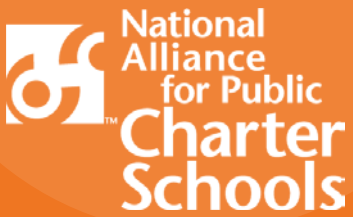


Holding Public Charter School Authorizers Accountable

State Experiences and Policy
Recommendations

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Introduction

Accountability is one of the central values of the public charter school concept. To date, most attention from policymakers and other education leaders has focused on school-level accountability. However, as more states have come to appreciate the essential role of public charter school authorizers in a quality public charter school movement, policymakers are increasingly recognizing the need to include provisions for authorizer accountability in state public charter school laws and policies.

In 2009, the National Alliance for Public Charter Schools released a model public charter school law that covered new ground in several areas, including authorizer accountability.¹ Likewise, the National Association of Charter School Authorizers (NACSA) has provided guidance on the need for strong authorizer accountability in state policy.² These national leadership organizations have recognized the need to hold authorizers accountable for their authorizing practices and the performance of the public charter schools they oversee, driven by the following rationale:

- The purpose of public charter school authorizing is to establish and support excellent public charter schools.
- As the entities responsible for approving and overseeing public charter schools, authorizers should be accountable for the quality of schools they allow to operate.

Over the last several years, numerous states have enacted laws and policies to strengthen authorizer accountability. These states reflect a diverse range of policy and authorizing environments, from primarily district-driven authorizing states to those that have a single statewide authorizer to those that have a variety of organizations (including nonprofits and higher education institutions) serving as public charter school authorizers. Given all of this recent activity, it is timely to look at how various states are addressing this important matter to see what lessons can be learned to inform and improve state policy initiatives on authorizer accountability across the nation.

This brief will first present the state policy provisions recommended by the National Alliance and NACSA to promote authorizer accountability and provide a

look at the extent to which states across the country have adopted these provisions. Next, the brief will highlight and discuss the experiences and lessons from four states—Colorado, Hawaii, Minnesota, and Ohio—that have taken action on authorizer accountability in diverse policy and authorizing environments. Lastly, drawing from these state experiences, the brief will offer recommendations to strengthen state policies on authorizer accountability, augmenting the ideas already advanced by the National Alliance’s model law and NACSA policy guidance.

State Policy Provisions for Authorizer Accountability: A National Look

What does a system for holding public charter school authorizers accountable look like in state policy? A state-level accountability system for authorizers should:

- Be grounded in and guided by national standards for the profession of public charter school authorizing;
- Start, just like an accountability system for public charter schools, with a rigorous application and selection or approval process for entities seeking to become (or, under previous law, continue as) authorizers (except for legislatively created state public charter school commissions);
- Include annual public reporting on authorizer and public charter school performance and regular state review and evaluation of all authorizers; and
- Include mechanisms for sanctioning underperforming authorizers and ultimately terminating authorizers that fail to meet quality standards and performance expectations.

More specifically, the state policy provisions on authorizer accountability advanced by the National Alliance’s model law and NACSA’s policy guidance, respectively, are described briefly below. The matrix on page 10 provides a national look at authorizer accountability policies across the country—showing the extent to which every state with a public charter school law currently incorporates these authorizer accountability policies as recommended by the National Alliance’s model law and NACSA’s policy guidance.

The National Alliance Model Law's Recommended Provisions

The National Alliance's model law provides for a comprehensive state-level authorizer accountability system, starting with a voluntary corps of authorizing agencies. The agencies must have affirmatively demonstrated their interest in chartering to the state, except for a legislatively created state public charter school commission. All authorizers must annually report to the state on the performance of the public charter schools they oversee.³ As envisioned in the model law, the authorizer accountability system should be overseen by a state-level body empowered to take action against poor performance through authorizer sanctions and, where warranted, revocation of the right to authorize public charter schools. This oversight body may be—but does not have to be—the state board of education.

Following are the elements of a statewide authorizer accountability system recommended in the model law, along with a brief explanation of the rationale for each provision.⁴

Registration process for local school boards to affirm their interest in chartering to the state:

This provision is designed to allow any local school board to become a public charter school authorizer, while ensuring that only local school boards that demonstrate affirmative interest—by at least registering as an authorizer with the state—shall have the right to undertake this important role and its accompanying responsibilities. Simply put, a state registration process would help to ensure that only local school boards that truly want and have a strategic vision for the role would become authorizers—and conversely, local school boards that do not want to authorize public charter schools (or are uncertain or hesitant about it) would not take it on. Only three states currently establish such a registration process in their public charter school law.

Application process for other eligible authorizing entities:

This provision allows certain entities (as designated in each state's law) other than local school boards and a legislatively created state public charter school commission to apply to the state to serve as public charter school authorizers. Assuming some entities earn state approval, this provision allows alternatives to authorizing by local school boards and a legislatively created state public charter school commission. Only four state laws currently provide for such an authorizer application process.

Authorizer submission of an annual report, which summarizes the agency's authorizing activities as well as the performance of its school portfolio:

This provision requires every authorizer in the state to provide an annual public report to the state, summarizing the authorizer's work over the past year and reporting on the performance of the public charter schools the authorizer oversees. Annual public reporting promotes transparency and facilitates state monitoring to ensure that all authorizers are carrying out effective, responsible oversight, thereby protecting the public investment in the state's public charter school movement. State public charter school laws are very mixed in the extent to which they require such annual authorizer reporting.

