

4. Authorizing: The Missing Link

Chester E. Finn Jr.
and **Paul T. Hill**

Authorizers, AKA sponsors, were the most neglected part of the charter school phenomenon in the early days. Though it would be an exaggeration to say that these new schools were expected to come into existence via immaculate conception, their parentage received scant attention. In *Charter Schools in Action*, the 2000 book by Manno, Finn and Vanourek that was as careful a look at the charter world as any at the time, “sponsors” accounted for no more than half a dozen paragraphs that rather ambiguously depicted them as second party to the “contract” by which a charter operator was able to launch a school.

Even such primal charter-school theorists as the late Ray Budde and Albert Shanker paid little attention to the subject of sponsorship. They focused more on innovative schools than novel governance arrangements. Ted Kolderie recalls that Budde’s original “proposal was actually for a restructuring of the district: for moving from ‘a four-level line and staff organization’ to ‘a two-level form in which groups of teachers would receive educational charters directly from the school board.’” But the school board was still the school board and would function accordingly.

Though it would in fact be issuing an “educational charter,” nobody spent a lot of time or thought on how its role might need to change as it shifted from bureaucratic to contractual governance. The emphasis was on the freedom those on the receiving end would enjoy and the fresh educational opportunities it would afford.

With time, Budde’s own thinking evolved. By 1996, he could see in the early charter movement “more powerful dynamics at work in creating a whole new school than in simply restructuring a department or starting a new program.” And Ted Kolderie was picturing wide consequences from ending the “exclusive franchise” of district-wide systems to deliver public education. Yet the act of authorizing, the nature of authorizers and the hallmarks of doing this well captured scant interest until recently, even from those immersed to their eyebrows in the charter pond. Nearly all of their attention focused on schools and operators, not on the public bodies that license them to operate.

In retrospect, this is understandable. People who were eager to start their own schools wanted and needed permission to proceed but had no interest in becoming entangled with government overseers, especially if these were local school boards, which were prone reflexively to impose new rules whenever problems arose. Early in the charter movement, school boards also saw charter schools as something inflicted upon them by the state. These breakaway schools could take money previously controlled by districts and need not respond to every change in district policy—an alarming development from the boards’ perspective. Board members were reinforced in this by denizens of their district central offices, who also felt a loss of control and feared that, despite their limited leverage over charter schools, they would be blamed for failures.

With the benefit of hindsight, we can see that few legislators or governors thought deeply about this new form of public-ed-

ucation governance. Perhaps picturing charter schools as akin to “magnet” or “alternative” schools, most state policymakers simply assumed that local districts would add sponsorship to their brimming plates. The many vested interests of public education encouraged this assumption, by doing their utmost in the political horse-trading around charter laws to ensure that *only* local boards would have this authority. Indeed, confining sponsorship to local school districts would prove to be a powerful inhibitor of the charter movement—which is precisely why the teachers’ unions, school board associations and superintendents’ groups wanted it that way.

Exceptions were made, however, and not surprisingly the first people to pay close attention to authorization itself were the heads of a few special agencies, boards and units whose only mission was to charter schools. The Massachusetts charter law established a dedicated chartering office under the state secretary of education and separate from the education department. California’s and Colorado’s laws allowed would-be school operators who were turned down by their local districts to appeal to the state board of education, which established a special staff to handle these appeals. The District of Columbia law set up a separate dedicated chartering authority, which proved to be a more diligent reviewer of applications and overseer of schools than the D.C. school board (which also had sponsorship powers). Arizona created a statewide charter board whose authority in this area paralleled that of the state board of education. Michigan’s charter law allowed state universities to authorize charter schools, and one campus, Central Michigan University, established a new unit solely to manage that work.

These special-purpose chartering units had a strong interest in the success of the schools that they authorized. Their own reputations and the political futures of their leaders depended on those schools’ performance. Central Michigan University quickly

learned this lesson the hard way, when a scathing report accused it of lax oversight of the schools it had chartered. Specialized agencies, however, did not guarantee thoughtful chartering. For every example of one that took its sponsorship duties seriously, there is at least one offsetting instance of a special agency that simply authorized all comers and left their oversight to the market. Examples include the Texas and Ohio Departments of Education and local education service centers in many states. Still, the handful of diligent authorizers demonstrated the principle: that thoughtful oversight was possible and could pay off both in fostering superior school performance and in minimizing meltdowns at the hands of school operators who never should have been counted upon to succeed in this complex endeavor.

