

**THE Center for Education Reform**



**TESTIMONY BEFORE THE  
PENNSYLVANIA SENATE EDUCATION COMMITTEE  
ON CHARTER SCHOOLS**

**BY  
ALISON CONSOLETTI, DIRECTOR OF RESEARCH  
THE CENTER FOR EDUCATION REFORM**

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Mr. Chairman, Members of the committee:

Thank you for this opportunity to come before you today in support of your goal to improve Pennsylvania's charter school law. My goal in being here is to reinforce the need to improve the state's charter school law by creating a system of truly independent authorizers that will allow the creation of high-quality charter schools and serve the educational needs of families across the state.

For almost 18 years, the Center for Education Reform has thoroughly studied what works and what does not across the country. We have been involved with this specific legislation in Pennsylvania since discussions began a few years ago. We have attended meetings across the state, provided testimony to this committee, talked to policy makers, researchers and charter school supporters, and researched every question that has been raised regarding the creation of independent authorizers in the state. We have read all of the various bills that have been put forth on this issue, and we have offered our analysis and recommendations regarding the creation of a strong independent authorizer system in Pennsylvania.

As one of the nation's premiere education reform and research organizations, we have an enormous storehouse of information to draw from to help determine what works best within the charter school movement. The Center for Education Reform publishes annually a ranking and scorecard of charter school laws across the states. Each year, I personally read and analyze almost 100 bills, amendments, and state charter laws to conduct our rankings and to offer assistance to other states

across the country looking to strengthen or create a charter school law. By studying charter school law, it is clear that there are common elements or themes that states with strong charter school laws possess and that weak ones do not.

The most important common element among the states with the strongest charter school laws, such as the District of Columbia, Minnesota, New York, and Indiana is the creation of a system that allows for independent, multiple authorizers that hold charter schools accountable. In states with multiple and independent authorizers, stronger, more objective oversight is used to ensure that successful charter schools remain open and those that fail to perform are closed. States with multiple authorizers are home to nearly 80 percent of the nation's 5,400 charter schools.

As earlier testimony by Steve Catanzarite verified, school boards are often unable or unwilling to have fair and impartial processes to vet charter schools, and many that do approve charter schools create friction between the schooling entities. And yet, when Pennsylvania passed its charter law in 1997, it insisted that school boards be the only authorizer, despite the natural tension caused by citizens requesting a better educational option for their children – from the people who believe they were already providing that. While there is a binding appeals process in place, that is a costly burden on applicants who appeal and districts who denied the application in the first place, often, as we heard today, for reasons totally unrelated to the charter school application. The case of Baden Academy Charter School is just one example of why it is important to have multiple, independent authorizers in Pennsylvania to approve, support, protect, regulate and advance quality charter schools.

The bill under consideration as currently drafted, which would create a state commission to approve and hold accountable charter schools is a good start towards creating a strong system of independent authorizers in the state. However, making some changes to this bill as to how the authorizer system would be structured will help ensure that true independent authorizers will exist in Pennsylvania and will create high-quality charter schools. By looking at other states with strong charter laws, one can see additional steps to take to ensure the creation of highly independent, accountable authorizers without additional state oversight.

First, we would urge that public universities be included as independent authorizers. Pennsylvania has a strong system of colleges and universities, and while not all will step up, the ones that do want to serve as charter authorizers will be strong and will have the capacity to do so. As a practical matter, allowing universities to serve

as authorizers will help to keep the state commission from becoming overwhelmed with the sheer number of charter schools that may be newly approved or current charters that may shift authorizer. Having many authorizer options ensures that no one becomes overburdened.

New York's charter law gives SUNY, or the State University of New York, the power to authorize charter schools. In 1999, the Charter Schools Institute, an office within SUNY was created. SUNY is independent from the Department of Education and reports to the state legislature. Guided by the rigorous standards set by the Board of Trustees, the Institute's oversight of SUNY authorized charter schools is comprehensive, including the following: evaluating initial applications; providing technical assistance and guidance to schools where necessary; conducting a comprehensive evaluation when a school applies to renew its charter; and reporting to the state legislature, the school, and the public on each school's performance and progress.

Michigan's charter law allows any public university to authorize, and nine major universities have opened up charter offices. The largest of these university authorizers is Central Michigan University (CMU). As an authorizer, CMU is charged with issuing charter contracts. It has also created The Center for Charter Schools to monitor the actions of charter public schools' boards of directors and their compliance with the charter school contract and all applicable laws; serve as the fiscal agent to receive school aid payments; and forward those payments to the schools.

University authorizers in all states must report to the state department of education annually on the status of their sponsored charter schools. They must report on their academic, financial and organizational success. One solution to ensure that only strong authorizers are sponsoring charter schools is to create a formula, using some kind of value-added academic evaluation, that says if an authorizer has a certain percentage of poor-performing charter schools, then they will be unable to sponsor any more until their current charter schools improve their performance or close. This summer, Ohio passed in their biennial budget a stipulation that charter school authorizers in the bottom 20 percent of all authorizers based on school performance are not allowed to open any new schools until they work with the schools they already have. Pennsylvania could find a formula and a cut-off point that works for them to ensure strong authorizers are held accountable.