Regular review process by authorizer oversight body:

This provision requires a state-level authorizer oversight body to monitor and regularly evaluate the performance of every authorizer in the state. The oversight body may be—but does not have to be—the state board of education. State laws are mixed in the extent to which they require such regular performance evaluation of all authorizers in the state.

Authorizer oversight body with authority to sanction authorizers, including removal of authorizer right to approve schools:

This provision adds teeth to the authorizer accountability system, empowering the state oversight body to sanction authorizers for poor performance or inadequate oversight of public charter schools. In severe circumstances, the state may terminate an authorizer's chartering authority. State laws are mixed in the extent to which they incorporate this sanctioning and termination provision.

The elements above work together as an accountability system to promote public transparency in authorizer practice and performance and facilitate state monitoring and regular evaluation of all authorizers in a state. Such an accountability system is important to ensure that all authorizers are carrying out effective, responsible oversight of public charter schools, thereby protecting the public investment in the state's public charter school movement.

Recommended Provisions in NACSA Policy Guidance

The elements of NACSA’s state policy guidance that directly promote authorizer accountability are designed to ensure that authorizers follow nationally recognized professional standards for public charter school authorizing. This expectation is grounded in the last two decades of national experience and learning about what it takes to select, oversee, and evaluate public charter schools effectively. This knowledge is reflected in NACSA’s *Principles & Standards for Quality Charter School Authorizing*. States can promote quality public charter schools by statutorily requiring all authorizers to meet and follow these professional standards—which a growing number of states (13 to date) have done.

In examining the quality of public charter school authorizers, NACSA believes that it is necessary to analyze the performance of public charter schools in the authorizer’s portfolio as well as the implementation of practices that ensure that the authorizer preserves school autonomy while protecting student rights and public interests.

NACSA also believes that authorizer accountability and school accountability are inextricably linked. State policies that explicitly give authorizers the power to close schools, for example, are necessary to hold authorizers accountable for closing schools. Accordingly, the elements of NACSA’s policy guidance that provide for authorizer standards, performance contracting, renewal standards, and default closure of failing schools all support a system in which authorizers can be held accountable for the quality of the schools they oversee.

The provisions of NACSA’s state policy guidance that directly address authorizer accountability are the following.⁵

Establish authorizer standards: The state should endorse national standards of quality public charter school authorizing and expect all authorizers to meet these standards.

Evaluate authorizers on authorizer standards: A state entity should periodically evaluate authorizers on their fulfillment of the standards, on the performance of their portfolio of public charter schools, and on each authorizer’s record of high-stakes decisions.

Require annual authorizer report on school performance: Every authorizer should provide an annual public report on the performance of its schools. This report should provide both individual and overall portfolio performance for the public charter schools the authorizer oversees, as measured by the state assessment and accountability system and the authorizer’s performance framework.

Provide for sanctions for failing authorizers: State law should require authorizers to face sanctions or, if warranted, have their chartering authority revoked if they do not meet professional standards or if their schools are persistently low performing.

Authorizer Accountability in Four States

Authorizer accountability initiatives are relatively new across the states. The following vignettes describe initial authorizer accountability efforts from four states reflecting diverse policy and authorizing environments. Specifically, these vignettes will offer a look at:

- Two states that have instituted intensive authorizer accountability policies and actions to tighten up authorizing in environments where the quality of authorizers varied widely, with some not performing their responsibilities well. (Minnesota and Ohio);
- A state dominated by district authorizers of varying capacity and commitment to authorizing where state policies have worked to spur some lower-capacity or lower-interest district authorizers to release exclusive chartering authority voluntarily in some cases—thereby allowing a state public charter school commission to authorize schools in those jurisdictions (Colorado); and
- A state that needed a major policy “reset” and new authorizing environment to improve its public charter schools and thus overhauled its public charter school law and started fresh with a new statewide authorizer in order to remedy years of weak authorizing practice (Hawaii).

Tightening up Authorizing in Minnesota

Minnesota is a key example of a state that has instituted intensive authorizer accountability policies and actions to tighten up authorizing in an environment where the quality of authorizers varied widely, with some not performing their responsibilities well. These reforms have, since 2009, nearly halved the number of authorizers while strengthening their capacity.⁶

Nearly two decades after blazing the public charter school movement's trail with the nation's first public charter school law, Minnesota found itself with a public charter school movement of varying quality and not enough authorizers (originally called "sponsors" in Minnesota) providing robust oversight of public charter schools. In 2009, 57 authorizers of diverse agency types were scattered throughout the state, many of them overseeing only one or two public charter schools. While strong oversight by authorizers was envisioned from the beginning of the state's movement, some roles for authorizers were undefined by the state's charter school law. Also, while some authorizers closed under-performing charters, other authorizers acted more like public charter school partners and advocates than authorizers carrying out arm's-length oversight and holding schools to performance standards. Some authorizers also lacked the resources to carry out a strong oversight role.

