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IMPROVING OVERSIGHT OF MICHIGAN CHARTER SCHOOLS AND THEIR AUTHORIZERS

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Contents

Summary	v
Introduction.....	1
Premise of Charter Schools.....	2
Michigan Charter Schools	3
History	3
Funding.....	4
Charter Schools Today	4
Charter School Authorizers.....	6
Michigan Model of Charter Authorizing.....	6
The Current Makeup of Authorizers	8
Why Michigan Chose Higher Education Authorizers	9
Charter Authorizer Models in Other States.....	12
Assessing Oversight and Accountability.....	14
The State's Interest in Oversight of Charter Schools	14
Defining Accountability and Oversight	15
Accountability	15
Oversight	18
Oversight of Charter Schools	20
State Government Oversight of Charter Schools	21
Accountability	21
Stewardship of Public Resources	25
Objectives and Standards	26
Avoiding Harm	29
Authorizer Oversight of Charter Schools.....	29
Oversight Requirements in Michigan's Charter School Law.....	30
The Ability of Michigan Authorizers to Provide Oversight	31
Accountability	35
Stewardship of Public Resources	39
Objectives and Standards	41
Avoiding Harm	42

Contents (continued)

State Oversight of Charter School Authorizers	42
Accountability	42
Authorizer Accreditation	43
Authorizer Evaluations	44
Stewardship of Public Resources	46
Objectives and Standards	47
Role of State Superintendent and Department of Education	47
Avoiding Harm	49
Issues, Alternatives, and Recommendations	50
Strengthen Oversight of Charter Schools	50
Regulations	51
Education Service Providers	52
Strengthen the State's Power over Authorizers	52
Change Who is Able to Authorize Charter Schools	52
Adopt Administrative Rules	52
Reduce Autonomy	53
Authorizing as a Privilege, Not a Right	53
Accreditation Requirements for All Authorizers	54
Appeals Processes	54
Improve Authorizer Oversight Activities	54
Statutorily Define Oversight Responsibilities of Authorizers	54
Define State Government Responsibilities	55
Sunshine Laws	56
Improve Quality of Authorizing	56
Public Funding Dedicated to Authorizer Oversight	57
Review Finances of Administrative Fees	57
Authorizer Hopping	57
Siting Schools	57
Conclusion	58
Endnotes	59

Boxes

Key Takeaways.....	v
Education Service Providers and Charter Schools.....	5
Different Types of Charter Schools.....	7
The Challenges of Educating Board Members.....	16
Accountability Systems Timeline	22
Federal Laws	28
Strengthening Authorizer Oversight Responsibilities in Other States.....	32
Superintendent’s “At-Risk” Authorizer List.....	45
Origins of the Assurance and Verification Review	46

Charts

Chart 1 Pupil Enrollment and Charter School Growth, 1994-95 to 2018-19.....	4
Chart 2 Student Enrollment by Authorizer	8
Chart 3 Detroit Resident Public School Enrollment, 2018	25
Chart 4 Student Enrollment and University Charter School Office Staff.....	34

Figures

Figure 1 Active Charter School Authorizers: Appointed and Elected Boards	11
Figure 2 Accountability Structures: Traditional Public Schools and Charter Schools.....	18
Figure 3 Accountability Systems Timeline	23
Figure 4 Charter School Waivers.....	27
Figure 5 Example of Measuring Growth Relative to Charter Expectations	37
Figure 6 Charter School Authorizer Switches, 2015-19.....	40

Maps

Map 1 Number of Charter Schools by Location.....	6
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Tables

Table 1 Student Enrollment in Michigan, 2017-18	4
Table 2 Student Enrollment and Schools by Authorizer Type.....	8
Table 3 Charter Authorizer Models	12
Table 4 Types of Charter School Authorizers across the U.S., 2018.....	13
Table 5 University Authorizers by State	13
Table 6 Charter School Authorizer Switches in Michigan, 2014-15 to 2018-19.....	41

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IMPROVING OVERSIGHT OF MICHIGAN CHARTER SCHOOLS AND THEIR AUTHORIZERS

Key Takeaways

1. All schools are judged on performance, but charter schools replace the democratic accountability historically used for traditional school districts with market accountability. The idea is that successful schools will thrive and drive innovation in education and unsuccessful schools will close; however, strong oversight is needed to ensure the productive use of public resources and the well-being of children.
2. Responsibility for charter school oversight in Michigan has been largely delegated to the entities that authorize the schools, 87 percent of which are universities and community colleges. Neither the state superintendent nor other state officials have significant oversight powers over authorizers and the important responsibilities entrusted to them, creating a disconnect with the public and reducing accountability.
3. Enhanced oversight of the authorizers is key to good oversight of charter schools. Several steps could be taken to strengthen oversight of the authorizers: the state superintendent could adopt administrative rules that set out requirements for the authorizers and provide better oversight, the legislature could enact statutes that define oversight expectations and responsibilities, and the legislature could make charter school authorizing a privilege that must be earned and maintained.

