors that appoint them – who aren't as supportive of charter schools as their predecessors may create a less hospitable environment for state-authorized charters.

Policy Considerations

When a state initially allows its Board to authorize charter schools, there is usually an agreement between the governor and the legislature to make it happen. But in those situations where a later governor doesn't support the Board, will there be enough power within the Board to effectively carry out its responsibilities?

A related consideration concerns the capacity of the Board. Should the Board create a special office that will lead its charter authorizing activities? Are there individuals in leadership and administrative positions who have the skills to take on the largely new task of interacting with schools which may be highly diverse from regular public schools? If not, does the state have the resources to identify and hire individuals to implant these tasks? Or, as an alternative, are these duties – and the necessary subsequent resources – delegated to the Department of Education?

Regional Educational Entities

Many states have intermediate or regional educational agencies that span multiple school districts. Some states have empowered these entities as charter authorizers, including Michigan, Minnesota, and Ohio. In California, county offices of education can issue charters that operate in multiple sites across a county or upon appeal of a local school board's rejection of a charter application. Nevada has in place a Regional Professional Development Program which might be considered as an alternative authorizer for charter schools.

Potential Advantages

- **Regional Perspective:** Regional entities often take a broader perspective on the provision of public education than do local school districts. They can identify what is needed across the region and authorize charter schools designed to meet the requirements of particular students whose needs are not being well met by individual districts. These entities could also be a more efficient way to provide certain programs – such as distance learning programs – to those who want them.
- **Resources:** A school chartered by a regional educational entity could tap resources such an organization might offer. It is sometimes difficult for charter schools to provide after-school and extracurricular programs, technology support, and special education services. Some regional educational entities have personnel with direct experience in managing schools and school programs.
- **Political Insulation:** Regional educational entities are often one step removed from the politics that can hinder local school board decision-making. It may therefore be easier for such bodies to make child-centered decisions about charter authorization and accountability.

Potential Disadvantages

- **Lack of Independence:** Boards composed of local school board members and superintendents or their designees govern some regional educational entities. For a state eager to find alternatives to local school board authorization, such regional boards may not provide enough independence to achieve that goal.
- **Responsibilities:** Like other state entities, regional organizations could be hindered by too many competing responsibilities. Careful thought would have to go into planning how a separate authorizing office within the entity would be funded and staffed.
- **Accountability.** The downside of regional entities' insulation from politics is their lack of direct public accountability. Their actions could receive less scrutiny than those of

more directly accountable authorizers, and the public may have limited recourse if regional boards do a poor job of authorizing.

Policy Considerations

The status of regional educational entities varies greatly from state to state. Some states do not even have such regional entities, while others have highly regarded, high-capacity regional infrastructure. States in between have regional entities with a range of capabilities and credibility. Where a state lies on that continuum will be a critical consideration for policymakers examining this option, and for most states, additional resources would have to be provided to make this a viable alternative.

The state would also have to address a number of questions before moving down this path: Will there be some kind of approval process? How will the approval process work? How will the entities be held accountable over time for their decisions?

Independent Special-Purpose Charter Boards

Currently, five jurisdictions allow independent special-purpose charter boards to authorize charter schools. (See Appendix B.) In four of these jurisdictions – Arizona, the District of Columbia, Idaho, and Utah – charter applicants in any part of the state may apply to these boards for approval. In one – Colorado – only charter applicants in certain districts may apply to the board for approval.

Potential Advantages

- **Core Mission:** In most districts and even for many alternative authorizers, the responsibility of authorizing charter schools is another task to be attended to. One of the advantages of an independent special-purpose charter board is that its only mission is the authorization of charter schools. When Colorado created its independent charter board, the law noted that it is “the intent of the general assembly that the institute shall exist to model best practices in authorizing charter schools and make those practices available to school districts.”
- **Starting Fresh:** Because it is not part of an existing structure, a special-purpose charter board can build all of the key authorizing systems – from an application process to an oversight and accountability system – from the ground up. This design work may pose a capacity challenge, but it also allows this kind of authorizer to fashion a system that is well designed from the beginning.
- **Expertise:** Although the field of charter authorizing is relatively new, it has become apparent that expertise in certain areas – e.g., finance, facilities, and curriculum – among

charter authorizer board members increases the chances for successful authorizing. By creating independent charter boards, a state can require that these areas of expertise be represented on the board.

Potential Disadvantages

- **Community Presence:** Because independent charter boards are new creations, the broader community in a state or district may be unfamiliar with the new board's workings. This could be problematic for the board as it seeks to authorize charter schools in communities that are uncertain of the board's role.
- **Capacity:** All types of charter authorizers need sufficient resources – e.g., staff and funds – to carry out their functions effectively. This is often a particularly acute challenge when they are first being established.
- **Accountability:** In the five states with independent charter boards, the board members are appointed, often by elected officials. Such appointment processes probably lessen citizens' ability to control charter schools in their community to the same extent they control the regular public schools through local school board members.
- **District Relationships:** Charter applicants may approach a state authorizer because they have been denied at the local level. If the state then authorizes that applicant, it may create resentment between the local district and the approved school (and perhaps the state). Additionally, if state agencies regard local school boards and superintendents as their primary "customers" or constituents, this further complicates the politics of state authorizing of charter schools.

