



ECS Issue Brief

A State Policymaker's Guide to Alternative Authorizers of Charter Schools

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Education Commission
of the **S t a t e s**

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INTRODUCTION

One of the most innovative developments in public education in recent years is charter schools. While some characteristics of charter schools vary from school to school – such as school missions and curriculum and instructional approaches – there are certain things common to all charters. They are semi-autonomous public schools, founded by educators, parents, community groups or private organizations that operate under a written contract with a state, district or other entity. This contract, or charter, details how the school will be organized and managed, what students will be taught and expected to achieve and how success will be measured. Many charter schools enjoy freedom from rules and regulations affecting other public schools, as long as they continue to meet the terms of their charters. They can be closed for failing to satisfy these terms.

Since their inception, charter schools have been controversial. Because they often operate outside the direct control of school boards, superintendents and teachers unions, these entities usually view charter schools skeptically. The funding of charter schools also has provoked discomfort among these entities because they feel money is unfairly lost to charter schools when a student transfers from a non-charter public school to a charter public school. Lastly, although research about the academic performance of charter schools is emerging, a consensus on what the results mean remains elusive. Without that consensus, the debate about the effectiveness of charter schools is contentious.

Notwithstanding these controversies, 40 states and the District of Columbia have enacted charter school laws. As of the 2004-05 school year, about 3,300 charter schools were open across the country, representing about 4% of all public schools in the nation. These charter schools served more than 900,000 students, or 2% of all students attending the nation's public schools. About 450 charter schools opened their doors for the first time during the 2004-05 school year – one of the highest number of school openings during the almost 15 years of the movement.

In this Report:

Types of Alternative Authorizers	3
Independent Special-Purpose Charter Boards	3
Universities and Colleges	5
State Boards, Commissioners and Departments of Education	7
Mayors	8
City Councils	9
Nonprofit Organizations	10
Regional Educational Entities	12
Creating a State Authorizing System	14
Mix of Charter Authorizers	
Support Systems for High-Quality Authorizing	14
Authorizing	15
Appendix A: Who Can Authorize Charter Schools in Each State?	16
Endnotes	23

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One of the key components of the state policy environment for charter schools is which entities may serve as charter school authorizers – that is, those entities that approve and oversee charter schools. Although the important role of charter school authorizers was sometimes overlooked when states first passed charter school laws, there is a growing recognition that effective charter school authorizing is critical to the success of charter schools. By ensuring schools have both the autonomy to which they are entitled and the public accountability for which they are responsible, charter school authorizers fulfill important responsibilities.¹

The type of entities that may authorize charter schools varies from state to state. During the 2004-05 school year, there were over 800 charter school authorizers across the country. The vast majority – over 700 – were local school boards. The rest were non-local school board authorizers, i.e., “alternative authorizers.” Of the over 100 alternative authorizers, 44 were regional educational entities; 37 were universities and colleges; 22 were state boards, commissioners and departments of education; 17 were nonprofit organizations; five were independent special-purpose charter boards; and two were mayors and city councils. Appendix A contains information about which entities may authorize charter schools in each state.

Why are states allowing entities other than local school boards to authorize charter schools?

- **Create New Public Schools on a Large Scale.** Some states are taking a “two-bet” strategy to improving public schools. The first bet is to improve existing schools, while the second bet is to create new schools. The reasoning: we won’t get the schools we need by just changing the schools we have – we also have to create new schools on a large scale.² These states feel that alternative authorizers are an integral component of their new schools bet. The creation of alternative authorizers opens up a fresh space in public education in which good educational practices may develop without the constraints of existing routines, cultures and practices – in everything from instruction and scheduling to accountability and oversight.
- **Charter Authorizing is a Tough Fit with Existing District Practices.** Though many school districts – including some of the nation’s largest – have become active charter authorizers, most districts are all consumed in their efforts to improve their existing schools. What is more, they often take a more top-down approach in these efforts. Asking them to approve and monitor largely autonomous schools based on performance piles another helping of reform on their plates and cuts against the grain of their existing approach. It is a tough fit for many districts. Plus, the task of working with charters is often given to staff that already have more than enough to do. Given these circumstances, chartering is often given short shrift by districts, even those not openly hostile to charters.
- **Give Charter Applicants a Choice of Authorizers.** The existence of both local school board authorizers and alternative authorizers give potential charter operators a choice of entities to approach with their charter application. Such choice is particularly important for potential operators that are located in districts that are skeptical, if not hostile, to charter schools. Not only do alternative authorizers provide these potential operators with a viable route to possible sponsorship, but their presence may also force skeptical and hostile local school boards to implement the provisions in a state’s charter school law in more of a practical and less of an ideological manner.
- **Allow for Experimentation with New Concept of Charter Authorizing.** The authorization of public charter schools based on performance is a relatively new concept. While much has been learned during the first decade and a half of the charter school movement, charter school authorizers are still refining the best ways to implement their responsibilities. By creating alternative authorizers, states allow different types of entities to experiment with a variety of approaches to approving and monitoring schools based on performance.
- **Provide Incentives for Existing Districts to Improve.** The creation of alternative authorizers that overlap in geography with a district, a region or an entire state puts into motion a competitive dynamic that provides incentives for existing districts to improve. The presence of alternative authorizers creates competition for students and dollars between them and existing districts, in the hopes of motivating all of them to continuously improve their schools’ performance to attract and retain students and dollars.

This paper’s purpose is to help state policymakers think through what kind of alternative authorizing structures may make sense for their states. The paper presents the advantages, disadvantages and policy considerations for each of the seven types of alternative authorizers. In addition, it discusses the critical design issues facing states interested in creating alternative authorizers.

TYPES OF ALTERNATIVE AUTHORIZERS

This section explores the advantages, disadvantages and policy considerations for each of the seven types of alternative authorizers: independent special-purpose boards; universities and colleges; state boards, commissioners and departments of education; mayors; city councils; nonprofit organizations; and regional educational entities. The analysis is done within a framework of cross-cutting factors that should be considered for each type of authorizer.

Independent Special-Purpose Charter Boards

Five jurisdictions allow independent special-purpose charter boards to authorize charter schools. In four of these jurisdictions – Arizona, the District of Columbia, Idaho and Utah – charter applicants in any part of the jurisdiction may apply to these boards for approval. In one – Colorado – only charter applicants in certain districts may apply to the board for approval.