Summary

The Citizens Research Council of Michigan embarked on this research at the request of the Levin Center at Wayne Law with the goal of examining public oversight of Michigan charter schools and their authorizers and found that it is very difficult to determine the level of oversight that currently exists due, in part, to multiple issues associated with the system created to authorize these types of public schools. We can conclude, however, that while authorizers of charter schools are currently providing some degree of oversight, the degree and quality of oversight is unknown and not available to the public, because oversight of the authorizers is lacking. This is a problem since charter schools are providing public education services with tax dollars.

Oversight is an integral part of governance that has come to be overlooked in many ways. In broad terms, oversight refers to:

- Holding administrators and officials accountable for their actions
- Ensuring sound stewardship of public resources (both monetary and the public trust)
- Ensuring adherence to objectives and procedural standards established by law, regulation, or other means

- Avoidance of harm (in this case both the potential harm of receiving a substandard education and the potential harm that might come from unsafe buildings, bullying, or other physical harm)

As it relates to delegation of the responsibility of education and the enactment of laws for the execution of that responsibility, oversight should provide assurances that a quality education is being provided, that public money is being used prudently and effectively, and that children are not put in harm's way in the environments used to provide educational services.

Inherent in oversight is accountability, which can take many forms. Democratic accountability helps to provide public oversight of traditional public schools, but is generally lacking with charter schools. Instead, charter schools rely on market accountability, but it alone is not sufficient to provide quality charter schools and it does not provide public oversight. Legal accountability, or compliance-based regulation (also referred to as "checkbox" oversight), is present for all public schools, but its focus on inputs rather than outputs can provide the façade of accountability while hindering true oversight. In addition to compliance-based regulation, charter schools must meet standards set by their

authorizing bodies. The lack of public accountability in place for most of those authorizing bodies (i.e., universities) means the public cannot easily know about the rigor of their oversight activities. Without public accountability, the value of the oversight is minimal.

Beyond the existence of these different types of accountability in the charter sector, true oversight requires formal processes to hold schools and authorizers accountable coupled with a proper mix of incentives and sanctions. It also requires transparency, timeliness, and efficiency to be effective.

A number of oversight mechanisms are used to monitor charter schools, but it is difficult to know the rigor with which the authorizers are engaging in oversight activities because Michigan's law does not explicitly state how authorizers should hold schools accountable and does not include many oversight mechanisms for

the authorizers themselves. It is not clear how active each authorizer is in helping the schools' boards of directors and administrators to identify and steer clear of pitfalls. It is not clear to the public how schools are held accountable for their actions short of revoking the charters. It is difficult to know how the authorizers are using funds made available to them; how private management companies use the public dollars they receive; and what protections are in place to keep individuals from enriching themselves with the public funding.

The public is generally not made aware of how authorizers decide to charter a school, coordinate the siting of schools, or decide to renew or revoke a charter. Oversight of public education is necessary; leaving oversight responsibilities to charter authorizers without public oversight of the authorizers and their diligence in monitoring their schools is inadequate.

Charter Schools in Michigan

In the 2019-20 school year, 297 charter school districts operating 377 schools enrolled almost 150,000 students (10 percent of all students enrolled in public schools). These schools are predominantly located in urban areas such as Detroit, Grand Rapids, Flint, Ypsilanti, Lansing, and Saginaw (see **Map A**).

Michigan law empowers every type of educational entity, except those that are formally part of the state government (superintendent, board of education, and department of education), to play a role in authorizing charters. Eligible authorizers include (see **Table A** on page vi):

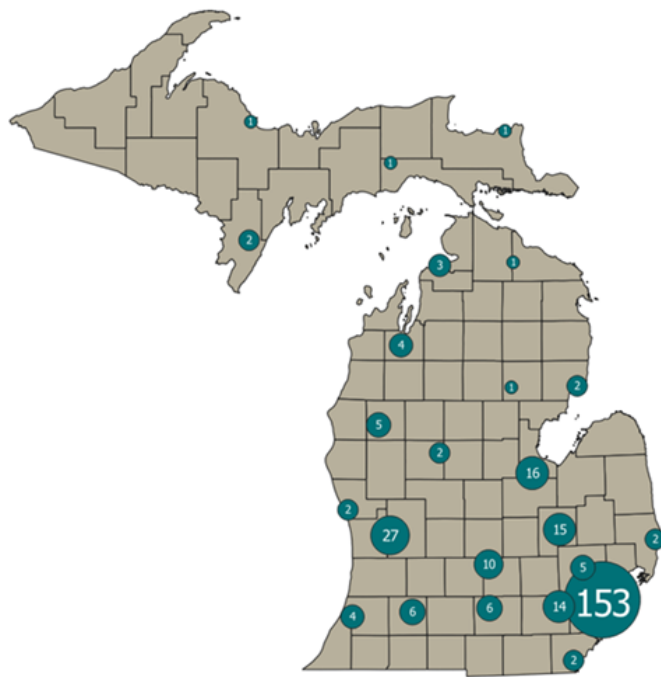
- The governing body of a state university
- The board of a community college, including a federal tribally controlled community college
- The board of an intermediate school district (ISD)
- The board of a local K-12 school district

While other states empower universities to grant charters, Michigan's reliance on higher education institutions for charter school authorizing is complicated by the state's unique public university governance model. Most other states' constitutions empower the state legislature to provide for systems of higher education, but Michigan's Constitution is one of the few that enumer-

ates specific institutions and specifies the governance and autonomy of those schools.