Making Sense of Authorizing

Licensure and contracting are decent analogies for the role of the authorizer. The former implies an agent of the state giving permission to a private vendor, person or organization to engage in a certain line of work or operate a particular kind of shop or agency. Americans are accustomed to drivers' licenses, liquor licenses, plumbers' licenses, elevator licenses, licenses to operate nursing homes, hospitals, even private schools. (Most states also have established procedures for licensing private schools to operate. In Pennsylvania, for example, that license must be renewed annually.) Under this arrangement, a state licensing agency confers certain rights and authorities on the licensee, normally for a limited period of time (after which the license must be renewed) and usually after checking to see if the licensee meets certain requirements or qualifications. It's a familiar governmental activity, albeit very different from operating a public school system.

Contracting is somewhat different. Contracting is how a public body charged with supplying specific goods or services can

arrange with private providers to supply them. Whereas licensure normally happens at the initiative of the licensee, government contracting usually starts with the public agency seeking for something to be done but, instead of doing it directly (with state employees, for example), arranging for it to be provided by other private (or sometimes public) entities. Thus, the Air Force does not build planes; it contracts with Boeing or Lockheed. The highway department does not actually employ the people who pour asphalt; it gets roads built by contracting with private firms. Sometimes this is called outsourcing. Under the theory of “re-inventing government” popularized in the early 90s by David Osborne and Ted Gaebler, government should “steer, not row” and should get more of its work done via outsourcing, using competitive processes to achieve greater efficiency and quality than it could do directly.

American public education has long contracted for sundry goods and services, from cafeteria food and school buses to computers and textbooks. Certain professional services are also routinely obtained via contract, such as school doctors, psychologists, social workers, speech therapists and other specialists. In recent years, some school systems have contracted with private bodies to run entire schools; sometimes these are “alternative” schools for troubled youths; sometimes (e.g. Philadelphia, Baltimore) they outsource the management of poorly functioning schools to private firms that undertake to turn them around. There is no bright line of distinction between this practice and the authorizing of charter schools. There may, indeed, be a continuum, and the district’s role as contractor for whole-school operations may closely parallel that of charter-school authorizer.

Thus the work of authorizing (or sponsoring) schools actually has multiple precedents in American government, even in K–12 education, which in turn may help explain why so little attention was paid to this role for so long in the charter-school context.

With one prominent exception: in every state considering passage of a charter law, there was debate and usually conflict about who would be allowed to authorize such schools. This had mainly to do with control and politics, of course. In general, the public-school establishment sought to confine charter authorizing to districts while most charter advocates sought to confer sponsorship powers on other entities believed to be more sympathetic to the actual creation of independent charter schools—and to devise multiple paths to sponsorship so that energized school operators turned down by one authorizer could seek approval by another. Where charter advocates failed to persuade lawmakers to entrust these more sympathetic entities with actual sponsorship powers, they tried, sometimes successfully, to create appellate arrangements such that a statewide body could reverse negative decisions by local school boards. (In addition to Colorado and California, “appeals” arrangements were added later in Florida and Pennsylvania.)

Putting it differently: people didn’t pay much heed to the role of the authorizer or how to get it right and do it well, but they paid ample attention to the power of authorizers to license competitors to the traditional system and, predictably, the traditional system did its utmost to restrict that power to itself.

Which is not to say the system was eager to shoulder this role, much less that it was capable of doing a good job. Once people started seeking charters and running actual schools, it became clear that, much as they wanted to retain this monopoly for themselves, local districts, by and large, knew neither how to appraise potential schools and would-be operators nor how to monitor the performance of existing schools. Somehow, districts were equipped to manage separate parts of schools—teacher hiring, bus routes, textbook purchasing, special ed programs etc.—but knew little to nothing about schools as organizations.

How did it happen that school districts, whose sole job seems

to be to provide schools, became focused instead on parts of schools and services ancillary to schools? Part of the answer can be found above them in the governmental food chain. Desegregation lawsuits and Office for Civil Rights enforcement actions led districts to consider schools as bins into which the right mixtures of children and programs were to be put. Federal categorical programs required school districts to focus on whether particular streams of funds were being administered properly, or whether the proper special services were going to eligible kids (and only to those youngsters). Legislatures proliferated school boards' duties, as they resolved emergent problems simply by requiring local districts and their boards to address them. Teachers' unions, empowered by collective bargaining laws, won contracts that took away principals' authority and made school staffing dependent on senior teachers' preferences. The result was that school boards had strong incentives to manage categorical programs, compliance with court orders, teacher contracts, and the demands of special education parents—and scant incentive to oversee entire individual schools, over which they had no real leverage.