Potential Advantages

- **Core Mission Is Charter Authorizing.** Given the full plates and more centralized focuses in many districts, charter authorizing is often a tough task that is given inadequate attention. Even many alternative authorizers take on the responsibility of authorizing charter schools in addition to their core missions. One of the advantages of an independent special-purpose charter board is that its core mission is the authorization of charter schools. That, and only that, is what it does. When Colorado created its independent charter board, one of its stated purposes was to enhance charter school authorizing in the state. According to the law, it is “the intent of the general assembly that the institute shall exist to model best practices in authorizing charter schools and make those practices available to school districts.”³
- **Ability To Build Systems from Scratch.** Because it is a new entity, a special-purpose charter board can build all of the key authorizing systems – from an application process to an oversight and accountability system – from the ground up. It does not have to shoe-horn charter schools into an existing set of processes and systems. While this design work poses a capacity challenge as described below, it also allows this kind of authorizer to fashion a system that is well designed from the beginning.
- **Fresh Perspective on Student Needs.** Because independent charter boards are new entities that operate largely outside of the traditional public education bureaucracy, they can bring a fresh perspective to the provision of public schooling in a state or community. They also have a clean slate on which they can work with communities in identifying which student needs are currently not being adequately met. Once it identifies those needs, it can create an application process that gives priority to proposals that propose to fulfill them.
- **Expertise of Board Members.** While the field of charter authorizing is new, it has become apparent that expertise in certain areas – e.g., finance, facilities and curriculum – among charter authorizer board members increases the chances for successful authorizing. By creating independent charter boards, a state can require that these areas of expertise be represented on the board.

Potential Disadvantages

- **No Prior Presence in Community.** Independent charter boards are new entities. For some period of time, it is likely the broader community in a state or district will be unfamiliar with the new board’s workings. This lack of familiarity may be problematic for the board as it seeks to authorize charter schools in a community that is uncertain of the board’s role in it.
- **Limited Capacity at the Outset.** No matter the type of charter authorizer, they need sufficient resources – e.g., staff and funds – to effectively carry out their functions. While a challenge in any context, the provision of sufficient resources to independent charter boards is particularly acute when they are established. These entities will be starting from scratch and will probably not have a larger institution – such as a university – to provide them with initial staff and funding.
- **Accountability.** Elected local school board members are directly accountable to the voters on a periodic basis – even if the turnout for many of these elections is relatively low. In the five jurisdictions with independent charter boards, the board members are appointed, often by elected officials. Such appointment processes have their advantages, but they also probably lessen citizens’ ability to control public schools in their community through their votes for local school board members.

Policy Considerations

States that are interested in creating independent charter boards should consider several policy issues. The first one is where should the new entity be able to authorize charter schools: Across an entire state? In a particular district? Across a certain region?

The second issue is what types of expertise should be represented on the board. Options include expertise in education, finance, management, community needs and student needs. To ensure there is a link between the efforts to create new schools and those to improve existing schools, states can require a member of an existing school board – either state or local – to serve on the new independent charter board. Also, whoever appoints the new board can increase its credibility by appointing members who are known and respected in the communities the board will be serving.

A related issue is who should appoint the board, which will partially depend on where the board is allowed to authorize charter schools. In the District of Columbia, the mayor, in consultation with the city council, appoints the seven members of the DC Public Charter School Board, from a list of 15 recommendations by the U.S. secretary of education. Seven of the nine members of the Colorado Charter School Institute Board are appointed by the governor, with the remaining two appointed by the state commissioner of education.

Table 1
Independent Special-Purpose Charter Board Composition

State	Board Composition
Arizona	The Arizona State Board for Charter Schools is comprised of 14 members – the superintendent of public instruction or designee, six members of the general public (one of whom shall reside on an Indian reservation), two members of the business community, one charter school operator, one charter school teacher and three nonvoting advisory members of the legislature.
Colorado	The Colorado Charter School Institute Board is comprised of nine members – seven appointed by the governor and two appointed by the state commissioner of education. No more than five members of the board may be of the same political party. The law provides areas of experience, such as administrative, financial and teaching, that board members should have.
District of Columbia	The DC Public Charter School Board is comprised of seven members appointed by the mayor, from a list of 15 recommendations by the U.S. secretary of education. The law provides areas of experience – student learning, quality teaching and budgeting – that board members should have.
Idaho	The Idaho Charter School Commission is comprised of seven members appointed by the governor – three must be current or former members of boards of directors of charter schools; three must be current or former local school board members; and one must be from the public at-large.
Utah	The Utah State Charter School Board is comprised of seven members appointed by the governor – two must have expertise in finance or small business management; three must be appointed from a slate of at least six candidates nominated by Utah’s charter schools; and two must be appointed from a slate of at least four candidates nominated by the Utah State Board of Education.

Universities and Colleges

Nine states allow universities and colleges to authorize charter schools: Indiana, Michigan, Minnesota, Missouri, New York, North Carolina, Ohio and Wisconsin. In most of these states, certain universities and colleges can authorize charter schools throughout the state. Florida, Missouri and Wisconsin, though, have granted such authority in more limited circumstances.

Potential Advantages

- **Strong Connection to Mission.** Some universities and colleges see part of their mission as the improvement of the quality of life in their surrounding communities as well as the entire state. Cutting-edge universities and colleges can authorize charter schools to help in the achievement of this mission in novel ways. For example, they can authorize charter schools for students from families with little or no postsecondary experience. These schools can allow students to take college courses and receive high school and college credit for them. These schools also can ease transitions from high school to college and provide support to students once they are in college.
- **Build on Previous Experience with K-12.** Many universities and colleges have previous experience with K-12 education – in preparing teachers and administrators for K-12 schools and in providing professional development to K-12 teachers and administrators. An innovative postsecondary institution can combine the authorizing of charter schools with their teacher and administrator preparation and professional development efforts. These schools can serve as a place where prospective teachers can conduct their student teaching, prospective administrators can complete their internships, and practicing teachers and administrators can complete professional development residencies.
- **Visible and Credible Institutions.** Universities and colleges are institutions that are well known and highly regarded in their states. The schools they authorize may be viewed as more legitimate than schools authorized by lesser known entities. These schools also may build on the institution's deep ties in building support for their efforts.

