



California Superintendent of Public Instruction, Charter School Action Team

Charter School Authorizing Follow-up Questions and Answers

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When making decisions about a new charter school application, do any states require or allow authorizers to consider the impact of a proposed charter school have on the local school district?

When making decisions about whether to approve or deny applications for new charter schools, authorizers generally are not required by state policy to base their decisions on the effect the proposed school would have on the local school district. In addition, this practice is not included in general best practices for authorizers. If any authorizers have application processes that allow them to deny a charter based on evidence that the proposed school may negatively impact the local school district, it would be a rare exception.

Some states – like Arizona and Massachusetts – have few, if any, provisions to even include local school districts that may be affected by the proposed charter school in the application review process. However, some states have state policies directing authorizers and/or applicants to either involve local districts in the decision-making process in some way or to seek feedback from local school districts during the application process. This may include providing the authorizer information about the impact the proposed school may have on the local school district. At a minimum, states often require authorizers to notify school districts about applications for new charter schools that would be located within the school district. However, it is not clear what kind of effect this input would ultimately have on the authorizer’s decision to grant or deny a charter school application.

State Examples

Georgia. Three organizations may authorize charter schools in the state, depending on the situation:

- Local school boards.
- The State Board of Education.
- The State Charter Schools Commission (SCSC; independent authorizing organization).

All new applicants must apply first to local school boards, although they may also apply concurrently with another authorizer. Local school boards’ application processes must include an in-person panel interview with

school board members and/or school district staff, and an opportunity for applicants to respond to concerns from the local school board and school district.

If the local school board is not the authorizer, the school board's input on the application may still be considered in the decision to grant or reject the proposed application. The SCSC's charter school application review process includes an opportunity for local boards of education to express their support of or opposition to the proposed charter school in writing. Per state policy, these communications are included in the application for review by the SCSC members and staff. Input from local school boards is one of the factors that the SCSC must consider when making its decision on the application.

New York. In New York, the Board of Regents must approve all charter applications, although other organizations may serve as chartering entities. Throughout the application process, the school district in which the proposed charter school would be located, as well as other schools in the area, must receive notification about the proposed school. In addition, the local district or the Board of Regents must hold a public hearing on the proposed school to seek public input.

There are limitations on applications for new charter schools that would be located within a school district where more than five percent of the district's resident students are already enrolled in a charter school. Specifically, these applications must demonstrate that the proposed school would have significant educational benefit to students in the district, or the local school district must consent to the school.

Finally, the Board of Regents and the State University of New York develop requests for proposals for new charter schools. State policy directs these organizations to provide priority to applications meeting various criteria, including applications that demonstrate support of the school district in which the school would be located and demonstrate an intent to establish an ongoing relationship with the district.

Texas. While state law outlines four types of charter schools based on authorizer type, most of the schools in the state are 'open enrollment' charter schools authorized by the state commissioner of education. Therefore, this analysis only reviews authorization practices for this type of charter school.

During the application review process for 'open enrollment' charter schools, applications are approved or denied based on application merit, evidence collected throughout the application process, and various other criteria. The application review must include a statement from any district whose enrollment is likely to be affected by the proposed school and information about the financial difficulty the loss in enrollment may have on the district. In addition, the authorizer may require a public hearing in the school district in which the school would be located or a petition in support of the school from parents of school-aged children residing in the area. The school district information should play a role in the authorizer's decision to grant or deny an application, but it is not clear that the authorizer's decision can be based on the potential effect of the proposed charter school on the local school district.

What are some of the common criteria states use when making decisions about charter school applications, charter school renewals, or other decisions on charter schools?

Common Criteria: Applications

Best practice guidelines indicate that strong authorizers should base their decisions about charter school applications on a comprehensive application process with multiple steps. These application processes should provide clear guidance, transparent procedures, and rigorous criteria.¹

When reviewing charter school applications, authorizers are essentially looking for applicants' ability to competently and effectively develop and implement a quality charter school. This includes ensuring the application includes all required elements and addresses these elements thoroughly. Beyond reviewing applications for adequacy and merit, states may not provide a great deal of direction in state policy on what authorizers should or should not consider when making decisions about applications for new charter schools.

The required content of applications can vary from state to state or, depending on the state's structure, from authorizer to authorizer. Generally, applicants must include information about (but not limited to) the following:

- Mission statements.
- Educational plan.
- Student performance standards, including state and federal standards.
- Assessment methods.
- Financial plan.
- Operational plan.
- Facilities plan.
- Enrollment policies.
- Discipline policies.
- Plan for students with special needs.
- Governance structure.
- Accountability reporting plan.
- Intended use of waivers.

Many states' application review processes are outlined in state policy and include the following elements:

- Application review, by an external review panel, an internal review panel, or both.
- Interview with internal staff, external reviewers, or both.
- Input from the public and/or school districts that would be affected by the proposed school (some states).
- Final review and decision based on information gathered during the application review process.