In 2009, the Minnesota Association of Charter Schools (MACS), with support from the Center for School Change, introduced the "Charter School Accountability and Innovation Act," which responded to concerns about the varying quality of schools and authorizers. That effort built upon a package of reforms relating to authorizers and accountability offered in 2007 by MACS and the Center and a 2008 Minnesota Office of Legislative Auditor report that concluded that the state's authorizers "vary widely in the amount of oversight they provide and their ability to provide it."

As a result of all of this activity, the legislature enacted legislation in 2009 clarifying authorizers' responsibilities and charging the Minnesota Department of Education (MDE) with evaluating the state's many authorizers and holding them accountable for meeting quality standards and performance expectations. Minnesota's reforms produced key changes to strengthen authorizer accountability in Minnesota:

- Eliminating MDE's role as an authorizer and instead charging it with approving, overseeing, and evaluating the state's diverse authorizers;
- Requiring all entities wishing to become (or continue as) authorizers to apply to and be approved by MDE, pursuant to a rigorous process aligned with NACSA's Principles & Standards;
- Requiring all approved authorizers to operate under performance contracts with MDE;
- Requiring all authorizers to undergo systematic review and evaluation by MDE every five years, which empowers MDE to assess authorizers' performance, identify any corrections needed, apply corrective action, and if warranted, terminate a contract between an authorizer and a public charter school;
- Tasking MDE with providing qualitative annual feedback to authorizers on their performance and compliance with their contract expectations;
- Requiring MDE to publish an annual report on each authorizer's portfolio performance, which provides the data that are the basis for MDE's qualitative feedback to authorizers;
- Giving MDE the authority to sanction or terminate authorizers that do not meet the requirements and expectations stated in their performance contracts; and
- Increasing the fee formula for authorizer funding under a uniform fee structure, which has been instrumental in enabling authorizers to build capacity to meet the state's new professional standards and performance expectations.

The 2009 legislation significantly reformed Minnesota's authorizing sector. The most visible—and fairly dramatic—impact of Minnesota's reforms has been to cut the number of authorizers almost in half, from 57 authorizers in 2009 to 26 currently. The authorizer application and approval process has essentially "reconstituted" and rebuilt the state's authorizing environment. Minnesota's authorizer landscape now includes the following types of entities: single-purpose authorizers, school districts, higher education institutions, and charitable nonprofit organizations. Some former authorizers chose not to apply for

approval because they did not have the staff, capacity, or desire to meet the state's new authorizing standards. Others applied but were not approved.

Minnesota's authorizer accountability reforms have brought a clear focus on quality for both authorizers and public charter schools throughout the state. There has been a distinct shift from the partner-like sponsor relationship that formerly prevailed among some Minnesota authorizers to a new performance-focused oversight role. In addition, the now smaller authorizer community across the state works together regularly as a professional community. Authorizers that oversee about 90 percent of the public charter schools in the state meet monthly "to share practices and conduct professional development and help each other navigate in a constantly changing environment."⁷

Reforming the Authorizing Sector in Ohio

Ohio is another example of a state that has instituted intensive authorizer accountability policies and actions to tighten up authorizing in environments where too many low-capacity authorizers of diverse agency types proliferated.

In 2012, Ohio enacted significant legislative reforms to strengthen the quality and accountability of its public charter schools (known as "community schools" in Ohio) and authorizers (called "sponsors" in Ohio). Like Minnesota, Ohio allows various types of entities to serve as public charter school authorizers including local school boards, county educational service centers, state universities, nonprofit organizations meeting certain criteria, and the Ohio Department of Education (ODE).

By the mid-2000s, Ohio was widely regarded as a "Wild West" for public charter schools, having captured the national spotlight for its "dramatic expansion of charter schools operated by people who clearly lacked the capacity to run great schools and who were, in fact, running troubled schools that should be closed."⁸ In response to widespread concerns—including those of public charter school advocates—about the quality and accountability of the state's freewheeling public charter school movement, Ohio's legislature passed accountability measures for public charter schools in 2005 and 2008. Even with these new laws, quality remained a concern and spurred the 2012 reforms, which included raising the bar for authorizers.

Under previous law in Ohio, public charter school authorizers falling into the bottom 20 percent of all authorizers in the state (based on the performance index scores of their schools) would be prohibited from granting new public charter school contracts (i.e., authorizing any more public charter schools). Ohio's 2012 legislative reforms significantly strengthened authorizer oversight and evaluation by the state. Under the 2012 law, ODE is charged with giving every authorizer an annual performance rating (exemplary, effective, or ineffective) based on three equally weighted components:

- The academic performance of the public charter schools overseen by the authorizer (excepting schools less than two years old and schools serving a majority of special education students);
- The authorizer's adherence to quality practices; and
- The authorizer's compliance with applicable laws and rules.

Those receiving a rating of ineffective are prohibited from authorizing new public charter schools.⁹

Ohio's 2012 legislative reforms to build authorizer accountability also included:

- Requiring ODE, in consultation with Ohio public charter school authorizers, to prescribe quality authorizing practices and to develop and publish an instrument to measure adherence to those practices;
- Requiring those quality practices to be based on standards developed by NACSA or any other national organization for public charter schools;
- Allowing peer review of an authorizer's adherence to the quality practices prescribed by the state, while requiring that peer reviewers complete training established or approved by ODE;
- Requiring all new authorizers and most (but not all—a dozen authorizers were exempted from this requirement for various reasons) already-operating authorizers to be approved by ODE and execute a sponsorship performance contract with the state;
- Requiring current authorizers to go through the state evaluation to be renewed as authorizers;

- Requiring all authorizers to meet standards for exemplary or effective practices or lose the right to authorize new public charter schools; and
- Allowing ODE (which was already permitted to authorize a limited number of public charter schools directly under previous law) to assume authorization or oversight of a public charter school whose contract has been voided due to its authorizer being prohibited from chartering additional schools.