Potential Disadvantages

- **Already Full Plates.** There is a lot of activity at universities and colleges. The authorization of public charter schools is a big step for already busy institutions. If universities and colleges want to head down this road, they need to take what it entails seriously and put into place certain things to increase the probabilities of success – adequate staff, finances and services.
- **Close Connections with Existing K-12 Institutions.** Many universities – particularly through their schools of education – are closely connected to the K-12 system's existing institutions (i.e., school boards, superintendents, teachers unions). These schools may be less than enthusiastic about authorizing charter schools independent of these institutions.
- **Political Repercussions from Districts.** Due to their authorizing of charter schools, some universities have reported they have felt political backlash from districts. For example, these districts have told the universities that their student teachers are no longer welcome in the district's classrooms. The bottom line is a university's authorizing efforts may ruffle the feathers of districts that are opposed to charter schools.

Policy Considerations

The first policy consideration for states that want to allow universities and colleges to authorize charter schools is: What is the capacity of universities and colleges in the state to serve as charter school authorizers? Are there some institutions that seem like logical choices to serve as authorizers because of their missions – such as an urban institution with a strong focus on public school reform – or their leaders – for instance, some university presidents may have track records of successfully engaging in innovative endeavors, particularly in K-12.

Another set of issues focuses on eligibility. Which universities and colleges should be allowed to serve as charter school authorizers? Should the state allow all public institutions to become authorizers or just certain ones, such as statewide institutions? Should the state also allow private institutions to serve as authorizers? Should eligible institutions be required to apply to the state for permission to serve as an authorizer? Should states reserve the right to revoke an institution's eligibility if it proves to be an ineffective authorizer?

The final issue is where universities and colleges should be able to authorize charter schools. Should they be limited in where they can charter? Or should they be allowed to charter schools throughout a state? Should it depend on the type of authorizer – e.g., a statewide institution should be able to authorize throughout a state but a regional community college should only be able to charter in that region?

Table 2
Types of University and College Authorizers

State	Public Four-Year	Community College	Private
Florida	A state university may grant a charter to a lab school.	A community college district board of trustees may grant a charter to a charter technical career center.	
Indiana	Public universities for applicants outside of Marion county.		
Michigan	State public universities.	Community colleges.	
Minnesota	The University of Minnesota or a state university governed by the Board of Trustees of the Minnesota State Colleges and Universities.	Community colleges and technical colleges governed by the Board of Trustees of the Minnesota State Colleges and Universities.	Private colleges that grant two- or four-year degrees.
Missouri	Public four-year college or university in or near the Kansas City or St. Louis school districts.	Community college in or near the Kansas City or St. Louis school districts.	
New York	State University of New York may approve start-ups.		
North Carolina	Any campus in the University of North Carolina system.		
Ohio	State universities approved by the state department of education may approve start-ups.		
Wisconsin	The University of Wisconsin-Milwaukee may authorize charters in Milwaukee and the University of Wisconsin-Parkside may authorize one charter school in Racine.	The Milwaukee Area Technical College may approve charters in Milwaukee.	

State Boards, Commissioners and Departments of Education

In 12 states, the state board of education, the state commissioner of education or the state department of education may directly authorize schools throughout the state. In several other states, one of these state entities may either directly authorize schools in limited circumstances or approve a charter application after a local school board has approved it. The entities that have undertaken the most authorizing activity are the Arizona State Board of Education, Massachusetts Board of Education, New Jersey Commissioner of Education, North Carolina Board of Education and Texas Board of Education.

Potential Advantages

- **Opportunity to Interact in Innovative Ways with Public Schools.** If a state allows its board, commissioner or department to authorize charter schools, it provides a great opportunity for the state to interact in innovative ways with its public schools. The state can use this opportunity as a laboratory for developing new policies and practices for all public schools based on the innovations that arise in its workings with its charter schools, particularly regarding how public schools are held accountable and overseen. If a state is to take full advantage of this opportunity, it should hire staff with certain skills – perhaps more along the lines of an entrepreneur than a bureaucrat. Some states, such as Minnesota, are creating new offices of choice or charter schools, as in Massachusetts, to undertake these activities.
- **Statewide Bully Pulpit.** By allowing existing state entities to authorize charter schools, states are vesting this authority in individuals with a statewide reach. In particular, state commissioners of education have the ability to use the bully pulpit to support and promote new but promising ideas such as charter schools. They also may use it to persuade district and school leaders as well as teachers, parents and students why they should support charter schools as one piece of the school reform puzzle.
- **State Backing Provides Credibility.** When a state allows an already existing state entity to become an alternative authorizer, it gives the new schools that are authorized the imprimatur of the state. In states with new or small charter movements, the state's sanction may be particularly important. The backing of the state provides a certain amount of credibility to the charters that it authorizes. This credibility may be most helpful to charter operators as they navigate the financial and facility markets in search of support for their fledgling school.
- **Existing State Capacity.** State agencies may have existing capacity that would help them oversee charter schools or provide them with valuable services such as professional development. As discussed below, some state systems may be too compliance-oriented to work well with charter schools. Other state systems, though, may prove useful to the state in its role as authorizer as well as to the schools that it authorizes.
- **State Needs Assessment.** A state entity will bring a statewide perspective to approving and overseeing charter schools. In partnership with a broad array of stakeholders both inside and outside of the traditional public education system, a state entity can identify the greatest needs in the state and solicit proposals for charter schools that fulfill these needs. It also can encourage collaborative efforts among districts and between districts and outside organizations to meet the identified needs.

Potential Disadvantages

- **Traditional Focus on Compliance.** Requiring an existing state entity to authorize charter schools may be problematic if the entity is primarily focused on compliance and not performance. In some agencies, the compliance-focused routines, cultures and practices that predominate may not match what is required for the entity to approve and oversee largely autonomous public schools based on performance.
- **Overloaded Agencies.** With the increasing demands from above and below in a tight fiscal environment, many state agencies already feel overburdened. They feel they don't have the ability to hire new – perhaps more entrepreneurial – staff to lead their charter authorizing work. Instead, they simply add these tasks onto the already full plates of current staff. A state's charter authorizing responsibilities become one of several for an already overworked staff member.
- **Stability.** Some state board members or commissioners are elected. Others are appointed by elected officials like governors. The election of new members or commissioners – or governors that appoint them – that aren't as supportive of charter schools as their predecessors may create a less hospitable environment for state-authorized charters.

- **Relationships with Local School Boards and Superintendents.** One reason a charter applicant may approach a state authorizer is that the local school board and superintendent are hostile to charter schools. If the state then authorizes that applicant, it may create resentment between the local school board and superintendent toward the approved school and the state. Additionally, state agencies may regard local school boards and superintendents as their primary “customers” or constituents, further complicating the politics of state authorizing of charter schools.

