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To understand the current state of the charter schools sector and to thoughtfully discuss its future, we must understand its history.

From the beginning, the charter school concept has attracted people with a diverse set of philosophies. While all charter advocates share a belief in the importance of parental choice, school-level autonomy and accountability for results, there has been less consensus on the larger purpose and role of charter schools within K-12 education. Those differences can be fairly characterized by three philosophies.

First, there are those who believe that the purpose of charter schools is to create competition with school districts because competitive pressure will force traditional public schools to improve – or to go out of existence due to the loss of students. Under this philosophy, *quantity* itself is valued because more schools create more competitive pressure. Consequently, barriers to entry for groups seeking to start charter schools should be low and the role of school districts (as the competition) should be minimized or eliminated. Under the competitive philosophy, each charter school establishes its own unique performance expectations because the free market, not government, will decide which schools are good enough to stay open. Some states that originally embraced this version of charter schools include Arizona, Texas, Florida and Ohio.

A second philosophy is held by those who believe that the purpose of charter schools is to meet the needs of special populations of students that are not served well by district schools or to serve as a research and development activity to test ideas that, if successful, can then be transferred into the traditional K-12 education system. Under this philosophy, the purpose of charter schools is to help meet a community's educational needs as defined by school districts. There is no need for a large number of charter schools because only a few schools are needed to serve special populations or to test new ideas. Under this philosophy, school districts play a major or an exclusive role in the approval and oversight of charter schools. Most states that have followed this philosophy, such as Virginia or Mississippi, have tiny numbers of charter schools. One exception is Wisconsin (outside of Milwaukee), where a great number of charter schools have been started by school districts and maintain close ties to their district.

A third philosophy is held by charter school advocates who seek to aggressively create more good schools for children, particularly poor children without access to good schools, and believe that the charter model provides the most effective way to do so. This philosophy embraces quantity but only if it is matched by quality. Adherents to this philosophy do not defer to school district interests, because schools districts are failing to adequately educate so many students. Yet neither are they hostile to school districts, because the children enrolled in those schools also need a quality education. When considering proposals for new charter schools, this philosophy relies upon a fair and smart authorizer, setting the bar neither too high nor too low. For schools that are operating, the authorizer, not each school, sets the bar for renewal by defining what level of performance is necessary to stay open. Louisiana, Michigan and New York are examples of states where this philosophy has been put into practice.

During the first decade of the charter school movement, much of the momentum and activity occurred in states that adhered to the competitive philosophy. Many state charter laws were written under this philosophy, purposely minimizing government's role in the approval of schools as well as their subsequent oversight.

The competitive philosophy, it turns out, produces some excellent schools but also bad ones. Running a school is hard work and running an excellent school is even harder. Having good intentions is not enough. The low barrier to entry under the competitive philosophy allowed many applicants with good intentions, but not excellent skills, to be approved. After a school opens under the competitive philosophy, minimal oversight means that weak schools are more likely to mismanage funds. Because each school sets its own performance standards and because the role of authorizers is deliberately minimized, the ability to close failing charter schools is weak. In practice, this philosophy has caused considerable problems. In Ohio and Texas, mediocrity is pervasive and failing charter schools are seemingly impossible to close. The problem is so significant that charter school supporters in these states have pursued legislation to automatically close (with no evaluation and no due process) charter schools that fall below certain statutory test score thresholds.

As a result of the problems under the competitive philosophy, a strong shift has occurred in recent years toward the third philosophy of "more good schools." These adherents actively seek to open more charter schools while maintaining high standards of quality. U.S. Secretary of Education Arne Duncan implemented this strategy in Chicago and New York City Schools Chancellor Joel Klein has followed this route for several years. In truth, however, most school districts have neither the desire nor the capacity to actively pursue the development of charter schools. The strongest practitioners of the "more good schools" philosophy are usually not school districts; they are universities (Michigan, New York, Missouri), state education agencies (Massachusetts, New Mexico), municipalities (Indianapolis, Milwaukee) and boards dedicated exclusively to chartering (Washington DC, Georgia).

The National Association of Charter School Authorizers (NACSA), established in 2000, is a professional membership organization whose members are the agencies that authorize charter schools. In its work, NACSA adheres most closely to the "more good schools" philosophy. We believe that

authorizers have an important role in the charter school sector and that the practices of an authorizer can directly affect the quality of charter schools. Quality authorizing supports quality charter schools.

All authorizers have three fundamental responsibilities that they should perform on behalf of the public.