Map A

Number of Charter Schools by Location



Source: Michigan Educational Entity Master

Table A
Student Enrollment and Schools by Authorizer Type

	Enrollment	Percent	Schools	Percent
University	106,349	73.7%	260	71.6%
Community College	24,767	17.2%	55	15.2%
Local School District	9,427	6.5%	30	8.3%
Intermediate School District	<u>3,715</u>	<u>2.6%</u>	<u>18</u>	<u>5.0%</u>
	144,258	100.0%	363	100.0%

Source: National Center for Education Statistics, Common Core of Data

boundaries; however, public universities and Bay Mills Community College (a federal tribally controlled school) are statewide authorizing bodies under state law and therefore can charter schools throughout the state. By vesting authority to issue charters and the assumed oversight responsibility associated with that authority to the governing boards of public universities, public oversight becomes less clear and possibly more difficult.

Community college districts, ISDs, and K-12 school districts can charter schools only within their geographic

Strengthen Oversight of Charter Schools

Charter schools are subjected to oversight from their authorizers, as well as limited oversight from the state government. The state can force the closure of the lowest-performing schools and the state superintendent can “suspend” authorizers that are not engaging in appropriate oversight and monitoring of their schools, but this authority is without clear definitions on its scope and extent. All power given to the Michigan Department of Education (MDE) and state superintendent is without explicit standards or consequences and that limits its effectiveness.

MDE, like many state departments, approaches oversight as an exercise in “checkbox” accountability. Are the statutorily required provisions included in the charter contract? Is the charter board free from influence from the education service provider and representative of the community being served? Did the schools finish the school year with surpluses? What percent of students in the authorizers’ schools rated proficient on the state’s standardized test? However, if regulations are not adhered to or the education provided is below expectations, the state has no real power to take action against schools or their authorizers, leaving the state with hollow oversight powers.

How well authorizers oversee their schools by holding them accountable for meeting legal requirements and performance goals written into their charter contracts

depends on the authorizer. It is difficult to speak broadly about the efforts of Michigan’s authorizers to ensure accountability of the schools they charter, because there are so many of them (40) and they represent variety of organizations. Some charter schools may be subject to intense oversight from their authorizers with systems of clear rewards and sanctions, but if oversight activities are not “public,” they fail to fulfill the goal of oversight.

Increased oversight of charter school authorizers by the state government would lead to increased oversight of the schools themselves, as authorizers that are not committed to strengthening and growing successful charter school models through public oversight would not be allowed to charter schools.

Regulations

Accountability and regulation are not the same thing. Accountability mechanisms can consider cognitive and non-cognitive outcomes and can include holistic evaluations that reflect student and parent input. Regulation is more compliance and input-based. Charter schools may be subject to more regulations than traditional public schools (due to requirements placed on charter schools by authorizers in addition to state law), but it is not clear that these additional regulations provide better results. That is not meant to pass judgment on the academic achievements of charter schools relative

to their traditional public school counterparts, but rather a commentary on the diffusion of oversight responsibility among multiple actors that may obfuscate public accountability.

The charter school sector in Michigan has not been geared toward innovation, but rather replication. This lack of differentiation and innovation might be attributable to Michigan's accountability structure, or more likely, its regulatory compliance framework. Allowing charter schools more flexibility around compliance-oriented regulations and associated reporting requirements would allow differentiation in the educational market. Over-regulation stymies innovation and can cause schools to become more risk-adverse, especially under a regulatory regime that emphasizes test scores and checkbox oversight. School accountability mechanisms should focus on outcomes, not inputs.

Regulations can also create barriers to entry for certain charter schools. Smaller, self-managed schools may find it harder to navigate the regulatory environment and succeed, compared to larger network-based schools that have greater capacity and experience to manage compliance-oriented regulations. Over regulation can discourage aspiring schools from applying for a charter in the first place.

While charter schools may be subject to many of the same regulations as traditional schools, they are not subject to the same level of public oversight as traditional schools. The focus of policymakers should be to address that. Improving oversight will work to make the charter schools better. Public oversight of charter schools does not require that charters comply with all the same regulations as traditional schools, but does require a focus on outcomes and transparency and timeliness in reporting those outcomes.