Policy Considerations

When a state allows an existing state entity to authorize charter schools, there is obviously political will between the governor and the legislature to make it happen. If the governor supports and appoints the state entity now tasked with authorizing and overseeing charter schools, it is likely the state entity will support the policy as well. But, in those situations where the governor doesn't appoint the state entity, is there will in the entity to effectively carry out its responsibilities?

A related consideration concerns the capacity of the existing entity. Should the state entity create a special office that will lead its charter authorizing activities? Are there individuals in leadership and administrative positions who have the skills to take on the largely new task of interacting with public schools from more of a performance and less of a compliance perspective? If not, does the state have the resources to identify and hire individuals to come on board to implant these tasks?

Mayors

One state, Indiana, has designated the mayor of Indianapolis as a charter authorizer within city boundaries. In 1999, mayoral candidate Bart Peterson made charter schools a central component of his campaign. After his election, the Legislature enacted the state's charter school law, which gave the mayor the power to authorize charter schools, with the ratification of the city-county council. In several other states, including California, Michigan and Missouri, legislatures have considered bills to designate mayors as authorizers, but as of fall 2005 only Indiana has enacted such a provision.

Potential Advantages

- **Direct Accountability to the Public.** As an official elected by the people of the city, a mayor is directly accountable to citizens for the performance of city government and the health of the city. Since a city's health is so inextricably tied to the quality of its public schools, such direct accountability creates a strong incentive for a mayor to make good decisions as a charter authorizer. Issuing charters to low-quality schools can undermine the mayor's support among the public and community leaders.
- **High Visibility.** Mayors receive a lot of attention from the media and the public. This kind of attention lends an unusually high degree of visibility to a mayor's charter school program and can thus create a high level of transparency for the charter initiative. When a mayor releases an annual report on schools' performance, for example, the media is very likely to cover it.
- **Potential for Advocacy and Support.** As a strong and vocal advocate for charter schools, a mayor can give the entire movement credibility – which in turn helps the schools attract students, funding and community support. The mayor also can lend his support to charter schools as they experience inevitable setbacks and as they navigate complex regulatory challenges. In Indiana, for example, Mayor Peterson of Indianapolis has played a critical role in advocating for improvements to the state's charter school law in such areas as school funding.
- **Access to Resources.** City governments have numerous resources that can be very valuable to schools. In Indianapolis, the mayor's charter school office has created a facilities financing program within the city's bond bank, encouraged the parks department and the public library system to collaborate with the schools and used public access television to provide information about the schools to the public. Other possibilities for mobilizing the city's resources could include: making surplus city buildings available to charter schools, co-location of city services with charter schools, linking charter schools with youth development programs and providing low-cost housing for charter school teachers. Beyond city government itself, mayors are also well-positioned to encourage effective community organizations to apply to open a school, identify talented people who are interested in serving on charter school boards, and raise private funds to support the charter initiative.
- **Local Knowledge.** Because they know the city's neighborhoods, mayors are in a good position to know which communities are most in need of stronger schooling options. When presented with a charter application, mayors are likely to have knowledge – or be able to acquire knowledge – about the founding group and their track record in other endeavors.

Potential Disadvantages

- **Lack of Education Expertise and Capacity.** Few mayors have expertise in education or in overseeing schools. Therefore, all of the systems and initiatives involved in authorization need to be created from scratch. While a mayor's office can draw on the practices of other authorizers, the design and implementation challenge is still significant.
- **Multitude of Responsibilities.** Mayors are responsible for all aspects of city government. As a result, a charter initiative will be just one of dozens of issues demanding the attention of a mayor.
- **Lack of Stability.** Another inherent dilemma with having mayors act as charter school authorizers is their political vulnerability. When a new mayor takes office, what happens to the charter school initiative? While it is difficult to imagine that it would be easy for a non-supportive mayor to close a popular, well-performing school, it is possible to imagine such a mayor making the climate much less welcoming by imposing burdensome regulations on existing schools or a moratorium on new schools. While turnovers in leadership are common for any authorizer, it could be particularly debilitating in the case of a mayor's office where many staff members are also hired only for the term of that particular mayor.

Policy Considerations

For a state that is contemplating mayors as potential charter authorizers, several important policy considerations emerge. First, what is the executive capacity of a state's mayors? In some states, mayors serve as chief executive officers of their cities, overseeing a large staff that runs multiple city agencies. In other places, a city manager plays the chief executive officer role, with the mayor serving as chair of the city council and the ceremonial leader of the city. While mayors in the latter case could serve as charter school authorizers, they would face added challenges related to building administrative capacity to authorize.

Second, should mayors across the state be authorizers or only those in designated cities? A state could limit mayoral authorizing to one or more of the state's largest cities, as Indiana did by naming only the mayor of Indianapolis as an authorizer. Alternately, a state could tie mayoral authorizing to academic performance in some way such as empowering mayors as authorizers only in districts whose academic performance falls below some threshold. Finally, a state could establish a process through which mayors could apply to become authorizers and receive the authority if they meet a set of state-established criteria.

Third, state policymakers must consider the capacity of its actual mayors. As with any field of human endeavor, there is a range of quality across the ranks of mayors. A state that allows mayors to authorize charter schools would want to have some confidence that, at least for the moment, the actual mayors assuming the authority have the capability to be effective authorizers.

City Councils

Wisconsin has empowered several entities within the city of Milwaukee to issue charters, including the city council, known in Milwaukee as the "Common Council." As noted above, the city-county council in Indianapolis must ratify the mayor's decision to issue a charter, but the council may not serve as an authorizer in its own right.

Potential Advantages

- **Similar Advantages to Mayors.** The potential advantages of giving city councils the authority to authorize charter schools are similar to those of having a mayor become an authorizer: city councils have high visibility, access to resources, directly accountability to the public and local knowledge. What sets city councils apart is they typically possess these characteristics to a lesser degree than a mayor. Their visibility is not quite as high as that of the mayor. They have less direct control of resources such as city agencies. And because they take action as a group, they have less direct accountability than an individual mayor.
- **Ability To Build Community Support.** Because city council members are typically representative of neighborhoods or stakeholder groups throughout the city, they could be in a strong position to build community support in their area of influence. As representatives of specific neighborhoods, they are usually quite familiar with these neighborhoods and could identify which community organizations would be strong candidates to operate or support charter schools. They also would be able to identify resources that would strengthen a charter school as it gets off the ground, including partner organizations, funding opportunities and available facilities.