Changing Times

The era of standards-based reform dawned about the same time as the charter-school era. Each would prove a tough test of districts' competence in looking holistically at schools, judging them by results and knowing how to diagnose and remedy performance shortcomings in these complex organizations. In general, districts shirked these challenges, avoiding chartering except in rare cases and reporting test results but seldom acting strongly to change or replace low performing schools.

A handful of districts, however, glimpsed the power of charters as a promising way of doing business. Chicago, Philadelphia,

San Diego, Cincinnati (briefly), recently New York City are prominent in that handful—school systems that came to see chartering as one way to provide educational options in neighborhoods where the regular public schools were intractably bad and their own internal rules and contracts made it ridiculously hard to turn such schools around. They, too, created specialized oversight units, which had a strong incentive both to give schools the freedom necessary for innovation and to oversee them carefully enough to prevent scandalous failures.

To date, though, they're the exception. Even in the face of NCLB requirements that districts consider chartering as a means to intervene in failing schools and to create viable alternatives for children trapped in such schools, few districts are paying attention. Moreover, even those that have chartered some schools tend to remain in the passive-aggressive mode, keen to show that, if they give charter schools enough rope, they'll hang themselves and then legislators will reconsider this whole charter folly.

Politically, too, most districts are still hostile, often aggressively so. In many a statehouse, board members and administrators team up with the teacher unions to restrict, cap, regulate, de-fund or roll back the charter movement—and to elect candidates who share those goals. Although districts are the most numerous authorizers—a recent survey by the National Charter School Research Center finds that they comprise 85 percent of all active sponsors—many are at best reluctant and semi-competent in this role, and at worst antagonistic and truly inept.

Besides the technical challenge of authorizing schools, districts run political risks if they encourage charters. Teachers' unions generally oppose such schools, which threaten their hegemony and create jobs for teachers who are not part of the district-wide bargaining unit. In Ohio, for example, to the extent that any districts are functioning as sponsors, it's extremely rare and profoundly opposed by the teachers union. Cincinnati's Steve

Adamowski, the one Buckeye superintendent who tried creatively to use charters to expand his district's portfolio of diverse, high performing schools, soon lost his job after the union rallied to oppose him. Former San Diego superintendent Alan Bersin's predilection to make constructive use of the chartering option was also one of the ways that he made himself anathema to the city's teacher union, which strove mightily, and in time successfully, to dislodge him via school board elections.

A Tractable Problem

A handful of authorizers have taken the job seriously and are trying to figure out how this novel role can be played effectively. As they succeed they will pave the way for willing school districts and other authorizers to benefit from their experience. The National Association of Charter School Authorizers (NACSA) has developed a set of "principles and standards for quality charter school authorizing" (see <http://www.charterauthorizers.org/files/nacsa/BECSA/Quality.pdf>) and is working to assemble examples of thoughtful problem solving. Via conferences and publications, NACSA is also trying to convince school district leaders and other sponsors both that good charter authorizing is not rocket science and that it can pay off.¹

NACSA head Greg Richmond was formerly head of the much-admired Chicago charter school office. His fledgling orga-

1. A sampling of recent NACSA publications includes: *Principles and Standards for Quality Charter School Authorizing*; *A Reference Guide to Special Education Law for Charter School Authorizers*; *Charter School Accountability Action Guide*; *Charter School Accountability: A Guide to Issues and Options for Charter Authorizers*; *Charter Schools and the Education of Students with Disabilities*; *Charting a Clear Course: A Resource Guide for Building Successful Partnerships Between Charter Schools & School Management Organizations*; *Guidelines for Ensuring the Quality of a National Design-Based Assistance Provider*; and *Measuring Up: How Chicago's Charter Schools Make Their Missions Count*.

nization is underwritten by many of the same foundations that have supported development of new charter schools, including Walton, Gates, Pisces, and Fordham. Despite its ambitions, however, NACSA reaches only a small fraction of the school districts and other agencies that could, under state law, serve as school authorizers. It claims ninety-six members in twenty-seven states, while some 854 entities are currently sponsoring charter schools and as many as 10,000 entities (in forty-three states) are empowered to do so. Among today's active authorizers are found 732 local school boards or districts, forty-four county boards and education service centers, thirty-seven institutions of higher education, twenty-two state agencies, seventeen non-profit groups and two city governments.