Outside of the adequacy and thoroughness of the application itself and the applicants' ability to implement a quality charter school, authorizers may consider other factors when reviewing the charter school application, such as:

- Any statutory limits on the number of charter schools allowed in the state or in a district.
- Any statutory provisions specifically for applications from operators seeking to replicate charter schools, especially if the operator has a track record of operating high-performing charter schools.
- Any preference criteria specified in state policy, such as serving specific student populations or being located in specific school districts.
- Preference criteria for certain student populations – whether specified in state policy or not – such as: program plans for English learner students, discipline policies, enrollment plans that strive for demographic diversity, and so on.

Common Criteria: Charter Renewal

Generally, state policies direct authorizers to make charter renewal decisions based on the academic performance of the school's students and the operational and fiscal viability of the school. Decisions should be based on the charter school's academic, financial, and operational performance based on frameworks established in the school's charter and should be grounded in evidence. Currently, no states require authorizers to consider the effect the charter school has on local school districts in their decisions to renew a school's charter.

Rather than viewing performance expectations as a set of minimum standards charter schools must meet for charter renewal, best practices suggest that strong authorizers set performance expectations as a "bar for a quality school" when evaluating a charter school for renewal.² In addition, quality authorizers do not "make renewal decisions, including granting probationary or short-term renewals, on the basis of political or community pressure or solely on promises of future improvement."³

State policies generally require authorizers' renewal processes to include reviewing schools' academic progress reports, financial statements, and annual reports. The process may also include site visits and reviewing other metrics, such as enrollment practices and the performance of at-risk student populations.

Finally, it is worth noting that in most states, the charter school application and the contract (or charter) are separate documents. California does not have any policy provisions requiring a charter contract separate from the application, and in many cases, a charter school's initial application becomes the default charter school contract. However, this can lead to problems between authorizers and the schools they oversee. In California, "an approved charter petition, which may be hundreds of pages with attachments, includes not only the intended accountability goals, but also innumerable extraneous details that can invite a hostile authorizer to focus inappropriately on minutiae. . ." Creating a separate charter contract with "a limited set of clear, enforceable performance expectations. . .lets both school and authorizer know what is required for charter renewal."⁴

State Examples

Arizona. In Arizona, charters are renewed for 20-year terms. Charter renewal applications must be submitted to the Arizona State Board for Charter Schools at least 18 months before the school's charter expires. Previously, authorizers could only use operations and academic performance for renewal decisions. Authorizers may now use financial performance as part of the renewal process for some schools, but authorizers must still consider the school's progress toward the academic performance expectations in their charter as one of the most important factors in the renewal decision process. The renewal process includes a site visit.

Per state policy, the authorizer may deny the renewal request if the school has failed to do any of the following:

- Meet or make sufficient progress toward academic performance expectations in the school's performance framework.
- Meet operational performance expectations.
- Meet financial performance expectations.
- Complete the obligations of the contract.
- Comply with any applicable laws not included in the charter school's waiver.⁵

New York. State statute requires charter schools to apply for renewal; renewal terms are up to five years. Renewal applications must be submitted to the Commissioner of Education at least six months prior to the charter expiration. The process may also include a site visit. Renewal applications must include:

- Progress report in achieving the educational objectives in the charter.
- A detailed financial statement, including a comparison of costs to other schools, both public and private.
- Copies of the school's required annual reports.
- Indications of parent and student satisfaction.
- A description of how the charter school will meet or exceed established enrollment and retention targets for special populations, such as English learners, students with disabilities, and students eligible for free and reduced-price meal programs.⁶

Common Criteria: Closure

State policies typically direct authorizers to not renew, revoke, or close a charter school if the school fails to meet the minimum academic and financial standards outlined in the charter contract or by the state. More specifically, decisions about closure often involve issues of significant fiscal mismanagement in the charter school, the school's failure to meet or make sufficient progress towards the performance expectations in the school's charter over multiple years despite authorizer interventions, or notable violations of the terms of the charter or state law.⁷ In cases when authorizers close charter schools, the infractions are often significant, persistent, or egregious. Beyond basic policies about closing charter schools for failing to meet standards or gross mismanagement issues, most states' charter school policies leave decisions about charter school closure to the authorizer's discretion.

Best practices recommend that all authorizers develop processes for closing a charter school. These practices should include, among other things, process for parent notification, student transfers, and disposing of school

funds and other assets.⁸ Some states have provisions requiring authorizers to create such policies. For example, New York law requires charter school applications or contracts to include provisions or procedures for closing a charter school.⁹

Do states have an ombudsman for charter schools or other method for resolving conflicts between charter schools and school districts, authorizers, or other parties?

We are not aware of any states with a dedicated ombudsman for charter school issues. In many states, the department of education will handle complaints about charter schools and charter school authorizers. The complaint may be directed to the state's charter schools division or to another applicable division, depending on the topic.