Education Service Providers

Perhaps the most contentious aspect of charter schools in Michigan is the use of education service providers (ESPs, also referred to as management companies). These are for-profit, private companies and not-for-profit organizations that specialize in some or all aspects of a school. Some ESPs solely provide back office services, others are fully engaged in the classroom provision of education services, including the supply of teachers.

Michigan charter schools rely on ESPs to a greater extent than other states for operation of the schools, staffing the classrooms, and many other aspects. Inherent in that relationship is a trust that private companies and not-for-profit organizations will efficiently use public resources for their intended purposes. A lack of transparency related to the actions and finances of the ESPs diminishes that trust.

Michigan collects data from traditional school districts and charter schools that purchase services in an amount equal to, or greater than, 50 percent of their general-fund current operating expenditures. This is a very high threshold relative to the significance of the role of these third party vendors and relative to disclosure requirements in many other states. The extent to which charter school operators in Michigan contract with ESPs suggest that greater transparency would be highly beneficial. While the state may wish to minimize the reporting requirements for de minimis amounts spent on ESPs, that protection should be far below the current 50 percent threshold. And reporting requirements should apply to all finances involved in contracts, not only the amounts at specified thresholds.

Strengthen the State's Power over Authorizers

Oversight without the threat of sanctions is just monitoring. In order for the state government to provide meaningful oversight over the charter school authorizers, the autonomy of the universities and community colleges involved in authorizing must be altered.

Improving the practice of existing authorizers is possible, but will require the authorizers to answer to the state for their actions and the performance of the charter schools they have authorized. The current structure of higher education in Michigan provides a great deal of autonomy to universities and community colleges and does not allow for incentives or penalties to encourage compliance. The options before state policymakers then, is to change the structure or to alter how the charter school system works in this structure.

This has been a common exercise among the states. Fourteen states have created independent chartering boards and fourteen states have enacted authorizer oversight or accountability policies in recent years.

Change Who is Able to Authorize Charter Schools

The most drastic option is to change who is able to authorize charter schools. This report documents the inability of the state government to cause meaningful changes to the governance of universities or to affect governance decisions. The report also discusses the best practice of having multiple entities able to authorize charter schools and for local school districts to possess that ability. Some states have vested chartering authority with their state board of education. In Michigan that is complicated by the independence and autonomy the state board enjoys relative to the rest of the executive and legislative branches. Some other states have created an independent state department with the sole responsibility of overseeing authorizers and authorizing schools when others choose not to. The research for this report did not produce evidence that the current authorizers were negligent in their activities. The problem is we simply don't know. This would therefore be a drastic change not necessarily warranted by current circumstances.

Adopt Administrative Rules

The state superintendent of public instruction has the powers to suspend authorizers' ability to open new

schools, but Michigan suffers from an absence of administrative rules that would clarify what conditions warrant suspension of this ability, an appeals process, and a means of ending a suspension. Twenty-five years after the law enabling charter schools was enacted, it is time to draft those administrative rules and take action if authorizers have schools that are failing the students enrolled in them.

Reduce Autonomy

It may be necessary to amend the state Constitution for the state to have any real oversight of the university charter school authorizers. The Michigan Constitution creates a system of higher education in which each institution is independent of the others and the whole system is independent of the state (except for the power of the governor to appoint board members to all but three universities). Should MDE attempt to engage in the type of oversight discussed above, that autonomy may cause one or more universities to resist intrusion of their constitutionally-granted autonomy.

Additionally, a governor or legislature down the line may wish to alter the oversight rigor of the state government, only to be met with the reality that MDE is most directly governed by the independently elected state board of education and the superintendent is appointed by that board. This provides democratic accountability and the authority to provide public oversight, but it leaves a weakened chain of command within the structure of state government.

Most of the other states that have increased public oversight of charter authorizers have done so by granting explicit oversight responsibilities (e.g., accreditation, evaluations, reporting requirements, etc.) to state actors like the state board, superintendent, and department of education in state law.

Authorizing as a Privilege, Not a Right

In Michigan, charter school authorizing tends to be viewed more as a right than as a conditional privilege. Outside of the state law prescribing which bodies are eligible to grant charters, there are no barriers to entry for authorizing. The authority to charter schools is not conditioned on authorizers being able to demonstrate experience, effectiveness, or the capacity to engage in

this work. The state does not have systems or policies in place to certify or approve who can authorize schools. There are no minimum standards that must be met. Similarly, with the exception of restrictions placed on authorizers opening new schools in Detroit, authorizers do not need to be accredited to open new schools.

This “by-right” approach to authorizing creates a roadblock to serious accountability. Further, there is no formal and regular evaluation of authorizers once they have begun granting charters. Neither state law nor the coordinated efforts of the authorizers limit which authorizers may charter new schools or the operators of those schools. In many respects the Michigan model diverges from other states where authorizers are required to meet minimum quality thresholds to both begin the work of opening new schools as well as remain in the business of granting charters.

Michigan should emulate the reforms instituted in several other states to make authorizing a privilege to be earned and maintained. Michigan law establishes the types of educational institutions that may authorize charter schools, but that does not mean that they are all capable or have the inclination to perform all tasks involved in authorizing and overseeing charter schools.