Belatedly, too, bits of research are being done on the role and performance of charter authorizers.² Yet this remains an underdeveloped scholarly field that basically lacks theory, data, even a solid database. The upshot is that there's little to counter one's natural tendency to judge a sponsor as one judges a school system or school board. Yet that's shortsighted and wrong—serving to cram charters back into the usual mold rather than creating the new model that their governance cries for.

The authorizing problem could be more readily solved if both sponsors and school operators viewed chartering as a risk-sharing arrangement between two parties that want to attain the same objective. It is, in effect, a way to attain a public purpose via a structured collaboration between government and private actors.

2. See, for example, Rebecca Gau, *Apples, Oranges, Plums and Pears: Charter School Authorizer Trends and Types* (Washington DC: Thomas B. Fordham Institute, 2006), and Bryan C. Hassel and Meagan Batdorff, *High Stakes: Findings from a National Study of Life-or-Death Decisions by Charter School Authorizers* (Chapel Hill: Public Impact, February 2004). See also Louann Bierlein and Rebecca Gau, *Charter School Authorizing, Are States making the Grade?* (Washington DC: Thomas B. Fordham Institute, 2003), and Paul T. Hill and Robin J. Lake, *Charter Schools and Accountability in Public Education* (Washington DC: Brookings Institution Press, 2002).

Table 4.1 A Risk-Sharing Scheme for Authorizers and Charter Schools

<i>Risk</i>	<i>Consequences (compensation owed if one party defaults)</i>	
	<i>Borne by charter authorizer</i>	<i>Borne by school operator</i>
Low enrollment		•
Inability to find teachers		•
Late or partial payments to school	•	
School inability to meet financial obligations		•
School inability to secure a private building		•
District's inability to provide a promised building	•	
Disruption, conflict within the school		•
Changes in district attendance boundaries	•	
Failure to reach enrollment goals for disadvantaged		•
Frequent turnover of teaching staff		•
Change in demographics, needs of students enrolled	•	
New compliance requirements	•	
Unavailability of promised district services	•	
Low student performance		•
Loss of promised state or federal funds	•	
Shortfall in private fund raising		•

Which is no simple feat. Starting and running a new school, or authorizing someone else to do so, is inherently risky. No one can be sure in advance whether a school will attract the students and teachers it needs to survive, whether a promising instructional method will actually work, or whether other events (from state budget cuts to fires, floods, and school-bus accidents) will make it impossible for one of the parties to meet its obligations. Prior to launching a new charter school, smart authorizers and operators both identify the major risks and agree in advance on who is responsible for what. Neither side should be in a position where it has no recourse if the other fails to deliver. Table 4.1 presents a risk allocation scheme that could make chartering a realistic contract between public agencies and individual school

operators. The asterisks indicate the most sensible assignments of risk.

To our knowledge, no school charter has ever been constructed upon such an agreement. Instead, authorizers and operators typically hope things will work out and would just as soon avoid hard discussions about who is responsible for what and how. If one side fails to deliver as expected or uncontrollable events occur, this type of agreement can help restore the relationship to working order—or terminate it altogether.

Even as little is done to develop a sound theory of charter sponsorship, a tight but mutually respectful contract between authorizer and operator, or a framework of shared and apportioned responsibility for doing it well, the sponsorship world is evolving at a rapid clip. The most interesting development is the decision by a few states to entrust with authorizer powers entities that are neither local school districts nor creatures of the regular K–12 system. State universities came first, with Michigan, Minnesota, New York and Ohio leading the way. The Indiana legislature empowered the mayor of Indianapolis to function in this capacity, and Wisconsin conferred sponsorship powers on the Milwaukee city council. And in both Minnesota and Ohio, non-profit organizations that gain approval from the state department of education may function as charter-school sponsors.

This broadening of the definition of eligible authorizers is an interesting and potentially momentous development. It signals to districts that they can expect other bodies, including some that they do not control and may not even be able to influence, to authorize competing schools to operate within and sometimes across their boundaries. Well aware of this, districts commonly strive to contain and control this phenomenon, such as by trying to drive state universities out of sponsorship by threatening not to hire their graduates (such is the case in Michigan and Toledo, Ohio). It doesn't take much, usually, to convince risk-averse col-

lege presidents that a strong record of producing employed and contented alumni/ae is more important than a few irksome charter schools that view the university as their parent.