- **Authorizers maintain high standards**, both for the approval of new schools and for the renewal of existing charter schools. For applicants, high standards mean that they have produced a thorough and compelling case that they can successfully educate children and manage the responsibilities of operating a school. High standards for renewal means that a school has a record of achieving superior, measurable educational outcomes for students.
- **Authorizers preserve autonomy**, the active ingredient that empowers charter schools to excel. Freedom from centralization and standardization empowers educators in schools to deliver a program that best meets the needs of their students. Autonomy is the major difference between the charter school sector and the traditional public school sector. On a day to day basis, it is authorizers' job to properly define and preserve autonomy for the schools they oversee.
- **Authorizers protect the interests of students and the public** by ensuring that students are treated fairly and that public funds are used appropriately. Fair treatment means students are admitted through a random lottery, receive special education services when needed and are not inappropriately counseled out of a school. Appropriate use of public funds means that schools expend funds on legitimate educational purposes and conduct an annual audit.

A quality charter school sector needs these three responsibilities to be fulfilled and only authorizers can fulfill them. When authorizers meet these responsibilities, a state is likely to have a consistently high quality charter school sector. If each of these responsibilities is not being fulfilled in a state, there is a gap in policy or practice that requires attention.

Authorizers fulfill these responsibilities by carrying out a set of professional practices. A quality authorizer:

- Implements a comprehensive **application process** that follows fair procedures and rigorous criteria, and grants charters only to those applicants who demonstrate strong capacity for establishing and operating a quality school,
- Negotiates **contracts** with charter schools that clearly articulate the rights and responsibilities of each party regarding school autonomy, expected outcomes, measures for evaluating success or failure, performance consequences and other material terms,
- Conducts **oversight** that evaluates performance, monitors compliance, informs intervention and renewal decisions and ensures autonomy provided under the law,
- Designs and implements a transparent and rigorous **renewal** process that uses comprehensive data to make merit-based decisions.

Since 2004, NACSA has defined these functions in its *Principles and Standards for Quality Charter School Authorizing*, the universally-recognized benchmarks for professional practice among authorizers. Authorizers who perform these functions in accordance with NACSA Standards support school quality by approving only strong school proposals, defining the conditions under which schools will operate, and clearly establishing the performance expectations for all schools. Authorizers who perform these functions professionally will have a higher quality set of charter schools than those who do not.

California's charter school sector has characteristics of each of the three philosophies described above, but most closely aligns with the competitive philosophy. For example, in terms of quantity, California has far more charter schools than any other state. In addition, California's law and years of established practices have restricted the power of authorizers by:

- Preventing authorizers from requiring information from applicants that exceeds the minimal elements defined in statute,
- Preventing authorizers from establishing deadlines and timelines for evaluating applications,
- Not requiring charter schools to sign a contract after their application is approved, and
- Allowing each school to set its own performance criteria.

Yet, California also has elements of the second charter philosophy described earlier as a fair number of charter schools are conversions of district schools that maintain close ties to their districts. California also has experience with the third philosophy articulated above - during Alan Bersin's tenure in San Diego, under the current practices of the Oakland Unified School District and under the statewide benefit charters administered by the Department of Education.

The California charter school sector also benefits from the greatest concentration in the nation of venture philanthropists investing in charter schools and demanding measurable results. And California's charter sector further benefits from the country's strongest statewide charter school association which, under the leadership of Jed Wallace, is a strong voice the growth of quality charter schools.

When all of these factors are combined, the quality of California's overall charter school sector is average, achieving neither the pervasive low results of some states nor the consistent high results of others. Indeed, this year's study from Stanford University's Center for Research on Education Outcomes determined exactly that. Among 16 states studied, charter schools produced lower results in six states and higher results in five. California fell in the middle, along with three other states, where charter schools produced mixed results or results that were no different than traditional school peers.

You have asked, “What changes should California make to ensure that authorizers in this state are functioning under best practices?” NACSA suggests four changes.

First, California authorizers need to have contracts with their charter schools. The “charter” in charter schools is a multi-year, multi-million dollar arrangement between the public and a non-profit board under which the public pays the board to operate a public school under certain terms and conditions. California is one of the few states that do not require charter schools to enter into legal agreements that define the rights and responsibilities of the school and the authorizer. Instead, the application submitted by a charter school is considered to be “the charter.” Yet, applications are written by only one of the two parties to the arrangement and under no stretch of the imagination do they attempt to fully articulate each party’s rights and responsibilities. I am aware of no other agencies, organizations or individuals in the public or private sector that enter into multi-year, multi-million dollar arrangements for services without a contract.

The lack of a contract means that neither the school nor the authorizer has a clear, concise legal document – signed by both parties – that can be used to define and enforce each party’s rights. This often translates into a lack of clarity about the day-to-day operations of the school, causing unproductive conflict between the school and its authorizer. In addition, the lack of a contract means the authorizer does not have a strong, legally-defensible case for the criteria and process for revoking or not renewing a charter.

There is considerable anxiety and resistance among many California charter schools to a potential requirement to enter into contracts with their authorizers. Yet it is important to note several facts. Contracts are the norm across the nation; over 90% of the nation’s largest authorizers enter into contracts with their charter schools. In the rest of the nation, many charter schools view their contract as their best defense against unfair authorizer practices and would never give up their right to a contract. In addition, both NACSA’s *Principles and Standards* and the National Alliance for Public Charter Schools’ model law state that contracts should be required. Plus, NACSA’s additional recommended changes for authorizing in California seek to address charter schools’ concerns about unprofessional authorizing.