In contrast to Minnesota, Ohio exempted some existing authorizers from the authorizer application process. However, Ohio has required all authorizers to participate in a system of comprehensive authorizer evaluations and accompanying sanctions for poor performance.

Although Ohio's 2012 legislative reforms did not take effect until January 2015, ODE has been proactive in piloting an authorizer evaluation system and beginning to implement the new law's principles in advance. In the two years before the new law took effect, ODE piloted and refined an authorizer evaluation process and tools with six authorizers. In consultation with stakeholders, ODE developed and piloted a detailed authorizer evaluation instrument that is aligned with NACSA's Principles & Standards and tailored to Ohio's public charter school environment and legislative requirements. Peer participation, review, and engagement have been important in strengthening Ohio's authorizer evaluation framework and in establishing buy-in for the initiative overall. ODE welcomed stakeholder input in the pilot evaluations through a stakeholder work group that included participation from the Ohio public charter school authorizers association, the Ohio public charter schools association, and representatives from different types of authorizers in Ohio. ODE deliberately incorporated peer review into its pilot authorizer evaluations while engaging NACSA to train reviewers. In addition, NACSA consultants have advised and participated in the pilot evaluations.

Subsequently, ODE began to scrutinize authorizers' public charter school approval and renewal practices and actions, applying the evaluation criteria developed through the pilot. In the past year, ODE prevented authorizers whose authorizing practices were significantly deficient from granting charters to new public charter schools, producing considerable early impact. In fall 2013, 55 new public charter schools

opened in Ohio, 15 of which failed and closed midyear. In fall 2014, though, only 11 new public charter schools opened, all of which are operating smoothly so far.

If proposed legislation currently under consideration is adopted, ODE plans to implement the authorizer evaluation system by tying it to a steeply sloped curve of incentives and consequences based on quality. ODE will evaluate and rate every authorizer in Ohio, with consequences planned for each rating.¹⁰

- **Poor** (new rating to be added in 2015 contingent on proposed legislation being enacted into law): An authorizer rated poor will have its chartering authority completely revoked, and the public charter schools it oversees will be required to find new authorizers.
- **Ineffective**: An authorizer rated ineffective will be placed on a one-year corrective action plan and will not be permitted to authorize any more public charter schools in that year. The authorizer will be required to demonstrate commitment and invest the resources necessary to earn an effective rating within one year or will lose its chartering authority.
- **Effective**: An authorizer rated effective will be considered in good standing.
- **Exemplary**: An authorizer rated exemplary will be rewarded with flexibility and access to extra public charter school development opportunities, such as eligibility for particular state grants.

ODE will expect all authorizers to demonstrate ongoing, long-term development efforts and continuous improvement.

Since Ohio began strengthening its accountability requirements in 2005, the state has closed one authorizer outright. Another authorizing entity is going out of business at the end of June 2015, arguably due in part to authorizing failings exposed and criticized by ODE's quality review.¹¹

The early promise shown by 2012's authorizer reforms has led some Ohio policy experts and leading authorizers to believe that, out of all the state's reform efforts, the authorizer evaluation initiative is likely to have the greatest positive impact on the state's

public charter school movement. Their case will be strengthened if the proposed legislation aiding ODE's implementation of the authorizer evaluation system becomes law.

Improving District-Dominated Authorizing in Colorado

Colorado has taken a creative approach to authorizer accountability in a state dominated by district authorizers of varying capacity and commitment to authorizing. State policies have worked to spur some lower-capacity or lower-interest district authorizers to release exclusive chartering authority (voluntarily in some cases), thereby allowing a state public charter school commission to authorize schools in those jurisdictions. All of these changes have been made in a state where a strong tradition of local control has limited the types of state reforms that can realistically be instituted.

Colorado has 45 active district authorizers and the Colorado Charter School Institute (CSI), a state public charter school commission established by law in 2004 with limited statewide jurisdiction (explained below). As a public charter school commission, the CSI is focused solely on quality authorizing as its mission.

For the first decade of Colorado's public charter school movement, only local school boards were permitted to authorize public charter schools. Many local boards were reluctant or hostile authorizers or otherwise had little capacity to authorize well. As a result, the success of Colorado's public charter school movement was limited by low-quality and sometimes hostile authorizing. In more recent years, authorizer practices around the state have improved somewhat. Still, the small scale of authorizing by the majority of Colorado's local district authorizers (which are often small and rural) remains an ongoing challenge preventing these districts from developing the institutional focus required to invest in best practices and build chartering expertise.