Potential Disadvantages

- **Lack of Stability.** As elected officials, council members are vulnerable to being replaced by individuals who are less supportive of charter schools. Council members in many cities have short, staggered terms, which make them less able to launch or sustain such an initiative.
- **Limited Ability To Set Up and Oversee Staff To Manage Day-to-Day Responsibilities.** Typically, council members do not have access to the organizational resources that are needed to support the work of authorization. Without a permanent staff of at least a few full-time employees, it would be difficult to implement a high-quality application and accountability process. City councils would need to have access to funding to support these employees, and they would also need to develop a system for monitoring this office.
- **Lack of Coherence.** Like school boards, city councils are typically elected by multiple geographic constituencies. They are thus likely to contain multiple viewpoints and perspectives and represent a variety of interests. This multiplicity of priorities can make it difficult for a council to take the kind of decisive, focused actions that are the hallmarks of strong authorizers.
- **Multitude of Responsibilities.** City council members have a wide range of responsibilities, many of which are far removed from concerns about schools. They are often part-time public servants, limiting the time they can focus on the potentially burdensome work of charter authorizing.

Policy Considerations

The same policy considerations that apply to mayors also pertain to city councils. Do city councils in the state have access to the administrative apparatus that is needed for effective authorizing? Should authority go to all city councils, just those in larger cities, just those in academically distressed areas or just those that meet state criteria? And given the actual composition of the state's city councils, are they up to the task of effective authorizing, at least for the moment?

Nonprofit Organizations

Nationwide, the vast majority of charter authorizers are public agencies. Two states – Minnesota and Ohio – however, also have empowered certain nonprofit organizations to issue charters.

Potential Advantages

- **Credibility and Visibility.** Existing nonprofits often have credibility and are well known within their communities. Such credibility could be helpful to the charter schools they authorize if, as a result, the schools are better able to attract students and resources.
- **Prevalence.** For a state interested in increasing the sheer quantity of authorizers, nonprofits offer an attractive alternative because there are a relatively large number of them.
- **Experience with the Challenges of Starting and Managing an Organization.** An existing nonprofit has dealt with many of the challenges that often face start-up charter schools – from organizing a board to managing a budget. As a result, some nonprofits are in a good position to evaluate whether a charter applicant has the ability to successfully meet these challenges. They are also in a position to provide technical assistance to approved charter schools on operational issues.
- **Knowledge about Particular Neighborhoods or Populations.** Nonprofit organizations are often designed to meet the needs of specific neighborhoods or particular clienteles. This level of community involvement could potentially enable the nonprofit to identify what types of schools would best meet the needs of students from a given area. It also could be beneficial in a nonprofit authorizer's efforts to monitor its charter schools.
- **Experience with School-Age Children.** Many nonprofit organizations already provide services to school-age children – from health services to food services to after-school programs. They often provide these services in partnership with public schools so they are familiar with the challenges that schools face and may be open to innovative ideas about how to address these challenges successfully.
- **Commitment to a Mission of Improving Opportunity for All Students.** Many nonprofits are in the business of providing opportunity to people with limited resources. Job-training programs, health clinics and community centers, for example, are all designed to improve their clients' quality of life. Too often, these organizations work to

make up for lost ground, rather than investing in what is often at the core of their client’s difficulties – an inadequate and inferior education. One way for them to address this dilemma without losing sight of their own area of expertise is to take on the responsibility of becoming a charter school authorizer. In this way, a nonprofit can connect its work with a long-term investment in building quality public schools in its community.

Potential Disadvantages

- **Lack of Public Accountability.** In contrast to public bodies, nonprofits are not directly held accountable by the public. The public’s instruments for holding nonprofits accountable, such as revocation of their nonprofit status, are very blunt and rarely used except in cases of extreme malfeasance. In addition, nonprofits who become charter school authorizers are unlikely to receive the same level of public scrutiny as other authorizer types such as mayors, state agencies and independent special-purpose boards. The media also is unlikely to be as interested in them. As a result, a state that designates nonprofits as charter authorizers would likely want to create a system of public accountability for them. See the Policy Considerations below for more discussion of this question, as well as the sidebar for a description of how Minnesota and Ohio have approached this issue.
- **Unfamiliarity with Many Aspects of Authorization.** In most cases, an existing nonprofit will be taking on a new responsibility – the authorization and oversight of charter schools – that is quite different from what it is currently doing. For this reason, the state needs to be certain that some nonprofits are willing and able to invest the time and resources necessary to become an effective authorizer. While nonprofits can draw on the practices of other authorizers, the design and implementation challenge is still significant. In Ohio, foundations created a nonprofit Ohio Charter School Sponsors Institute to assist nonprofits in this endeavor.
- **Competing Initiatives.** A possible problem associated with nonprofits becoming authorizers is it might cause too much strain on the existing organization. It is difficult enough to manage an effective organization designed to provide one set of services, so adding a very different set of responsibilities could result in an overall loss of effectiveness.
- **Scarce Resources.** Another potential drawback for existing nonprofits is becoming a charter school authorizer might further tax their already scarce financial and personnel resources. To successfully launch such an initiative, states need to think about how much funding is required to implement an effective authorizing system and how nonprofits who become authorizers could get additional funding.

Policy Considerations

Because nonprofits are not public agencies, a unique set of policy considerations emerges for them. The first concerns eligibility. States have hundreds or thousands of nonprofits. Will states create eligibility requirements for nonprofits that want to become charter authorizers and, if so, what will they be? For example, will nonprofits have to be previously youth-serving and, if so, what does that mean? Will they have a certain asset base or annual revenue amount to meet or some other size criterion? Will they have to meet an age criterion? As noted above, one state has considered legislation allowing new nonprofits to be formed as single-purpose authorizers. In these situations, will states entertain applications from newly forming nonprofits that wish to be authorizers?

A second consideration concerns approval. Will nonprofits that meet eligibility requirements automatically be able to charter, or will they have to seek approval? If so, from whom and through what process? A final consideration relates to oversight and accountability. Will some state agency oversee nonprofit authorizers? If so, how? What reporting requirements will nonprofits have to follow? Will nonprofits’ decisions have to be vetted or approved by a state body? Under what circumstance can a nonprofit lose its “license” to authorize?