NACSA’s second recommendation is that California should require all authorizers to perform their duties in accordance with national authorizing best practices as defined in NACSA’s *Principles and Standards for Quality Charter School Authorizing*. Gradually, more states are amending their laws to incorporate professional standards for authorizers. In Wisconsin, legislation is currently pending to do so. Minnesota, Missouri and Ohio have amended their statutes in recent years to incorporate professional authorizing standards. Louisiana, in its groundbreaking 2005 legislation that shifted control of failing New Orleans schools to the state, requires the state to perform its authorizing functions in accordance with NACSA’s *Principles and Standards*, by name.

Third, California should establish a system for evaluating its authorizers’ performance against national standards. The new laws in Minnesota, Missouri and Ohio specifically direct the state superintendent of education to evaluate and determine if an authorizer is meeting professional standards.

In each case, authorizers can lose their authority if the state superintendent determines that they are not meeting those standards.

Finally, California should establish a statewide independent charter school authorizing board. As described above, the authorization of charter schools requires time, attention and resources if it is to be performed responsibly. Most school districts have neither the desire nor the capacity to perform these functions. Yet California's law relies upon school districts and county offices of education as the front line in the authorization of charter schools.

Charter schools need and deserve to have a relationship with authorizers that actually want to perform the work of authorizing and have the capacity to perform that work. California students, parents and the public also deserve to have their interests represented by authorizers who have the desire and the capacity to professionally oversee charter schools.

Washington, DC has had an independent charter school board that has worked well for more than a decade. It is able to focus its attention and resources solely on charter schools and to continually seek to improve its practices. Colorado established a statewide independent charter school board in 2004. It has the authority to authorize charter schools in school districts where the State Board of Education has determined that the school district is not fulfilling its authorizing responsibilities professionally. Other states with statewide independent charter school authorizing boards or commissions include Arizona, Idaho, South Carolina, Utah and Georgia. Some states, most notably Michigan and New York, have universities that perform authorizing responsibilities in a manner that is very similar to a statewide independent charter school authorizing board.

You have also asked, "Based on your knowledge of best practices in other states, is California's current criteria for charter revocations and renewals sufficient?" No.

California's law does have strengths which are worth noting. Specifically, Section 47607 defines a set of API criteria which charter schools are required to meet as a condition of renewal. The existence of statutory benchmarks for renewal is positive. However, the specific intent of these criteria is not clear. Some believe that a school that meets *any* one of the three API criteria must be renewed by its authorizer. Others believe that the intent is the opposite: a school that fails to meet all of the criteria *cannot* be renewed, but is not guaranteed renewal.

Are California's authorizers allowed to establish *any* renewal criteria? Can they establish academic criteria that are higher than statute? After all, the statute's minimum API statewide rank and a similar schools rank of 4 is far from excellent performance. What about non-academic considerations, such as the fiscal stability, the proper use of funds, fair treatment of students and compliance with applicable laws? In practice, charter schools, authorizers and the state board of education are left to

navigate this unclear situation without clear statutory guidance – and always in the midst of the turmoil created by a potential school closing.

California should clarify its law to allow authorizers to establish and enforce high academic standards, including standards based on growth. Authorizers must also be allowed to consider non-academic factors when making renewal decisions. Authorizers have a responsibility to protect the interests of students and the public and they cannot fulfill that responsibility if they cannot close schools that violate the interests of students and the public.

The charter school sector presents exciting opportunities to improve educational opportunities for children as well as significant challenges to our nation's K-12 education status quo. It is no surprise that such opportunities and challenges produce a great deal of emotion and even confusion. The good news is that, after more than fifteen years of experience, we now know what works when it comes to authorizing charter schools. We know how to evaluate charter school applications and how to make smart decisions about which schools to approve. We know how to write contracts that meet the needs of schools and the public. We know how to set clear, objective student performance expectations that are used as the basis of renewal decisions. Each of these functions is being done by some authorizers now and can be done in California as well.

I applaud the Little Hoover Commission for its interest in this important topic. Thousands of California children are now being educated in charter schools and millions of public dollars are being spent on their behalf. Your analysis and recommendations will provide the opportunity to strengthen this work, ensuring that the interests of the public are protected, the autonomy of schools is preserved and, most importantly, educational outcomes for California students are significantly improved.

The National Association of Charter School Authorizers develops quality authorizing environments that lead to a greater number of quality charter schools. Founded as a professional membership organization in 2000, it is the oldest national organization devoted exclusively to charter school issues. NACSA collects data on authorizer practices, recommends policies to strengthen quality, and provides technical assistance to authorizing agencies across the country.