Accreditation Requirements for All Authorizers

In Michigan, accreditation is expected only of authorizers that wish to charter schools in Detroit. Accreditation is important because it conveys to customers – people

potentially enrolling in schools chartered by that authorizer and the general public – that the entity meets or exceeds general expectations of quality.

In the absence of a state requirement, the Michigan Council of Charter School Authorizers (MCCSA) has adopted oversight and accountability standards under which the authorizers in the group have voluntarily agreed to operate. While creation of the MCCSA and adoption of standards is commendable, the goal is not to have the overseen policing themselves. It is the state’s responsibility to oversee the authorizers and ensure some levels of quality.

Living up to standards should not be voluntary. Furthermore, it is the duty of state policymakers to define expectations. What is good for authorizers of schools in Detroit is good for authorizers for schools throughout the rest of the state. Accreditation should be expected of all charter school authorizers.

Appeals Processes

Another form of accountability that is lacking in Michigan is allowing for appeal of charter decisions to a higher authority. State law in Michigan explicitly states that authorizer decisions are final; the only possible form of “appeal” is that the MDE can force revocation of a charter for consistently low-performing schools. In order to effectively implement the reforms discussed above, there needs to be a process for appealing authorizer decisions.

Improve Authorizer Oversight Activities

Accountability and oversight of authorizers in Michigan has been lax. Accountability with clear roles for state actors and explicit expectations and sanctions for authorizers is needed. Without transparency, the public will not know about the authorizers and schools that are succeeding or those that are failing.

Statutorily Define Oversight Responsibilities of Authorizers

Most states put authorizer oversight responsibilities in state statute. Michigan’s charter school law directs the authorizers to provide oversight of their schools, but the law has left to the authorizers the nature and

rigor of those oversight activities. Other than several forms of checkbox accountability, it does not require authorizers to meet any specific standards, either to begin chartering or to remain as an active body.

The activities and responsibilities of authorizers should be clearly spelled out in state law. Recommended provisions of the model law related to authorizer accountability include:

- Registration process for local school boards to affirm their interest in chartering to the state
- Application process for other eligible authorizing entities to affirm their interest in chartering to the state

- Authorizer submission of annual reports, which summarizes the agency's authorizing activities as well as the performance of its school portfolio
- Regular review process by authorizer oversight body
- Authorizer oversight body with authority to sanction authorizers, including removal of authorizer right to approve schools

These provisions are intended to 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. Michigan should amend the Revised School Code to clearly define the oversight responsibilities of charter school authorizers.

Define State Government Responsibilities

The state is providing primarily compliance-based regulation (legal accountability) of the charter school authorizers. It is not clear that much can be done to truly strengthen the state's hand in performing this function without some amendments to the charter school law.

Administrative rules should be drafted that would allow the superintendent to use the statutory powers granted to that office to identify the specific criteria that would be used to establish an "at-risk" authorizer list, the minimum performance thresholds of the authorizers' school portfolios, and an appeals process for authorizers to challenge the superintendent's actions. The rules also should provide clarification for conditions or actions that would enable authorizers to end their suspensions.

Beyond this first step, things could get complicated. In many other states, when the state government is not responsible for authorizing charter schools, the state has real power to monitor and oversee the authorizers.

According to the National Association of Charter School Authorizers (NACSA), a state-level accountability system for authorizers should include:

1. Rigorous application, selection, and approval processes for authorizers
2. Annual public reporting on authorizer and public charter school performance and regular state review and evaluation of all authorizers

3. Mechanisms for sanctioning underperforming authorizers and terminating authorizers that fail to meet quality standards and performance expectations.

NACSA recommendations to improve Michigan's law include requiring authorizer evaluations, strengthening authorizer sanctions, instituting a strong renewal standard, and requiring all authorizers to use performance frameworks. Michigan is the only state with multiple non-school district authorizers that does not have an authorizer evaluation explicitly in state policy. A fully developed system of authorizer evaluations would allow for explicit sanctions for underperforming authorizers, including the ability to revoke an authorizer's authority to issue new charters and oversee existing schools. State law and/or administrative rules should clearly spell out the powers of MDE and the state superintendent to oversee the charter school authorizers. The factors for which authorizers will be held accountable and the consequences for failing to live up to expectations should be clearly delineated.

Sunshine Laws

Michigan's sunshine laws do not do enough to create accountability for charter school authorizers. States tend to ask for "bean-counting" reports that show compliance with regulations rather than true transparency on how authorizers monitor schools, ensure school funds are spent appropriately, and spend their own public dollars related to charter authorizing.

Illinois, Indiana, and Minnesota have all amended their charter school laws recently to enhance reporting requirements and transparency. Michigan could adopt some of these practices and require authorizers to submit regular reports to the state on activities related to authorizing and monitoring their schools.