In this district-dominated chartering environment, Colorado's approach to building authorizer quality and accountability includes state statutory mechanisms and policies that motivate stronger authorizer practice and provide local school boards that do not want to authorize public charter schools (either generally or in specific cases) an opt-out route—thereby avoiding many problems that result from involuntary

authorizing. In particular, Colorado law:

- Requires that all authorizers meet state-adopted standards consistent with national standards (state policy references NACSA's Principles & Standards for this purpose);
- Requires all authorizers to produce annual public reports on public charter school performance;
- Provides charter applicants and schools the right to appeal charter approval and renewal decisions made by local district boards to the state board of education (SBE);
- Establishes the CSI both as an alternative authorizer and a model authorizer for the state; and
- Empowers the SBE to revoke a district's exclusive chartering authority for cause.

The CSI has been one of the pillars of the above framework. The CSI holds statewide chartering authority except in districts granted exclusive chartering authority within their geographic boundaries either by statute or SBE action. State law allows the exclusive authority granted by the SBE (as opposed to by statute) to be challenged by complaint to the SBE. In turn, the SBE may revoke any district's exclusive authority for cause (which the SBE has yet to do).

As a result, the CSI may authorize public charter schools directly in districts that are determined by the SBE to demonstrate a pattern of treating public charter schools in a hostile manner. In addition, the CSI may authorize where a district voluntarily releases a particular school or applicant to apply under CSI's purview.

The CSI currently authorizes 34 public charter schools across Colorado. Two-thirds of these schools operate in districts that have exclusive chartering authority but have released particular public charter schools or applicants to apply to the CSI, allowing the CSI to authorize public charter schools in the districts' boundaries. These local boards have selectively released applicants or existing public charter schools for a variety of reasons including lack of capacity to authorize well—knowing they cannot meet the state's standards for quality authorizing. Further, some local board authorizers engage in an even more innovative approach to delegating day-to-day authorizing work to a capable agency without relinquishing chartering

State Authorizer Accountability Matrix

| | AK | AR | AZ | CA | CO | CT | DC | DE | FL | GA | HI | IA | ID | IL | IN | KS | LA | MA | MD | ME | MI | MN | MO | MS | NC | NH | NJ | NM | NV | NY | OH | OK | OR | PA | RI | SC | TN | TX | UT | VA | WA | WI | WY | | | | | | | | | | | |
|---|-----|-----|-----|-----|--------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|---|---|---|---|---|---|---|
| Authorizer and Program Accountability (National Alliance's Model Law Components) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <i>Green = Meets criteria; Yellow = Partially meets criteria; Red = Does not meet criteria</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4A. At least a registration process for local school boards to affirm their interest in chartering to the state | Red | Red | Red | Red | Yellow | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | | | | | | | | | |
| 4B. Application process for other eligible authorizing entities | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | | | | | | | | |
| 4C. Authorizer submission of annual report, which summarizes the agency's authorizing activities as well as the performance of its school portfolio | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | | | | | | | |
| 4D. A regular review process by authorizer oversight body | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | | | | | | | |
| 4E. Authorizer oversight body with authority to sanction authorizers, including removal of authorizer right to approve schools | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | | | | | | | |
| 4F. Periodic formal evaluation of overall state public charter school program and outcomes | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | Red | | | | | | | |
| NACSA Recommended Policy Criteria | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1. Endorse and apply national industry standards for quality authorizing | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1a. Establishing authorizer standards: The state endorses national industry standards of quality public charter school authorizing and expects all authorizers to meet these standards. | 0 | 0 | 0 | 0 | 3 | 0 | 1 | 3 | 0 | 0 | 3 | 0 | 0 | 3 | 3 | 0 | 3 | 0 | 0 | 3 | 0 | 3 | 1 | 3 | 0 | 0 | 0 | 3 | 3 | 0 | 3 | 0 | 0 | 0 | 0 | 3 | 3 | 0 | 3 | 0 | 0 | 0 | 0 | 3 | 3 | 0 | 0 | 3 | 3 | 0 | | | | |
| 1b. Evaluating authorizers on authorizer standards: Some entity in the state will periodically evaluate authorizers on the standards. | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 3 | 0 | 3 | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | | | |
| 1d. Annual authorizer report on school performance: Each authorizer will provide an annual report on the performance of its schools. | 0 | 0 | 0 | 0 | 3 | 0 | 3 | 0 | 0 | 0 | 3 | 0 | 2 | 3 | 3 | 0 | 0 | 0 | 0 | 3 | 0 | 3 | 0 | 3 | 3 | 0 | 0 | 0 | 3 | 3 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 3 | 0 | 2 |
| 1e. Sanctions for failing authorizers: Authorizers may be closed or face other sanctions if they do not meet professional standards or if their schools do not perform adequately. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 2 | 3 | 0 | 3 | 0 | 0 | 1 | 0 | 3 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | |

Data Sources:
 National Alliance for Public Charter Schools, "Measuring Up to the Model," 2015 State Summaries, <http://www.publiccharters.org/get-the-facts/law-database/states>.
 National Association of Charter School Authorizers, State Policy Gap Analysis.

authority: They contract with the CSI to provide public charter school application review and/or oversight services under a partnership authorization memorandum of understanding.

Rebooting Authorizing in Hawaii¹³

Hawaii is an example of a state that needed a major policy reset and new authorizing environment to improve its public charter schools. Thus, it overhauled its charter law and started fresh with a new statewide authorizer to remedy years of weak authorizing practice.