A different type of authorizer, the independent commission, is best represented in Washington, DC. The DC Public Charter School Board is an independent board, created by law that authorizers, manages and holds accountable all charter schools in

DC. Board members with expertise in various areas of charter school management are appointed by the mayor, and are responsible for reviewing, approving and holding charters accountable. In addition to the board, there is also a full staff team to support charter school efforts. This staff has created various performance management tools to monitor charter schools' performance academically and managerially and ensure that the schools are performing at a high level, or risk probation or closure.

These are just a few examples of strong, independent charter school authorizers in other states that are not tied to their state department of education and that are responsible for their charter school outcomes, have their own funding streams and foster a system of accountability.

There are 3 other specific issues regarding this Pennsylvania charter school bill that I would like to highlight. In states such as Michigan, independent authorizers receive 3 percent of the per-pupil funding that would go to the charter schools. This fee finances the independent authorizer so they can continue to do important work. The goal is that over time, as the authorizer sponsors more charter schools, this fee will be able to sustain the authorizer completely. However, in this bill there is an assessment fund, which is a bad formula that aggregates funding in a way that is not fair to either the school or the commission. On average, charter schools tend to be smaller in size; most would fall in the first two categories and would only send between \$2,500 and \$5,000 to the independent authorizers.

The best practice model is a per-pupil fee, based on enrollment of the school. The per-pupil fee is normally a percentage – between 1.5 and 3 percent – for each student enrolled in a school authorized by the Commission. It does not get collected from schools not under the Commission's purview. Here is an example of how the different types of funding works in the long run, and why the per-pupil percentage is better in terms of financing the authorizer.

It is said that an authorizer needs 1 person per 5 schools authorized. A commission with 100 schools might have a staff of about 20. The average cost of such an organization might be roughly \$5-7 million, if you factor in additional oversight, financial and legal functions on an ongoing basis. Under the assessment fund, 100 average size schools would only net the Commission \$250,000, a recipe for failure. Federal funds cannot be counted on with any regularity, and private funds are rarely available for authorizers, if at all.

In the fee-per-student model, the school's funds of 3 percent, for example, based on a per-student average of \$8,000, at an average size school of 250 would net

the Commission \$6 million. Those funds would not be delivered at once, and the incentive for the Commission to do well is that, if their schools do well and continue to exist, their revenue stream is constant. If they do not do well and must review or revoke a school then they lose that revenue. Schools come to see these fees as part of the process, rather than a separate fee they must pay, as it is distributed across the number of students served, year by year.

Receiving a 3 percent administrative fee is a standard in strong charter laws because giving that percentage to an independent authorizer is worth it from a charter school's standpoint in the long run. Independent authorizers do so much more for a charter school than a school district, which currently is taking a larger percentage. They don't just approve a school, but they provide management tools, constant evaluation, technical assistance, support and a voice for the school. Once independent authorizers are shown to be successful, more charter schools will leave their district sponsor and will no longer have to give as high a percentage, but instead only 3 – and reap the benefits of having an attentive authorizer.

The second concern is regarding the separate treatment of cyber charter schools in the bill. Cyber charters should be governed by the same rules and regulations as brick and mortar charter schools. They should be able to apply to any authorizer that they feel would best serve their needs – whether a school district, independent board or public university. There shouldn't be a separate application for cyber charters – all charter schools should use the same standard application included in the bill. Requiring a uniform application that spells out what should be submitted (standards, staffing plan, proposed location, board member, accountability, etc) evens out quality of applications and quality of review.

Of similar concern is the idea that new authorizers will only be able to authorize schools in the bottom 10 percent of school districts in Pennsylvania. I recognize that this idea is part of the House's permutation and is not part of SB 904, but I would still like to comment on it. It is bad practice to limit authorizing to certain kinds of schools, whether based on academics, or if the school is a conversion charter school. When school districts and other authorizers do not have any restrictions, then a state or independent authorizer should not have restrictions. If they are limited to only low-performing schools, then charters that are high-performing, but have an adversarial relationship with their school district will not be able to join with an authorizer that wants to support them, rather than see them as competition. All authorizers should be able to sponsor whatever charter schools are interested, no exceptions.

The final important issue, which has been mentioned numerous times

throughout this testimony is the issue of accountability and the question of how independent authorizers can and will hold themselves accountable. When looking at strong state charter school laws, the most successful authorizers are those that are independent. They have full control over what schools they sponsor and how they evaluate charter schools, and they have their own staff, management team, and funding streams through administrative fees. True independent authorizers are not tied to departments of education. The department of education should continue to focus all of its efforts on creating a high-quality public education for all of the children in Pennsylvania, and not expend unnecessary efforts into trying to manage and control the charter school environment. The Department would still be involved in upholding basic rules and regulations of public education, but the independent authorizers should be in control of their portfolio of charter schools.

The Commission should not get fees for overseeing schools they do not authorize. The authorizer should be the only one receiving those fees, whether it is the Commission, a university, or another independent entity. The Commission should not have to play an oversight, regulatory role over schools with which it is not familiar and did not start or approve. If there is a legal or fiduciary responsibility, it should be minimal. Accountability needs to start with the authorizer of record and end there.

The strongest charter laws consist of multiple, independent authorizers that are not tied to the state department of education, but rather that are in control of their own charter school portfolio, their own management and their own finances. Thank you for the opportunity to present this testimony to you. The Center for Education Reform is willing to continue its work with Pennsylvania to ensure that the strongest charter school law is passed in the state.

Alison Consoletti  
Director of Research  
The Center for Education Reform  
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