New versus Existing Nonprofits

Many of the considerations above relate to existing nonprofits taking on the role of charter authorizer. Legislation introduced in Minnesota, however, takes a different tack: it gives the state the authority to empower new organizations to be formed as single-purpose charter authorizers. Such authorizer might have a focus on a certain geographic area, a certain kind of student population or a certain type of school design. Because such organizations would be “chartered” by the state for the express purpose of authorizing, they would arguably have a certain degree of direct public accountability. And because they would be start-up, single-purpose authorizers, they would not have the competing demands and priorities that can create problems for existing nonprofits that become charter authorizers.

Table 3
How Nonprofit “Sponsorship” Works in Minnesota and Ohio

	Minnesota	Ohio
Which nonprofits are eligible to serve as authorizers (sponsors)?	Nonprofit corporations exempt under 501(c)(3) must be a member of the Minnesota Council of Nonprofits or Council on Foundations and report an end-of-year fund balance of at least \$2,000,000. 501(c)(6) corporations that have been in existence for at least 25 years may sponsor charter schools that have operated for at least three years under a different sponsor.	Nonprofit corporations must be recognized as a 501(c)(3), have a declared educational mission, have been in existence for at least five years and have at least \$500,000 in assets at the time they are considered for eligibility.
What is the approval process?	A nonprofit must file an affidavit with the state department of education stating its intent to authorize a charter school and outlining the terms and conditions under which the nonprofit would authorize a charter school. The state commissioner of education approves or disapproves the nonprofit’s proposed authorization within 60 days of receipt of the affidavit.	The nonprofit must file an application with the state department of education outlining how it will monitor and evaluate the academic and fiscal performance of schools, ensure schools’ compliance with its contract and all applicable laws, report on the academic and fiscal oversight of schools, and intervene if charter schools fail to perform satisfactorily. The nonprofit also must have representatives located within 50 miles of the any school it sponsors.
Oversight and accountability	Nonprofits must submit reports about fiscal and student performance at each school to the state department of education “in a timely manner.” The state commissioner of education may terminate the nonprofit’s relationship if a charter school has a history of financial mismanagement or repeated violations of the law.	The state board of education may revoke the authority of a nonprofit at any time if the board finds the nonprofit has failed to comply with applicable law or with the sponsorship agreement or charter school contract to which it is a party.

Regional Educational Entities

Many states have intermediate or regional educational agencies that span multiple school districts. Some states have empowered these entities as charter authorizers, including Michigan, Minnesota and Ohio. In California, county offices of education can issue charters that operate in multiple sites across a county or upon appeal of a local school board’s rejection of a charter application.

Potential Advantages

- **Regional Perspective Allows Authorizers To Identify Needs.** Regional educational entities can take a broader perspective on the provision of public education than local school districts. They can identify what is needed across the region and authorize charter schools designed to meet the requirements of particular students whose needs are not being well met by individual districts – for example, drop outs or those at risk for dropping out of school, gifted students and students with behavior challenges. Regional provision also could be a more efficient way to provide certain programs – distance learning programs, for example – to those who want them.
- **Access to Resources.** A school chartered by a regional educational entity could tap into the wide array of resources such an organization offers, such as after-school and extracurricular programs, technology support, back-office financial and human resources operations, transportation, and special education.

- **Insulation from Politics.** In contrast to local school boards, regional educational entities are often one step removed from the politics that can hinder local school board decisionmaking. It may therefore be easier for regional bodies to make child-centered decisions about charter authorization and accountability.
- **Expertise in Managing Schools.** Some regional educational entities have direct experience managing schools and school programs.

Potential Disadvantages

- **Lack of Independence from Local School Boards.** Boards composed of local school board members and superintendents or their designees govern some regional educational entities. For a state eager to find alternatives to local school board authorization, such regional boards may not provide enough of an alternative to free up authorizing significantly.
- **Multiple Responsibilities.** Regional educational entities could be hindered by too many competing responsibilities. Careful thought would have to go into planning how a separate authorizing office within the entity would be funded and staffed.
- **Lack of Public Accountability.** The flip side of regional educational entities' insulation from politics is their lack of direct public accountability. Their actions are likely to receive less scrutiny than those of more directly accountable authorizers, and the public has limited means of holding them accountable if they do a poor job of authorizing.

Policy Considerations

The status of regional educational entities varies greatly from state to state. At one end of the continuum, some states do not have such regional entities. At the other end, some states have highly regarded, high-capacity regional infrastructure. States in between have regional entities with a range of capabilities and credibility. Where a state lies on that continuum will be a critical consideration for policymakers examining this option.

As with other types of authorizers, states also need to consider whether all regional entities will be designated as charter authorizers or only certain ones. In the latter case, will regional entities meeting certain criteria automatically be designated, or will there be some kind of approval process? How will the approval process work? How will the entities be held accountable over time for their decisions?

CREATING A STATE AUTHORIZING SYSTEM

State policymakers interested in creating alternative authorizers face two critical sets of design issues. The first relates to what mix of charter authorizers makes sense for their state. The second relates to the systems that states must establish to select authorizers, provide them with capacity and hold them accountable for high-quality authorizing.

Mix of Charter Authorizers

The previous section considered several discrete types of authorizers one by one. But what mix of authorizers makes sense in a particular state?

- **Consider the Actual Institutions in the State.** This brief has outlined hypothetical advantages and pitfalls, but what do these entities really look like in the state in question? For instance, are there universities and colleges that are interested and capable? Or are mayors a viable option? Looking at actual capacity may help narrow the list of possibilities. It also may suggest the need to consider creating new entities, either by creating an independent special-purpose charter board (as in Arizona and the District of Columbia) or by inviting proposals to establish new single-purpose authorizers (as has been proposed in Minnesota).
- **Consider Constitutional and Legal Issues.** Some state constitutions require public education to be overseen by states and/or districts. These provisions may rule out non-state and/or non-district authorizers. In addition, careful legislative drafting may be necessary to ensure schools chartered by alternative authorizers still qualify as public schools under constitutional and legal definitions. For example, it may be necessary in some states for the state board of education to exert some kind of final approval over charters issued or to oversee alternative authorizers in some way.
- **Consider the Potential Quality-Quantity Tradeoff.** More authorizers means more opportunities for charter schools to open, creates more room for experimentation and focus, and produces a dynamic of competition that can spur improvement in authorizing practices. But having more authorizers may mean dipping deeper into the quality pool, especially if financial and leadership resources are scarce. In addition, some research on charter authorizing has found that authorizers with higher levels of authorizing volume are more effective than those that only charter one or two schools. As one study concluded, “States with fewer authorizers, serving more schools each, appear to be doing a better job.”⁴

Colorado Charter School Institute

Colorado’s state constitution contains strong language granting local school boards control over public education. Article IX, Section 15 of the state constitution vests the directors of local boards of education with “control of instruction in the public schools of their respective districts.” Colorado is one of only six states with such an express constitutional provision for local governance, and its state courts have consistently emphasized principles of local control. In the state’s initial charter law, only local school boards could issue charters. Rejected applicants could appeal to the state board of education, but even in the case of successful appeals the local school board would, at the direction of the state board, become the school’s authorizer. So when legislators decided to create an alternative statewide authorizer, they faced a serious constitutional challenge – how to empower an alternative statewide authorizer within the constraints of the local control provisions?

