

Testimony to the Maryland State Board of Education
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October 26, 2010

The results of the last several years of local school review of charter applications in the state make the case for the following two statements:

- The State Board policy -- which is a strong, intentional framework for positive development of charter schools that receive equitable funds and are afforded critical operational flexibility — is ignored and often violated.
- The State's charter law must be amended to incorporate additional, independent authorizers whose sole job is to create and manage charter schools and that have legal authority to create and enforce contracts, secure funds for delivery to charters and act as a conduit for all accountability and data collection to the board.

Regarding State Board policies -- the following two illustrations make the point clearly:

- **Montgomery County** has yet to approve a single application. A strong, well-thought out plan for academic advancement among a small, but at-risk population developed by then and existing award winning public school teachers was rejected for failing to be innovative.

Currently, Crossways Community is undergoing an appeals process in which the state board staff appear to have completely adopted the County's assertions in their 90-page appeal rebuttal that the Crossways application violates state laws governing collective bargaining and fails to meet curriculum tests mandated by the state.

The state board's policy specifically recommends that County boards negotiate flexibility for operations, including from collective bargaining. But the County lawyers claim that there is no precedent for doing so. There are dozens of other erroneous statements being made in this case and in others but the reality is that the State Board policy has no force of law and is therefore ignored.

- **Frederick's Classical charter founding group** is undergoing a battle over funding that also ignores state board policy. In this case, the board is arguing while it might be inclined to approve the school it would not be able to provide any funds to support the school. Far from attempting to make per pupil funds commensurate, they seem so to be suggesting that despite a decrease in students once the charter opens, they would not be able to share any revenues.

They can do this because they are in control. That's why I'd urge the State board to recommend and aggressively support a simple, proven, effective approach to chartering when the next legislative session convenes that provides another avenue for chartering. School boards can remain authorizers but experience shows us that they are more likely to be part of the solution when competitors to their franchise exist.

Mindful of your time I will share a few key lessons from our 17 year history of not only analyzing, ranking and writing charter school laws, but from the practice and the experience learned from the schools, the school applicants and the media in every state that cover both. We have scores of reports and data that provide evidence and back up. The conclusions can best be summed by the following 5 statements:

1) SUPPORT THE CREATION OF INDEPENDENT AUTHORIZERS

Independent authorizers are superior. There is a superior kind of authorizer and a superior practice of authorizing. Colleges and University models that place authority in the president or chancellor's direct purview but have separate and distinct agencies not located in an academic department have accountability to the top but are uncontrolled and unregulated by departments that have other responsibilities.

New York's SUNY and Michigan's CMU are two such models that have not only demonstrated how independent authorizers can coexist with existing education structures but yield high numbers of high quality schools and enforce accountability and closures when the need arises.

2) OVERSIGHT BODIES UNNECESSARY

Accountability for independent authorizers does not require the State board's oversight. It requires clear lines of authority, accountability for authorizer behavior (e.g. failure to meet certain standards results in loss of authorizing power) and vigilance from the legislature, which creates them. Indeed, outgoing SUNY CSI Executive Director Jonas Chartock, who formerly worked for the Texas State Dept of Education responded to a query from Congress on this issue. When asked to whom his agency is accountable, he responded, to the legislature. They must file an annual report, and in so far as the legislature is also the supervisor of the state university system, it is his by extension.

You have and will probably here that there need to be additional layers to avoid problems you may have heard have happened in states like Ohio. Those corrective measures are misplaced. Ohio and other states like it permitted their state boards to hand over power for authorizing to patchwork of private, non-governmental and not educational agencies that failed to do their job over time. Rather than step in, the State board relinquished responsibility until the

legislature had to step in. It was an anomaly in charter history - not a common error that requires new and additional state regulators over and above the new authorizer.

3) NOT AN LEA

Authorizers should not themselves be LEAs. Such a model puts unnecessary regulator burdens on the authorizer, and creates a layer of bureaucracy that is not necessary. LEA authorizers -- as is the case in South Carolina and Colorado -- are not permitted to receive or distribute local funds. Instead, the individual charters should be permitted to become LEAs, and will derive their funds directly from the state as a portion of local revenues as well as commensurate state funds. This is a model that works in more than a dozen states, where money and accountability flows directly from state to school and is regulated by the authorizer as an independent LEA, not by school boards. In this scenario, LEAs would report their data through their authorizer to the state, just as the state now collects it directly from local school districts. But there is no evidence that being an LEA makes an authorizer more independent or better able to do its job. In fact, the research shows just the opposite.

4) ENSURE CLEAN LINES OF AUTHORITY

While Independent state boards like that in DC have been considered models, similar structures in recent years have not succeeded in becoming independent from state department of education staff and regulations. The creation of a state board for charters that is overseen by a Secretary of Education has actually created more, not less confusion and blurred lines of authority. Charter school applicants in Georgia will tell you of having to hire attorneys to clarify the rules; the charter board commissioners themselves will tell you of the antagonism they faced with once collegial personnel in the state. It hasn't worked anywhere to establish a clean, effective path for authorizing.

5) REQUIRE EQUITABLE FUNDING

Creating a new authorizer requires that it also be funded from the start. While start up appropriations are necessary, we recommend that the authorizer derive its sustenance from a small percentage of the per pupil revenues that are distributed to the charter schools the authorizer approved and manages. This not only ensures no new funds are required, but it adds in a layer of accountability for the authorizer to approve success and manage for success. Some states have made mistakes by taking funds from the Chief in the state to fund employees. This often backfires. They should not share resources with you or with the university in which they might be housed. They need their own offices, directors and processes and independence from other concerns you may have to by law and practice experience.

There is precedent for strong laws and strong laws make strong schools. Most of the nation's laws that exist today work for all kids and the schools they allow by their creation both challenge and coexist with other, traditional public schools. Despite the good intentions of people here and in some communities, Maryland's law is deeply broken. It does not take collaboration to fix it but the adoption of a clear, proven model that is bound to have its detractors but will work for the benefit of all kids once established. Thank you.