Strong accountability provisions are an important component of charter school oversight. This includes both authorizer oversight of charter schools and state oversight of authorizers. Strong authorizers can work with charter schools to help address concerns. States with strong authorizer accountability practices can address authorizer issues through oversight, which may include authorizer sanctions.

Authorizer Funding

The National Alliance for Public Charter Schools outline three methods through which authorizers receive their administrative funding:

- Fees from charter schools in the authorizer's portfolio.
- State or local budget appropriation.
- Allocation from a parent organization (like a nonprofit organization or a university).¹⁰

It is worth noting that authorizers can gather both **administrative fees** and **service fees** from the charter schools in their portfolio.

Administrative fees cover the authorizer's costs for providing oversight to the school. These are often set in state policy. According to the National Association of Charter School Authorizers (NACSA), authorizer administrative fees of 1-3 percent of the charter school's per-pupil funding are common. The National Alliance for Public Charter Schools states that three percent "is generally regarded as adequate funding."¹¹

In some states, charter schools may pay different authorizers depending on the authorizer type. For example, school district authorizers in **Colorado** may charge authorizing fees of up to 5 percent. If the district has 500 or fewer students, the district may charge authorizer fees of up to 15 percent.¹² Charter schools authorized by the Colorado Charter School Institute (the state's independent authorizing organization) may collect administrative authorizer fees of up to 3 percent.¹³

Services fees are the fees authorizers collect from charter schools for providing special education services, transportation, facilities, and other specific services. State policies are generally silent on service fees, aside from allowing charter schools to contact with authorizers or school districts for these services and to negotiate

fees. It is also worth noting that charter schools may pay service fees to entities other than an authorizer for services. Notably, many charter schools pay management organizations for any number of services, such as accounting, IT, or human resource services.

Additional Resources

Charter Authorizing in California, NACSA (2016): https://www.qualitycharters.org/wp-content/uploads/2016/08/Charter_Authorizing_in_California_March_2016.pdf

Principles & Standards for Quality Charter School Authorizing, NACSA (2018): <https://www.qualitycharters.org/wp-content/uploads/2018/10/NACSA-Principles-and-Standards-2018-Edition.pdf>

12 Essential Practices, NACSA: <https://www.qualitycharters.org/for-authorizers/12-essential-practices/>

Strong Authorizers, NACSA: <https://www.qualitycharters.org/research/quality-practice-project/practices-that-matter/renewal-expansion-closure/>

A New Model Law for Supporting the Growth of High-Quality Charter Public Schools: Second Edition, National Alliance for Public Charter Schools (2016): <https://www.publiccharters.org/publications/model-law-supporting-high-quality-charter-public-schools>

"What Makes a Strong Charter School," NEA: <http://www.nea.org/home/60828.htm>

¹ National Association of Charter School Authorizers, *Principles & Standards for Quality Charter School Authorizing* (Chicago: National Association of Charter School Authorizers, 2018), 12-14, <https://www.qualitycharters.org/for-authorizers/principles-and-standards/> (accessed November 2, 2018).

² "Charter Renewal, Expansion & Closure," National Association of Charter School Authorizers, <https://www.qualitycharters.org/research/quality-practice-project/practices-that-matter/renewal-expansion-closure/> (accessed October 29, 2018).

³ *Ibid.*, NACSA, *Principles & Standards for Quality Charter School Authorizing*, 20.

⁴ National Association of Charter School Authorizers, *Time to Modernize Charter Authorizing in California: Analysis & Recommendations* (Chicago: National Association of Charter School Authorizers, 2016), 8, https://www.qualitycharters.org/wp-content/uploads/2016/08/Charter_Authorizing_in_California_March_2016.pdf (accessed October 29, 2018).

⁵ Ariz. Rev. Stat. Ann. § 15-183; Ariz. Admin. Code R7-5-301

⁶ N.Y. Educ. Law § 2851; N.Y. Comp. Codes R. & Regs. tit. 8, § 119.7

⁷ National Alliance for Public Charter Schools, *A Model Law for Supporting the Growth of High-Quality Charter Schools: Second Edition* (Washington, D.C.: National Alliance for Public Charter Schools, 2016), 28-29, <https://www.publiccharters.org/sites/default/files/migrated/wp-content/uploads/2016/10/2016ModelCharterSchoolLaw.pdf> (accessed November 9, 2018).

⁸ *Ibid.*, NACSA, *Principles & Standards for Quality Charter School Authorizing*, 21.

⁹ N.Y. Educ. Law § 2851

¹⁰ *Ibid.*, National Alliance for Public Charter Schools, 23.

¹¹ *Ibid.*

¹² Colo. Rev. Stat. Ann. § 22-30.5-112.1

¹³ Colo. Rev. Stat. Ann. § 22-30.5-513