Far off in the Pacific, Hawaii has had an active public charter school movement since 1994, growing to serve more than 10,000 students across seven islands today. For years, however, public charter school authorizing in Hawaii lacked clear legislative authority and structure, guidance on responsibilities, and resources to carry out the job effectively. Before major reform in 2012, Hawaii's sole authorizer was the state Charter School Review Panel, an all-volunteer board trying to carry out an enormous amount of work and important public responsibilities with no professional staff. By 2010, the lack of public charter school accountability and adequate oversight was so serious and widely recognized that a legislative "reboot" was necessary to remedy nearly two decades of weak, dysfunctional authorizing.

Over two years, a state task force composed of legislators, the Hawaii Public Charter Schools Network, and other local stakeholders and supported by national partners (NACSA, the National Alliance, the National Governors Association, and the Center for School Change) developed an overhaul of Hawaii's public charter school law, policies, and authorizer practice. This effort was designed to build—indeed, to introduce—both public charter school and authorizer accountability. This thorough restructuring was challenging, given that Hawaii's public charter school movement was already nearly two decades old—and there were more than 30 public charter schools operating across the state—when the law was overhauled in 2012, resulting in an entirely new law and authorizing system replacing what the schools knew. The top-to-bottom reform was necessary, however. Hawaii's new public charter school law laid the groundwork for authorizer effectiveness and accountability by creating an entirely new authorizing structure and policy environment.

Hawaii's new public charter school law is largely aligned with the National Alliance and NACSA recommendations for authorizer accountability. Significant reforms in state law rebuilt the authorizing environment and promote authorizer accountability.

- A new Hawaii State Charter School Commission replaced the Charter School Review Panel as the state authorizing agency and receives sufficient resources to perform its role well. Appointed by and reporting to the SBE, the Commission assumed oversight of all then-operating public charter schools in Hawaii upon its creation.
- A variety of other types of eligible entities (postsecondary institutions, state and county agencies, and nonprofit organizations) must to apply to the SBE for chartering authority if interested in becoming an authorizer. If approved, such entities receive an initial six-year, renewable and revocable authorizing contract with the SBE. (To date, no eligible entities have applied to become authorizers.)
- The authority and responsibilities of public charter school authorizers in Hawaii have been clarified.
- All authorizers are required to develop and maintain authorizing standards consistent with national professional standards.
- All authorizers are required to use performance-based public charter school contracts and performance frameworks to provide an enforceable foundation for school accountability.
- Every authorizer is required to provide an annual public report to the SBE, summarizing the academic performance of all public charter schools in its portfolio as measured by state standards.
- The SBE is required to provide oversight for all authorizers in the state, including reviewing authorizer annual reports, determining whether authorizers are fulfilling their authorizing contracts, and revoking or not renewing authorizing contracts if warranted.
- The SBE is required to apply nationally recognized principles and standards when evaluating authorizer performance.

Hawaii's overhaul of its public charter school law has replaced a nonperforming, dysfunctional authorizing environment with a new one focused on quality. An important part of building this new environment was the extensive engagement of public charter school operators and other stakeholders, such as the SBE, throughout the change process. Both individually and collectively, through the state public charter school association, Hawaii's public charter schools provided input at each step of changing the authorizing environment in policy and practice. As one public charter school leader—who was an initial member of the new Commission—put it, "It's the herding cat syndrome: creating systems that work for 30-plus independent schools is hard. But the process was fair and transparent, logical and reasonable. People felt listened to. That builds trust on the part of school operators."¹⁴

The early impact of Hawaii's 2012 reforms can be seen partly in the performance management system the Commission has instituted, including public charter school contracts that incorporate academic, financial, and organizational performance frameworks, setting clear expectations for all public charter schools. In addition, this year the Commission is revoking a charter for financial and organizational failure, Hawaii's first public charter school closure.

Recommendations for State Policy on Authorizer Accountability

States should ensure that public charter school authorizers are held to high standards of performance and accountability. By doing so, states can improve the performance of their public charter school movements. The examples in this brief illustrate how states with different policy and authorizing environments have instituted reforms and enacted policies to strengthen accountability for authorizers. Though it may not be politically or constitutionally feasible in a particular state to implement every provision of the National Alliance's model law or NACSA's policy guidance, every state can adopt some kind of policy strategy to strengthen authorizer accountability within its own policy and authorizing environment.

The implementation of the authorizer accountability policies in states as diverse as Colorado, Hawaii,

Minnesota, and Ohio offers a number of lessons for policymakers and advocates in other states seeking to strengthen their public charter school movements. These recommendations include:¹⁵

Consult existing policy resources for guidance. In building an accountability system for authorizers, states should make use of existing policy resources for guidance, particularly the National Alliance's model law and NACSA's policy guidance.¹⁶

Establish professional authorizing standards for all authorizers in the state. Public charter school authorizing is a unique and complex profession. For guidance in this relatively new and constantly evolving field, it is important to establish national standards for quality authorizing—namely, NACSA's *Principles & Standards*—in the state public charter school statute as the foundation of essential guidelines for authorizer practices and accompanying state-level authorizer approval, monitoring, and evaluation processes. Authorizers and other education leaders in states that have established these authorizing standards in state policy attest to their value in making essential authorizer expectations clear, providing guidance to authorizers and state oversight officials, and explaining authorizer improvement efforts to the state's public charter school community.