Policy Considerations

Obviously, there are several policy issues for states to consider. Should there be one board for the entire state or should there be regional boards? What types of expertise should be represented on the board – education, finance, management, community needs, and student needs? How can whoever appoints the new board ensure its credibility?

CREATING A STATE AUTHORIZING SYSTEM

State policymakers interested in thinking about charter school authorization in Nevada face two critical sets of design issues. The first relates to what mix of charter authorizers would make sense for the state. The second relates to the systems that the state would establish to select authorizers, provide them with capacity, and hold them accountable for high-quality authorizing. (An overview of the current system is provided in Appendix C;

readers should note that the document is provided by an advocate for charter schools and that the consequent rankings of “strongest” and “weakest” are based on the point of view of what makes it easiest for charters to operate within a given state.)

Mix of Charter Authorizers

The previous section considered three discrete types of authorizers. The mix of authorizers that might be best for Nevada will require thoughtful analysis.

- **Actual Institutions:** This report outlines hypothetical advantages and pitfalls, but what do these entities really look like in Nevada? For instance, are there universities and colleges that are interested and capable? Are not-for-profit agencies a viable option, and, if so, in what communities? Given the caps imposed by local districts and the resource constraints of the State Board and the Department of Education, perhaps there is a need to consider creating an independent special-purpose charter board (as in Arizona and the District of Columbia), but are resources available to support this option in the current fiscal situation?

- **Constitutional and Legal Issues:** Careful legislative drafting may be necessary to ensure schools chartered by alternative authorizers still qualify as public schools under constitutional and legal definitions. What is the legal status of an “18th district” that would oversee charter schools? Will the State Board or the Department of Education have final approval over charters issued or the authority to oversee alternative authorizers in some way?

- **Quality-Quantity Tradeoff:** A variety of authorizers can mean more opportunities for charter schools to open, can create more room for experimentation and focus, and can produce a dynamic of competition that can spur improvement. But this also may mean dipping deeper into the quality pool, especially if financial and leadership resources to devote to charter schools are scarce. In addition, some research on charter authorizing has found that entities with higher levels of authorizing activity are more effective than those that only charter one or two schools. As one study concluded, “States with fewer authorizers, serving more schools each, appear to be doing a better job.”

Some competition could be healthy – resulting in streamlined application processes and elimination of needless regulation and red-tape. But if competition produces lower expectations for student learning, then it works against the aims of charter school accountability.

This last consideration points to the need for Nevada policymakers to consider the mix of authorizer types within the real-world context through which authorizers are funded and held accountable.

High-Quality Authorizing

Through its policies, a state creates the environment within which charter authorizing takes place. This environment has several components, including:

- **Funding:** Obviously, insufficient resources can hinder effective authorizing, but how should a state provide funding? State policymakers need to pay careful attention to the incentives created by whatever funding system they establish. For example, funding tied to the number of schools may encourage authorizers to charter more schools than they should, effectively lowering the bar for approval – and it also may make authorizers reluctant to close poorly performing schools. Funding tied to enrollment may encourage authorizers to charter schools that are larger than they would otherwise. At the same time, other mechanisms, like a flat appropriation for authorizing, might provide insufficient resources if there are a large number of charter applicants.
- **Decision-making:** Are authorizers' decisions subject to approval by some higher state entity? Can applicants appeal rejections to a state entity? If so, through what process?
- **Caps:** If a state has a cap on the number of charter schools or the number of charters issued in a year, how does the “rationing” process work? Does the state maintain a first-come-first-served list, and shut off authorizing once the cap is reached? If the state has regional authorizers, do individual authorizers receive a certain number of charters they can issue? In that case, what happens to unused charters? What happens to charters that are revoked or relinquished?
- **Accountability:** Do authorizers have to meet any performance standards to retain their authority to authorize charters? If so, what? Who decides, and through what process? What would happen to schools chartered by a certain authorizer if the authorizer loses its “license”?

Each of these design issues merits careful thought, and there are few easy answers. Yet together, they create the environment within which authorizing will take place in a state. Given the importance of quality authorizing to the creation of quality schools, working through these critical issues is well worth the effort for Nevada policymakers.

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\* For a number of reasons, three authorizing options are not considered here. The state's county-based educational governance structures do not appear to mesh well with more localized initiatives such as mayors and city councils. In any case, given the demographics of the state, few local agencies apart from schools would seem have the capacity to oversee public education; this is probably true for most not-for-profit entities as well. Finally, though not speaking officially for the university system, the author believes these institutions are already quite busy, are relatively resource-poor, and have, importantly, existing connections with regular public schools which might be jeopardized by entering into charter school governance.