Public Funding Dedicated to Authorizer Oversight

MDE will need enhanced funding if it will be asked to provide greater oversight of charter authorizers. Increased state appropriations would be needed for regular evaluations, site visits, greater reporting on charter authorizers and their portfolios of schools, the implementation of rewards and sanctions, and the staff to complete these functions. This will require the state legislature to appropriate the necessary funds for increased oversight of charter authorizers by the MDE.

Review Finances of Administrative Fees

Michigan's charter school sector has been operating for 25 years with authorizers entitled to withhold up to three percent of the state aid distributed to their charter schools for administration and oversight responsibilities. The lack of transparency or power for the state to audit the authorizers leaves state policymakers and the public unable to evaluate the sufficiency of that funding source.

Independently prepared financial reports should be required of the universities' charter school offices and authorizer-related activities for the other entities. The authorizers should be required to file them with the state and the state should actively review the audits to understand how the administrative fees are used. With a few years of audits on hand, the legislature should revisit the three percent fee to consider whether it needs to be adjusted.

Authorizer Hopping

The abundance of entities authorized to charter schools and the lack of coordination or oversight of the system makes Michigan especially susceptible to authorizer hopping. Authorizers have been aware of this ability

and individual actors have worked hard to enforce internal accountability that improves practice across the spectrum of authorizers. Still, the oversight that does exist is weakened when potentially weak schools can escape stringent accountability and possible closure if they are able to start fresh with new authorizers.

Authorizers accepting switches when the schools otherwise would be subject to revocation of their charters should be considered to be perpetuating failing schools and that action should count against them just as if the schools were authorized by them in the first place.

Siting Schools

Without a change in who is authorized to charter schools, the siting of schools in Michigan, especially in Detroit, will continue to appear haphazard and disjointed. The alternative is to diminish the autonomy authorizers have to work with potential school organizers. A rigorous application, selection, and approval processes for authorizers would be a positive change to strengthen oversight. Such a change could include a requirement for coordination and consultation with the host city or township about siting before opening new schools.

Conclusion

The argument for changing the charter school oversight system is simple: the costs of failure are too great. The success, or lack thereof, of all our schools, traditional and charter, impact the lives of our children and the economy of our state. The charter school movement expanded the actors involved in public K-12 education to include charter authorizers, new schools, and, in some cases, private education management companies. If we want accountability from these entities that now play an established role in providing a public education, then we need public oversight.

It is clear that charter school authorizers are engaging in some levels of oversight, but the rigor of their actions is less than clear because of the number of entities that can participate as authorizers and the autonomy from direct state oversight granted to the universities that are the most active participants in the charter school sector. Creating thoughtful authorizer oversight requires deliberation and care and will take effort from state policymakers as well as current and future authorizers.

The ability to expect proactive oversight out of the Michigan Department of Education and the state actors involved in public education would require a sea change in their approaches to oversight, sufficient state resources to carry out any new oversight responsibilities, and perhaps constitutional and/or statutory changes to current law. It also requires that those actors involved in providing public education through charter schools, whether school operators or authorizers, be committed to oversight. This can be accomplished through state laws explicitly requiring these actors to comply with requirements that will increase public oversight of their activities.

Without public oversight, charter schools may or may not be operating within the confines of state law and successfully educating students, but we have no way of knowing of failure until it is too late and it has irreversibly impacted the children and families involved and the economic well-being of our state.

IMPROVING OVERSIGHT OF MICHIGAN CHARTER SCHOOLS AND THEIR AUTHORIZERS

Introduction

The Citizens Research Council of Michigan embarked on this paper at the request of the Levin Center at Wayne Law with the aim of looking at oversight of charter schools, technically called public school academies in Michigan.^a Our initial research into the topic revealed that it is very difficult to determine the level of oversight that currently exists, largely because of multiple issues associated with the system Michigan created to authorize these types of public schools.

Oversight is an integral part of governance that has come to be overlooked in many ways. The separation of powers inherent in the American system of government provides that one branch will make the laws, another will execute those laws, and a third will adjudicate the laws and their application. As Arthur Schlesinger wrote, “The power to make laws implied the power to see whether they were faithfully executed.”¹

In broad terms, oversight refers to:

- Holding administrators and officials accountable for their actions
- Ensuring sound stewardship of public resources (both monetary and the public trust)
- Ensuring adherence to objectives and procedural standards established by law, regulation, or other means
- Avoidance of harm (in this case both the potential harm of receiving a substandard education and the potential harm that might come from unsafe buildings, bullying, or other physical harm)

^a We thank Dr. Dale Thomson, Chair of the Department of Social Sciences and Associate Professor of Political Science at the University of Michigan-Dearborn, for his help defining oversight and conceptualizing the aspects associated with oversight. We also appreciate the research assistance provided by Tanner Delpier, Michigan State University, College of Education. His contributions to this paper included conducting literature reviews, collecting and organizing various datasets, and participating in some expert interviews. This final product represents the work of the Citizens Research Council and we take full responsibility for any errors or omissions.