If a state chooses to develop its own authorizer standards to closely reflect the state context, those standards should be similar in scope and rigor to NACSA's *Principles & Standards*, including:

- Covering all phases of public charter school authorizing (from applications to contracts to oversight to renewals and closures);
- Maintaining viable options for creating new public charter schools without excessive impediments to approval;
- Protecting the autonomy of public charter schools; and
- Protecting the rights of students and the public interest.

Establish reasonable barriers to entry for new authorizing entities. States that have had low (or no) barriers to entry for authorizing—resulting in a proliferation of authorizers with differing motivations

and varying degrees of commitment to quality authorizing—have paid a price in the quality of their public charter school movements. Improving the quality of public charter schools across a state often needs to start with tightening up authorizing and establishing sensible barriers to entry for the challenging work of quality public charter school authorizing. Thus, the first step in building an accountability system for authorizers is a rigorous approval process grounded in clear and high professional standards on the front end. At the same time, states should create a state public charter school commission to ensure that there is at least one authorizer in place.

To tighten up a multiauthorizer environment, require all authorizers (old and new) to apply for state approval. States instituting an authorizer application and approval requirement to strengthen the quality of their authorizers should apply this requirement to all authorizing entities, including all those already operating in the state, except a legislatively created state public charter school commission. Exempting any currently operating authorizers (other than a state commission) from front-end evaluation would compromise the immediate quality control mechanism that a comprehensive authorizer application and approval process would provide statewide. States might appropriately tailor and streamline the application and approval process for currently operating authorizers, but they should not exempt any authorizers (other than a state commission) from the front-end review. Authorizers already performing well (and whose schools are performing well) would be well positioned to earn approval readily, while the review process would identify those authorizers meriting closer monitoring or termination.

Set clear, consistent, and rigorous standards and timelines for approving authorizers. States should clearly define the timing and administration of the authorizer application and approval process so that all authorizer applicants (whether prospective new authorizers or currently operating authorizers requiring approval under a new law) understand and are required to meet clear, consistently rigorous standards for approval within a publicly known and predictable timeframe. Such standards should include an examination of the performance of existing public charter schools for any currently operating authorizers seeking approval.

Encourage and engage peer input and peer review in a state’s authorizer evaluation initiative.

In developing a statewide authorizer accountability system, states will benefit from engaging authorizers, public charter schools, and other stakeholders in meaningful ways to develop the new system from the beginning. Doing so will build peer support for the system from quality authorizers who have an interest in promoting professionalism in their sector and strengthening the public charter school movement as a whole. Likewise, engaging input from the public charter school community and stakeholders will help to promote broad understanding of authorizer accountability as important to strengthening the public charter school movement and building community support for public charter schools.

Provide for sufficient resources to carry out state oversight. Overseeing robust authorizer accountability imposes considerable new responsibilities on the state and requires sufficient internal state agency capacity and, quite likely, the resources to engage outside expertise. State policy should provide adequate resources to enable the state to carry out its authorizer oversight role effectively.

In planning sufficient resources for state oversight, states should also consider the size and complexity of their current public charter school authorizing sector and how much their designated state oversight agency can realistically accomplish each year with the new resources planned. Depending on local and state circumstances, each state should decide how much of the state’s reform efforts and resources should be directed to front-end authorizer selection versus back-end authorizer evaluation and sanctioning. Comprehensive authorizer evaluations that involve site visits, stakeholder interviews, school surveys, and the like are labor intensive and costly and may not be needed for every authorizer in the state. A state may establish criteria to determine which authorizers or triggering circumstances merit more intensive review than a baseline annual review of the authorizer’s school performance data and the authorizer’s annual report on its practices.

Provide for sanctioning and termination of authorizers that fail in their essential duties.

Authorizers that repeatedly approve new public charter schools that fail and allow those failing schools to stay open should lose the ability to approve more schools and perhaps lose their authorizing powers entirely. To

establish clear expectations for authorizers and ensure enforcement of quality standards, states should consider creating automatic triggers for sanctions. For example, states could empower a state oversight agency to sanction an authorizer or, if warranted, revoke any authorizer's chartering authority if the authorizer:

- Demonstrates abuse of its chartering authority through a documented pattern of actions that violate the letter, spirit, or intent of the public charter school law;
- Repeatedly authorizes public charter schools that fail to meet state standards;
- Repeatedly allows failing schools to stay open; or
- Persistently (or egregiously) fails to meet state standards for quality authorizing.

Define what happens when a state terminates an authorizer. State policy should explicitly define what happens when a state terminates an authorizer for failure to meet standards in order to protect schools, students, and families from confusion and turmoil if their authorizer is terminated. Without a pre-established course of action that provides for all stakeholders in the event of authorizer closure, state oversight agencies might be reluctant to close authorizers, especially those that oversee numerous schools. It makes sense to allow public charter schools to be transferred to a quality authorizer that is willing and has the capacity to assume oversight, but state policy should provide for an organized process for a school to select or designate a qualified authorizer well positioned to assume transferred public charter schools.