Legislation creating the Colorado Charter School Institute addressed this challenge by giving individual local school boards the opportunity to retain “exclusive jurisdiction” – the exclusive authority to issue charters. In districts with exclusive jurisdiction, the institute is prohibited from issuing charters. Districts with less than 3,000 students or in which charter school enrollment represents a disproportionate percentage of students who qualify for free or reduced-price lunch can request automatic exclusive authority by the state board. Those districts that do not automatically receive exclusive authority but desire it must apply to the state board. To grant exclusive authority to a district, the state board must determine the district has provided equitable treatment to its charter schools during the four years prior to the local board’s application for exclusive authority based on several factors, including compliance with full and accurate accounting practices and principles for central administrative overhead costs and the absence of a school district moratorium on chartering or districtwide charter school enrollment limits. The state board’s determinations may be legally challenged by anyone within 30 days of the state board’s decision.

A related concern relates to the potential for a “race to the bottom” in a multiple authorizer context. If a state has a large number of charter authorizers and if authorizers’ revenue is tied to the scale of their “portfolio,” then authorizers may have an incentive to compete for potential charter applicants. Some competition could be healthy – it could result in streamlined application processes, elimination of needless regulation and red-tape, and lower authorizing fees for charter applicants. But if competition produces lower expectations for student learning, then it works against the aims of charter school accountability.

This last consideration points to the need for state policymakers to consider the mix of authorizer types within the context of the broader system through which authorizers are funded and held accountable.

Support Systems for High-Quality Authorizing

Through its policies, a state creates the environment within which charter authorizing takes place. This environment has several components, including:

- **Funding.** Does the state seek to ensure authorizers have the resources to carry out their functions? On the one hand, insufficient resources can hinder effective authorizing. On the other, states may wish to encourage authorizers to come up with their own resources, both to conserve state funds and to engender a high level of commitment by authorizers. If a state decides to provide funding, how should it do so? Through a state appropriation? By allowing authorizers to retain a portion of per-pupil funding from schools they charter or otherwise charge schools fees? State policymakers need to pay careful attention to the incentives created by whatever funding system they establish. For example, funding tied to the number of schools may encourage authorizers to charter more schools than they should, effectively lowering the bar for approval. And it may make authorizers reluctant to close poorly performing schools. Funding tied to enrollment may encourage authorizers to charter schools that are larger than they would otherwise. At the same time, other mechanisms, like a flat appropriation for authorizing, might provide insufficient resources for high-volume authorizers.
- **Eligibility and Approval.** Do authorizers have to meet any criteria or go through some kind of process to become eligible to authorize? If so, what? Criteria could include size, longevity or other measures of capacity. A process could ask prospective authorizers to explain the systems they plan to use as authorizers, which could then be assessed according to the state’s criteria for high-quality authorizing systems.
- **Authorizer Switching.** Can a school apply to switch authorizers? Can they do so within a charter term? Must a state entity vet requests to switch?
- **Decisionmaking.** Are authorizers’ decisions subject to approval by some state entity? Can applicants appeal rejections to a state entity? If so, through what process?
- **Caps.** If a state with multiple authorizers has a cap on the number of charter schools or the number of charters issued in a year, how does the “rationing” process work? Does the state maintain a first-come-first-served list, and shut off authorizing once the cap is reached? Or do individual authorizers receive a certain number of charters they can issue? In that case, what happens to unused charters? What happens to charters that are revoked or relinquished?
- **Accountability over Time.** Do authorizers have to meet any performance standards to retain their authority to authorize charters? If so, what? Who decides, and through what process? What happens to schools chartered by a certain authorizer if the authorizer loses its “license”?

Each of these design issues merits careful thought, and there are few easy answers. Yet together, they create the environment within which authorizing will take place in a state. Given the importance of quality authorizing to the creation of quality schools, working through these critical issues is well worth the effort for state policymakers.

Appendix A Who Can Authorize Charter Schools in Each State?

State	Local School Boards	Independent Charter Boards	Universities and Colleges	State Boards/ Commissioners/ Departments of Education	Mayors	City Councils	Nonprofit Organizations	Regional School Districts
Alaska	Dual approval from local board and state board of education (SBE)			Dual approval from local board and SBE				
Arizona	Yes	Arizona State Board for Charter Schools		SBE				
Arkansas	Dual approval from local board and SBE			Dual approval from local board and SBE; denied applicants may appeal to SBE				
California	Yes			SBE if sites across multiple counties; applicants denied by county boards may appeal to SBE				County boards may approve multi-site schools within county; applicants denied locally may appeal to county boards
Colorado	Yes ⁵	Colorado Charter Schools Institute		Denied applicants may appeal to SBE				

State	Local School Boards	Independent Charter Boards	Universities and Colleges	State Boards/ Commissioners/ Departments of Education	Mayors	City Councils	Nonprofit Organizations	Regional School Districts
Connecticut	Dual approval from local board and SBE			SBE can approve directly or jointly with local or regional board				Dual approval from regional board and SBE
Delaware	Yes			Start-ups, with approval of both SBE and state secretary of education				
District of Columbia	Yes	District of Columbia Public Charter Schools Board						
Florida	Yes		State universities and community college district boards ⁶	Denied applicants may appeal to SBE				
Georgia	Dual approval from local board and SBE			Dual approval from local board and SBE; denied applicants may appeal to SBE				
Hawaii				SBE upon recommendation of charter school review panel				
Idaho	Yes	State public charter school commission may approve start-ups		Denied applicants may appeal to state commissioner of education (SCE), then SBE				