As it relates to delegation of the responsibility of education and the enactment of laws for the execution of that responsibility, oversight should provide assurances that a quality education is being provided, that public money is being used prudently and effectively, and that children are not put in harm’s way in the environments used to provide educational services.

Michigan’s charter school law empowers a number of education entities to serve in the role of charter school authorizers. The appointed and elected boards of these entities bear the primary responsibility for oversight. Some of these entities, including a few intermediate school districts (ISDs)^b and all local public school districts and public community colleges answer directly to the voters through the popular election of board members. But most charter schools in Michigan are authorized by public universities with gubernatorial appointed boards. The lines of accountability are a little fuzzier for these bodies.

A number of oversight mechanisms are used to monitor charter schools. Several of the university authorizers maintain websites that allow parents, interested citizens, and the media to investigate the demographics of the students attending the schools, the schools’ finances, and the educational progress and proficiency of each school’s student body. The charters of several schools have been revoked, effectively closing down those schools for a variety of reasons, a key accountability measure undergirding the charter philosophy.

However, it is difficult to know the rigor with which the authorizers are engaging in oversight activities because Michigan’s law does not explicitly state how authorizers should hold schools accountable and does not include many oversight mechanisms for the authorizers themselves. It is not clear how active each authorizer is in helping the schools’ boards of directors

^b Of the 56 ISDs, only four have elected boards. Boards of all other ISDs are chosen by representatives of all public schools (traditional and charter) located within the intermediate district.

and administrators to identify and steer clear of pitfalls. It is not clear to the public how schools are held accountable for actions short of revoking the charters. It is difficult to know how the authorizers are using funds made available to them; how private management companies are held accountable; and what protections are in place to keep individuals from enriching themselves with the public funding. The public is generally not made aware of how authorizers decide to charter

a school, coordinate the siting of schools, or decide to renew or revoke a charter.

This paper describes the charter school industry in Michigan and the oversight apparatus already in place. It identifies weaknesses in the laws and offers alternatives and recommendations that can improve oversight of the charter school authorizers that can, in the end, go a long way toward improving public trust in the charter schools.

Premise of Charter Schools

Broadly, performance-based strategies for improving public K-12 education fall into two camps: 1) reforms designed to work from within the existing structure of schools (i.e., traditional schools where students are assigned to their district by the government based on residency) and 2) choice systems involving the re-arrangement or complete overhaul of existing administrative and organizational structures of schools. Charter schools are deeply grounded in the choice model of performance-based reform strategies.

The charter school movement is premised on bringing the pressure of the competitive marketplace to public education to drive quality up and costs down.

Early advocates for the charter movement argued that schools need organizational transformation. In their view, the institutional settings of public schools with their one-size-fits-all approach to educating children and central or district control of schools hamper effective education. Proponents called for adopting a system of new, independent schools that operate free from strict centralized command-and-control administrative structures and move more decision-making authority to the individual school level. Advocates contend that site-based management allows school officials to play a larger role in hiring, resource allocation, and academic decisions.

The idea goes that charters would be accountable for performance results, rather than for rules and inputs. They would be freed from some of the regulations applied to traditional public schools and therefore have greater autonomy. In exchange for this bureaucratic relief,

charters are supposed to be held to a high standard of accountability for student results. Schools must first gain the approval (i.e., charter) of an authorizing body before they can receive public funds. The charter document lays out the student performance

expectations and the standards for which they will be held accountable. Failure to meet the charter provisions, comply with applicable laws, or gain support from parents, students, and teachers can lead to charter revocation and possibly school closure.

Because enrollment is voluntary and because chartering authorities are responsible for exercising oversight and renewing contracts, successful charter schools may be expected to thrive while unsuccessful schools close. This approach is premised on bringing the pressure of the competitive marketplace to public education to drive quality up and costs down. Traditional public schools are not immune from the competitive forces

created by the introduction of charters in the education market, thus forcing these schools to improve too.

Charter schools have taken different approaches to attracting students. Some have sought to differentiate themselves from other schools by embracing a specific pedagogical strategy — such as Montessori learning. Others have chosen to focus on a specific curriculum — such as foreign language immersion or science, technology, engineering, and math (STEM). And some operate with an approach that aims to provide a better educational experience than the traditional public schools against which they compete.

While the argument for charter schools seems intuitive and compelling to some, policy and subsequent

practice is more complicated. State enabling laws vary as to the charter development process, the entities that can sponsor or authorize new schools, school governance and operations, public financial support, student admissions and requirements, staffing and labor contracts, control over instructional goals and practices, and accountability and oversight.

The reality in Michigan has not strictly followed the theoretical model for charter schools. Instead, the Michigan model subjects charter schools to many of the same laws, rules, and regulations as traditional schools. At the same time, it is not clear that the state's model promotes the heightened accountability standards for student performance.