Define what happens to schools “orphaned” by an authorizer termination. State policy should contemplate and provide for a course of action for “orphaned” public charter schools that no authorizer in good standing is willing to “adopt” or assume. One option is for the state authorizing oversight body to transfer oversight to a designated state authorizer—such as a state public charter school commission or the state department of education—for a defined grace period, such as one or two years. During this transitional period, the school would be required to improve its outcomes and find a permanent authorizer in good standing with the state or face closure.

Oversee public charter school transfers at the state level. In states with multiple authorizers operating under a dynamic accountability system, a public charter school may need to find a new authorizer if its current authorizer either decides to withdraw from authorizing due to lack of will or capacity to meet the state's accountability expectations or is terminated from authorizing by the state. In either situation, the state authorizing oversight body should manage and oversee transfer requests to ensure that any proposed transfer would best serve the interests of the public charter school's students and that all requirements for transfer take place according to an orderly and timely process. This approach will also prevent the problem of “authorizer hopping” that has occurred in some states, whereby schools slated for closure either by their authorizer or under a default closure law have avoided closure by reorganizing and finding a new authorizer.

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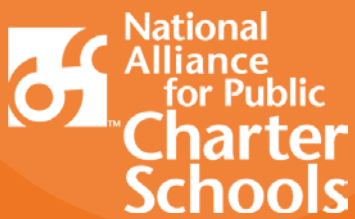
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Endnotes

- ¹ *A New Model Law for Supporting the Growth of High-Quality Public Charter Schools*, National Alliance for Public Charter Schools, 2009, <http://www.publiccharters.org/publications/model-law-supporting-growth-high-quality-public-charter-schools>.
- ² National Association of Charter School Authorizers, Policy Guides and Recommendations, <http://www.qualitycharters.org/policy/policy-guides.html>.
- ³ The entire model law is explained and set forth in *A New Model Law for Supporting the Growth of High-Quality Public Charter Schools*, National Alliance for Public Charter Schools, 2009, <http://www.publiccharters.org/publications/model-law-supporting-growth-high-quality-public-charter-schools>.
- ⁴ These elements correspond to components 4A-4E in the National Alliance's report, *Measuring Up to the Model: A Ranking of State Charter School Laws, Sixth Edition*, which analyzes each state's public charter school law against the National Alliance's model law. These elements are set forth in full in the model law.
- ⁵ In addition to the NACSA policy provisions discussed in this brief that directly promote authorizer accountability, NACSA recommends the following state policies to create a policy environment that supports and enables strong, effective public charter school authorizing: (1) follow NACSA-recommended policies on performance management; (2) apply school performance standards at renewal and close failing schools; and (3) establish a statewide alternative authorizer, preferably a state charter school commission. More detailed guidance and explanation of these policies can be found at <http://www.qualitycharters.org/policy/policy-guides.html>.
- ⁶ A primary source of information for this vignette is "Building Systems to Evaluate and Sanction Failing Authorizers," NACSA Policy Case Study, National Association of Charter School Authorizers, 2014.
- ⁷ "Building Systems to Evaluate and Sanction Failing Authorizers," NACSA Policy Case Study, quoting Molly McGraw-Healy.
- ⁸ "Setting a Minimum Threshold for Performance and Default Closure of Charter Schools," NACSA Policy Brief, National Association of Charter School Authorizers, 2014, p. 2, quoting Terry Ryan.
- ⁹ See Ohio Revised Code, Sec. 3314.016 as amended by HB 555.
- ¹⁰ David Hansen, Testimony on Education Provisions of House Bill 64, FY 16-17 Biennial Budget to Ohio House of Representatives, Finance Subcommittee on Primary and Secondary Education, Feb. 26, 2015.
- ¹¹ Doug Livingston, "State to Close Portage County Educational Service Center; Eight Charter Schools to Lose Sponsor," Akron Beacon Journal, January 30, 2015.
- ¹² "Setting a Minimum Threshold for Performance and Default Closure of Failing Schools," NACSA Policy Brief, National Association of Charter School Authorizers, 2014, p. 4, quoting Darlene Chambers.
- ¹³ A primary source of information for this vignette is "Alignment for Change in Hawaii," NACSA Case Study, National Association of Charter School Authorizers, 2013.
- ¹⁴ "Alignment for Change in Hawaii," NACSA Case Study, p. 9, quoting Curtis Muraoka.
- ¹⁵ In addition to implementing these recommendations to strengthen authorizer accountability, there are several other steps that states should take in order to improve their state's authorizers, including providing authorizer funding and detailing in state law the responsibilities of authorizers as they pertain to the public charter school application process, performance-based public charter school contracts, oversight and monitoring, and renewals and closures. For more information about these other issues, see *A New Model Law for Supporting the Growth of High-Quality Public Charter Schools*, National Alliance for Public Charter Schools, 2009, <http://www.publiccharters.org/publications/model-law-supporting-growth-high-quality-public-charter-schools>; and National Association of Charter School Authorizers, Policy Guides and Recommendations, <http://www.qualitycharters.org/policy/policy-guides.html>.
- ¹⁶ *A New Model Law for Supporting the Growth of High-Quality Public Charter Schools*, National Alliance for Public Charter Schools, 2009, www.publiccharters.org; and *On the Road to Better Accountability: An Analysis of State Charter School Policies*, National Association of Charter School Authorizers, 2014, www.qualitycharters.org.



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