Yet if the charter movement survives and is allowed to grow, the effort to expand the sponsorship rolls will grow with it. Such expansion signals that state policymakers are wresting monopoly control from school districts and, to some extent, from the state public-education bureaucracy, and are seeking more creative or trustworthy agents to accomplish this vital public purpose. They are, in fact, withdrawing the “exclusive franchise.” At the same time, they must preserve some sort of “chain of command” in order to satisfy state constitutional provisions governing public education. In Ohio and Minnesota, the non-profit authorizers are, in effect, licensed by and accountable to the state department of education. It remains to be seen whether states will come to trust the boards of major non-profits as they do the regents of their colleges and universities—to operate in the public interest with minimal government oversight. Because school districts are no longer the only imaginable sponsors of charter schools, the extent to which they remain dominant in this arena will depend on how seriously they take and how successfully they perform the role of authorizer. This, of course, means suppressing their natural bias in favor of traditional district-run public schools. It’s an inherent dilemma for them, so long as they’re also running their own schools, because they are, in effect, licensing their own competition—an inherently unstable situation.

This future also depends, of course, on how well non-district authorizers do at performing the key functions of sponsorship and demonstrating that they might be better at it than school boards and district offices. In doing so, they face a host of challenges—all of them exacerbated by the lean rations and adverse climate surrounding the wider charter movement. It’s tough even to get authorizers funded and staffed, and we’re beginning to see that,

important as it is to have multiple authorizers in a state, a sponsorship “marketplace” brings its own perversities. (For example, what would induce a school operator to choose a relatively high-priced and fussy-about-results sponsor when the options include *laissez-faire* authorizers that charge lower fees?) Insofar as sponsors depend on their schools for revenue, they have a financial incentive to authorize lots of (big) schools—and not to close any down.

It is also wise to bring a healthy Madisonian skepticism to new governance schemes. Even when it’s clear the old one is not working well—and that’s plainly true of district-run public schooling, especially in urban America—we cannot take for granted that sheer innovation will yield improvement. All the issues that the founders struggled with in Philadelphia (e.g. separation of powers, minority rights, pluralism versus uniformity) arise in education governance, too, and will have to be worked through—probably with missteps—as the charter movement evolves.

What Is Good Authorizing?

What does it mean to do well in the authorizer’s role? It starts with ensuring that the schools one sponsors comply with applicable laws about admissions, use of funds, civil rights, and public reporting. But compliance is just the tip of the sponsorship iceberg. Doing this job well also means exercising imaginative and discerning judgment about which aspiring school operators are likely to succeed in providing quality instruction, managing their business affairs and building a well-functioning and sustainable organization. It means knowing when and how to blow the whistle on a malfunctioning school and how to strike a defensible balance between providing it with needed technical assistance and objectively appraising its strengths and weaknesses on behalf of

the public interest. Above all, in this era of standards-based reform and No Child Left Behind, it means holding the school to account for its results, both those built into statewide academic standards and those school-specific education goals and performance measures that distinguish one charter school from the next. Some authorizers go further, moving from quality control of individual schools to broader strategies meant to advance the charter movement itself and increase the supply and diversity of sound education options available in a community or region.

Table 4.2 summarizes what good authorizing entails under three headings, distinguishing among compliance-, quality-, and promotion-focused authorizing. Specific authorizer actions are listed below each heading. The actions are listed in temporal order, so that the ones appearing at the top of the table are naturally done before those appearing lower, and the actions on the same row happen at about the same time. The point is not to classify a particular authorizer under one or another heading—though many can be—but to recognize that good authorizing entails complex actions of three quite different sorts.

Are all of these functions compatible? They certainly can be, though many extant sponsors may gaze in puzzlement upon some of them. The legal compliance functions are necessary but manifestly insufficient. A compliance-focused authorizer could overlook many opportunities to charter good schools while also allowing weak but obedient schools to obtain and keep charters. There are, moreover, examples of authorizers that take the compliance functions seriously but also promote quality schools. Central Michigan University not only demands that all charter schools file every report required by the state; it also gives schools the report formats and basic data they need to complete those documents. Taking compliance seriously does not prevent Central Michigan University from promoting school quality and working proactively to find and promote promising charter providers.