State	Local School Boards	Independent Charter Boards	Universities and Colleges	State Boards/ Commissioners/ Departments of Education	Mayors	City Councils	Nonprofit Organizations	Regional School Districts
Illinois	Yes			If local voters approve charter in referendum, then SBE must approve it; denied applicants may appeal to SBE				
Indiana	Yes ⁷	Denied applicants may appeal to a state charter school review panel	Public universities for applicants outside of Marion county		Indianapolis only			
Iowa	Dual approval from local board and SBE			Dual approval from local board and SBE; denied applicants may appeal to SBE				
Kansas	Dual approval from local board and SBE			Dual approval from local board and SBE				
Louisiana	Yes			SBE; denied applicants may appeal to SBE				
Maryland	Yes			SBE on appeal of local rejection or when restructuring a school as a charter school				
Massachusetts	Dual approval from local board and SBE for Horace Mann charter schools			SBE for Commonwealth charter schools and dual approval from local board and SBE for Horace Mann charter schools				

State	Local School Boards	Independent Charter Boards	Universities and Colleges	State Boards/ Commissioners/ Departments of Education	Mayors	City Councils	Nonprofit Organizations	Regional School Districts
Michigan	Yes		Community colleges or state public universities					Intermediate school boards
Minnesota	Yes, subject to approval by SCE		Public postsecondary institutions or private colleges, subject to approval by SCE	SCE must approve all charters; denied applicants may appeal to SCE			Cooperatives and nonprofit organizations, subject to approval by SCE	Intermediate school boards, subject to approval by SCE
Mississippi	Dual approval from local board and state department of education (SDE)			Dual approval from local board and SDE; denied applicants may appeal to SBE				
Missouri	Kansas City and St. Louis school boards		Community college or a public four-year college or university in or near the Kansas City or St. Louis school districts	SBE may disapprove the granting of a charter				
Nevada	Dual approval from local board and SDE			Dual approval from local board and SDE; charter schools serving special education students must be approved by SDE; denied applicants may appeal to SBE				

State	Independent			State Boards/ Commissions/ Departments of Education			City Councils	Nonprofit Organizations	Regional School Districts
	Local School Boards	Charter Boards	Universities and Colleges	Mayors	State Boards/ Commissions/ Departments of Education				
New Hampshire	Dual approval from local board and SDE			SBE directly ⁸ or dual approval from local board and SDE; denied applicants may appeal to SBE					
New Jersey				SCE; denied applicants may appeal to SBE					
New Mexico	Yes			Denied applicants may appeal to SBE ⁹					
New York	Local school boards and the New York City chancellor		State University of New York board of trustees may approve start-ups	State Board of Regents (SBR) may approve start-ups; all other authorizer decisions subject to SBR approval					
North Carolina	Dual approval from local board and SBE		Dual approval from any campus in the University of North Carolina system and SBE	SBE directly or dual approval with local or university boards; denied applicants may appeal to SBE					
Ohio ¹⁰	Yes		State universities as approved by SDE may approve start-ups	SDE when another authorizer fails to comply with its obligation as sponsor			Federally tax-exempt entities, as approved by SDE may approve start-ups	Boards of joint vocational school districts and educational service centers for start-ups	
Oklahoma ¹¹	Yes							Area vocational-technical school district	

State	Local School Boards	Independent Charter Boards	Universities and Colleges	State Boards/ Commissioners/ Departments of Education	Mayors	City Councils	Nonprofit Organizations	Regional School Districts
Oregon	Yes			Denied applicants may appeal to SBE				
Pennsylvania	Yes	Denied applicants may appeal to a state charter school appeals board						
Rhode Island	Dual approval from local board and State Board of Regents			State Board of Regents after approval by local board or SCE				
South Carolina	Yes, after review by the state charter advisory committee			Denied applicants may appeal to SBE				
Tennessee	Yes			Denied applicants for start-up "alternative charter schools" may appeal to SBE				
Texas	Yes for district approved charters			SBE for open-enrollment charters				

State	Local School Boards	Independent Charter Boards	Universities and Colleges	State Boards/ Commissioners/ Departments of Education	Mayors	City Councils	Nonprofit Organizations	Regional School Districts
Utah	Yes, subject to SBE approval	State charter school board directly or on appeal of local rejection, subject to SBE approval		SBE must ratify others' approval; applicants denied by state charter school board may appeal to SBE				
Virginia	Yes							
Wisconsin	Yes		Three specific public institutions only ¹²	Applicants rejected by local board in Milwaukee may appeal to state superintendent of public instruction		Common Council of Milwaukee only		
Wyoming	Yes			Denied applicants may appeal to SBE				

ENDNOTES

¹ National Association of Charter School Authorizers, *Principles & Standards for Quality Charter School Authorizing*, Alexandria, VA: Author, 2005.

² Ted Kolderie, *Creating the Capacity for Change: How and Why Governors and Legislature Are Opening a New-Schools Sector in Public Education*, St. Paul, MN: Education Evolving, 2004.

³ CRS 22-30.5-503.

⁴ Louann Bierlein Palmer and Rebecca Gau, *Charter School Authorizing: Are States Making the Grade?* Washington, DC: The Thomas B. Fordham Institute, 2003, p. 1. See also Bryan C. Hassel and Meagan Batdorff, *High-Stakes: Findings from a National Study of Life-or-Death Decisions by Charter School Authorizers*. Chapel Hill, NC: Public Impact, 2004.

⁵ A charter school applicant may submit an application to the local board or, if the school district in which the charter school is to be located has not retained exclusive authority to authorize charter schools from the SBE, to the state charter schools institute.

⁶ A state university may grant a charter to a lab school. A community college district board of trustees may grant a charter to a charter technical career center.

⁷ When 50% of the students in a district will attend a charter school, a local school board must get approval from the state department of education.

⁸ Direct approval by SBE only available between July 1, 2003, and June 30, 2013.

⁹ SBE also may review local board decisions on its own motion. Approved applicants also may appeal unacceptable conditions imposed by local boards to SBE.

¹⁰ In Ohio, start-up charter schools are limited to “big eight” school districts, “academic emergency” school districts, “academic watch” school districts and school districts that are part of a “pilot project area.”

¹¹ Charter schools may only be sponsored by a school district or an area vocational-technical school district in districts with an average daily membership of 5,000 or more, and in which all or part of the district is located in a county having more than 500,000 residents or in a county which is contiguous with a county having 500,000 residents.

¹² University of Wisconsin-Milwaukee and Milwaukee Area Technical College may serve as charter authorizers in Milwaukee. The University of Wisconsin-Parkside may sponsor one charter school in Racine.

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