Table 4.2 Elements of Good Authorizing

<i>Compliance-Focused</i>	<i>Quality-Focused</i>	<i>Promotion-Focused</i>
		Ensuring that all potentially qualified applicants know they can apply for charters
	Creating clarity about the standards to be used in judging proposals	
	Developing the capacity to tell the difference between groups that have vs lack clear ideas about instruction and capacity for financial management	
Making sure charter operators understand their legal obligations		Helping promising applicants improve their proposals
	Creating contracts that spell out the respective duties and rights of both charter school and authorizer	
	Ensuring that existing schools are not harmed by the authorizer's failure to keep its own promises	
Monitoring school admissions and finances for compliance with the law	Monitoring leading indicators of school performance, in order to intervene in a failing school before students lose a whole year's instruction	
	Creating clear criteria for closing failed schools and re-chartering good schools when charter terms expire	
	Planning for the possibility that some schools will fail, to ensure that children can transfer to sounder schools	
		Encouraging expansion or replication of high performing charter schools

Some might claim that the promotional activities in the right-hand column surely conflict with compliance and quality control. Yes, it's possible for an entrepreneurial authorizer to neglect the quality control functions, encouraging marginal applicants to apply and taking risks by approving underdeveloped proposals. Some Arizona and California school districts have apparently followed this approach—even approving schools to operate in localities other than their own—in order to skim the oversight fees and additional enrollment counts that state law makes available to sponsors.

Yet the Chicago school district and the D.C. Charter Board offer proof that authorizing can be both ambitious and quality-focused. Both encourage promising applications via public information sessions and workshops, and both suggest ways whereby interesting applicants can gain capacities missing from their original proposals. Chicago even encourages competent charter operators to take on additional challenges—including opening more campuses. However, Chicago has also shown its willingness to close bad charter schools and withdraw a charter before a school opens if the school's finances or academic program seem near collapse. The independent D.C. chartering authority has been tougher on the schools it approves than the District's board of education, which has apparently granted charters to political cronies and allowed abusive situations to continue.

It would be understandable if special chartering authorities like universities opted to limit themselves to the compliance and quality control functions. They risk some institutional prestige if the schools they sponsor get into legal or financial trouble or prove ineffective. Moreover, these authorizers have no responsibility for the overall quality of public schools in city or state. It is reasonable for them to set high standards for the schools they charter, even if these standards are higher than surrounding public schools can meet.

Districts face the toughest challenges. Like special chartering agencies, they must be concerned with compliance and school quality. But they are also responsible for the education of all the children in an area. They surely couldn't justify setting lower standards for charters than for other public schools, but could they reasonably set *higher* standards for charters? Does it make sense for them to turn down a charter application that would lead to a school only slightly better than the district-run schools available, or to close a struggling charter while lower-performing district schools stay open? It is hard to see how districts can do these things, given their responsibilities for the education of all children in their areas. Nonetheless, many refuse to consider promising charter proposals and take action against charter schools even while doing nothing about worse district-run schools.

The three strands of quality authorizing also call upon sponsors to develop multiple forms of expertise. People who can handle compliance functions might not be able to judge school proposals or interpret data about school success and pupil performance. Individuals who can readily judge the health of a school and understand how to help a struggling operator may not know how to generate interest among competent groups that have never run schools, or connect groups of educators with sources of financial or management expertise. Some individuals (e.g. former D.C. Charter Board leader Nelson Smith, now head of the National Alliance of Public Charter Schools) can handle all these issues, but most authorizers will need to build a diverse team. Team building costs money, of course, but most authorizers already get a share of the per capita funding for schools they oversee.³

3. Authorizer economics are Byzantine and sometimes yield perverse incentives. A number of specialized authorizers do *not* get fees from the schools. (A unit of the superintendent's office, the mayor's office, or the state department of education, for example, is not likely to charge sponsorship fees but to cover its chartering costs from

Good authorizer practice is difficult and only a few people have pertinent experience. However, NACSA is emerging as a resource that can provide advice, training, and exemplars for localities seeking to develop capable authorizing agencies. Ohio has developed a “charter sponsor institute” to recruit, train and technically assist new sponsors, especially non-profit organizations, and it has striven with fair success to develop training modules, answers to obvious questions from prospective authorizers (e.g. liability), and a host of common tools and materials that individual sponsors should not have to devise for themselves.

The Future of Authorizing

Charter advocates neglected authorizing at first but are now awakening to its importance. The same cannot be said of conventional school districts and state education departments, which, despite the rhetoric of standards-based reform, have never bothered to figure out how to judge the performance of individual schools or to give themselves (or their students) options if a school is failing. Instead, districts and states continue for the most part to assume that existing public schools are immortal and nothing much can be done about them if they fail, other than to take advantage of staff attrition, tinker with teacher training and add sundry programs on the side.

Charter authorizing points toward a whole new approach to

its basic public funding.) Where the sponsor is obliged to subsist on fees, it needs a certain scale of operation, which most sponsorship operations lack, to generate enough fees to build a proper team and infrastructure. This may cause it to be entrepreneurial—or to be less discerning than perhaps it should be about prospective school operators. Moreover, being fee dependent creates a fiscal dilemma for authorizers, when, for example, closing down or not renewing a given school would threaten the sponsor’s own fiscal stability. Additionally, in states such as Ohio, where sponsors set their own fees within a legislated range (up to three percent in the Ohio case), schools may shop for low-priced sponsors, but those entities may wind up so fiscally strapped that they cannot afford to do the job well.

public oversight of schooling wherein public authorities take responsibility for judging whether a school is giving children the education they need and for seeking alternatives to consistently low performing schools. A few districts (Chicago, New York, Philadelphia, Milwaukee) and two states (Texas and Florida) have shown some glimmers of interest in performance-based school oversight. But no district is yet overseeing all its schools the way that charter schools are supposed to be overseen.

Today, charters stand apart as the primary example of schools that clearly understand they face oversight that has the power to close or replace them if they do not perform. As noted above, the best examples of responsible charter oversight come from special-purpose authorizers who accept the dual responsibility of using chartering to create new schools while also weeding out low performers. Even those districts that do take that approach to their charters do not apply it to the traditional public schools they operate directly.

Regrettably, however, not all special-purpose authorizers take their work seriously. Like districts, they face conflicting incentives. Even if desirous of promoting good charter schools, they, too, face the temptation to sponsor many schools, then keep them afloat, so as to get oversight fees—and contain the time and cost of reviewing proposals and monitoring school performance. It's not easy or inexpensive to build and maintain the capacity to oversee schools and intervene when things go wrong. As businesses committed to outsourcing have also found, it takes considerable internal capacity to identify good providers and ensure that they perform. A few authorizers (e.g. Central Michigan University) have made the necessary investments in that capacity but many have not.

School districts and special purpose authorizers are also alike in knowing that closing a low performing but popular school can lead to nasty conflicts, adverse publicity and litigation. Only the

best authorizers have the fortitude for that tough but necessary part of their roles. State policy matters, too. For example, while the desirability of “multiple authorizers” is a firm tenet of chartering theology—and surely preferable to a single monopolist sponsor whose school decisions cannot be appealed—the emergence of an “authorizer marketplace” may also have perverse consequences. If, for instance, a conscientious sponsor declines to renew an ineffective school, the operator may simply seek a new charter from a different and less persnickety authorizer.

It is possible to remove special purpose authorizers’ perverse incentives and encourage them to invest in oversight. If authorizers are themselves accountable to state authorities for the effectiveness of the schools they sponsor, they will be more apt to take quality control seriously. If funded directly by the state, they won’t depend on fees from “their” schools.⁴ Such policy changes would yield marked improvements in places like Ohio where schools presently pay authorizers variable fees from their operating funds and thus have an incentive to shop for the authorizer that charges the lowest fee (and does the least oversight). If authorizers’ decisions—and the performance of their schools—are transparent, media scrutiny and public opinion will provide additional quality control. And if the state has the power to disband or dismiss authorizers that support dismal schools, authorizers will have the incentive to keep out bad schools and take action against low performers.

4. States might, for example, pay special-purpose authorizers fees based on three variables:

- Some basic annual operating support, or core support, for a sponsor that has at least, say, three schools in its portfolio.
- An additional sum for each additional school in its portfolio regardless of size (small amounts, though, to keep the incentive effect within bounds).
- A bonus payment for every school in its portfolio that makes AYP in a given year and/or hits the passing level on a state’s own accountability system. (In Ohio, that might mean a school rating of “continuous improvement” or better; in Florida it might be “C” or better.)

It is harder to create the right balance of incentives for school districts. So long as they benefit politically and financially from shielding their traditional schools from competition and strong performance pressures, they will have little incentive to promote charter schools, invest in oversight capacity, or hold all schools to common standards.

The mismatch between the incentives facing districts and special purpose authorizers leaves a big gap in public policy. Districts are ultimately responsible for providing schooling for all the children in their geographic areas, but they can avoid holding schools accountable for performance. Special purpose authorizers are not responsible for any group of children in particular, and even if they do their jobs well there is no guarantee that all the children in the area they serve will be better off. This creates an irrational situation where special purpose authorizers, by doing their job conscientiously, can close schools that are *better* than the options provided to families by the surrounding district. It also allows districts to reject applications from charter operators who would operate better schools than the district's own.

What can be done to create the right mix of incentives for both special purpose authorizers and school districts—and to level this part of the public-education playing field? That important question deserves more than an abstract answer, and we therefore recommend that states experiment with different mixtures of incentives and sanctions for charter authorizers. The broad outlines of a solution are clear, however. It has two parts: (1) generally increasing the quality of authorizer performance and (2) leveling the playing field so that all publicly funded schools, no matter who runs them, are held to the same performance standards. Both of these require state government action and investment, as well as continued participation by private funders, analysts and organizations.

Elements of the first solution include direct state funding of

authorizers and state (or privately) supported training and technical assistance for authorizers. Elements of the second solution include the establishment of revocable, results-based accountability contracts (and public transparency) for authorizers themselves.⁵ In other words, the state should treat its authorizers more or less the way we hope authorizers will treat schools.⁶

It's also important to lift caps on the numbers of charter schools so that special purpose authorizers can become larger and more capable. This measure alone will not create responsible authorizing. However, in combination with greater accountability for authorizers, it could allow authorizers to develop large enough portfolios of schools, and to receive enough income from state fees, to make serious investments in oversight capacity. If all authorizers (including districts) are held to the same performance standards, a special-purpose sponsor could compete with a district and in time might oversee more schools than the district. Districts, too, would face a need to become good authorizers or risk going out of business altogether.

The federal government has a role here, too. The No Child Left Behind act creates pressure on districts (and states) to provide much tighter oversight of individual school performance—and to deploy charter schools as an option for youngsters otherwise mired in low-performing district-operated schools. Some

5. The first paper to address the issue of oversight and performance incentives for authorizers has just been published. See Robin J. Lake, *Holding Charter School Authorizers Accountable* (Seattle: National Charter School Research Project, 2006).

6. This would include reviews of approval standards for schools and of authorizers' portfolios, leading to de-certification of authorizers that neglect careful screening or school oversight. This is not a new idea, but few states have tried it. Ohio establishes a performance contract between the state department of education and its new special purpose authorizers, akin to the contract between an authorizer and a school. Dean Millot has suggested establishing a state appeal process for charter approval and cancellation decisions. Appeals can be resolved in writing and decisions circulated so they could become precedents affecting future decisions by all authorizers.

districts still think they can beat back the NCLB regimen with complaints about the evils of testing and federal control. Perhaps they'll turn out to be right, but we doubt it, just as we doubt that chartering will go away. But there are two reasons that localities might implement NCLB by *embracing* chartering and using their authority to sponsor charter schools as a model for their oversight of *all* schools. If district leaders place higher priority on providing effective instruction and demonstrable results than on sustaining the current structural arrangements, they will want to oversee schools on the basis of performance and exercise the freedom to abandon an unproductive school in favor of a promising one. Moreover, embracing chartering puts districts in a desirable position *vis a vis* discontented parents and Uncle Sam. Instead of defending schools that don't work—excusing failure by citing funding, regulations, union contracts, etc.—district leaders can regain the initiative. If they adopt performance-based school oversight and develop a steady stream of new school options, they are unlikely to come into conflict with federal regulators—or with disgruntled voters and taxpayers.

To be sure, charter-school authorizing is difficult, and even its most dedicated practitioners are just learning how to do it. But its challenges are finite and tractable. School districts, colleges and universities, city governments and foundations can learn how to do it well, if they will invest in the capacity to oversee schools on the basis of performance. Sound charter authorizing—premised on strong common standards for performance and a level playing field among all publicly funded schools—can be the firm basis for an innovative and continually improving new public education system.