Michigan Charter Schools

History

Former Governor John Engler and other advocates saw an opportunity to expand public schooling options by implementing charter school legislation when Michigan was in the midst of school finance reform that resulted in adoption of Proposal A of 1994. Those reforms saw the state move from a locally-funded school system, predominantly dependent on property tax revenue, to a state-funded system dependent on a cross-section of taxes.

Along with the changes in revenue sources, the focus of education funding changed. The prior locally-oriented, property tax dependent system was geared toward funding school districts, and therefore the children attending schools within the district. The new, state-centric funding model began to fund the student. A set amount of funds is attached to a student, and that funding follows the student whether he or she attends the home district in which his/her family resides, a neighboring district using school choice, or a charter school.

Michigan was an early adopter of the charter school concepts. Minnesota was the first state to pass a

charter school law in 1991; Michigan passed its law in 1993. Michigan's first charter school opened in 1994 and the sector has expanded rapidly since, both in terms of the number of schools operating and the number of students enrolled in these schools.

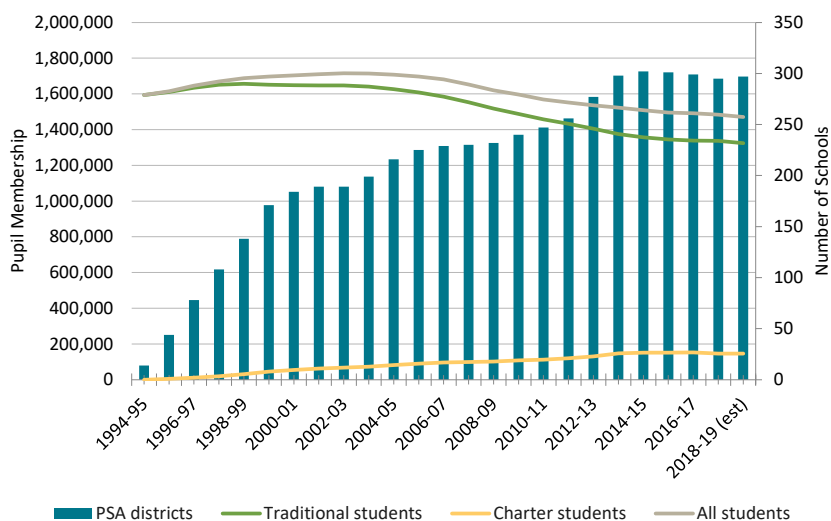
The original charter law did not place any limits on either the total number of schools that could be chartered or the number of schools authorized by a single entity. Because state universities were responsible for the bulk of the authorizing activity, an amendment to state law placed a cap on the total number of charter schools that they could issue. Initially, the law allowed for a gradual increase in the cap on university-authorized schools; 85 charters in 1996 rising to 150 charters in 1999. By 2000, there were 174 charter schools in total educating nearly 50,000 students, about five percent of the state's students in the 1999-00 school year. The cap remained at 150 university-authorized charters until a 2011 amendment that allowed for 300 schools through 2013 and 500 schools through 2014. The limit on university-authorized charters was completely eliminated by a 2015 amendment.

IMPROVING OVERSIGHT OF MICHIGAN CHARTER SCHOOLS AND THEIR AUTHORIZERS

With the cap gone, by 2018, charter school enrollment neared 150,000 students, or roughly 10 percent of Michigan's total public school enrollment, in 297 charter school districts operating 377 individual schools across the state (see **Chart 1**).

Chart 1

Pupil Enrollment and Charter School Growth, 1994-95 to 2018-19



Source: MI School Data (CEPI) and Senate Fiscal Agency

Funding

All traditional public schools receive the bulk of their operating funding under Michigan's per-pupil foundation grant system financed through the state School Aid Fund and a local property tax levied primarily on business property. Charters also receive the majority of their operating funds from the foundation grant, but because they are prohibited from levying taxes, the entirety of their per-pupil grant is financed by the School Aid Fund. The per-pupil foundation allowance allows funding to follow a student to the school of their choice. State aid payments are sent directly to charter authorizers, who forward them on after keeping a small percentage to cover costs resulting from accepting and reviewing charter applications, as well as those associated with school oversight. Charter schools have a cap on the amount of foundation allowance they can receive and no charter school receives a foundation payment that is greater than that received by the traditional school district in which it is located.

Traditional districts have access to local property taxes while charters do not. Traditional districts can levy separate voter-approved property taxes for capital costs and to cover school safety improvements, technology improvements, and the repair and construction of school buildings (sinking fund). For charters, the foundation grant funds must cover the majority of their operating and capital costs: salaries, supplies, rent, and all other expenses. All public schools are eligible for categorical funding and competitive grants from the state and federal government. These funds are generally restricted for specific purposes or student services. A recently enacted state law allows charter schools to receive funds from a regional property tax levied by an intermediate school district (ISD) to supplement school operating funding, the proceeds of which were previously shared only with the constituent traditional public school districts within the ISD.²

Charter Schools Today

As **Table 1** shows, charter schools enrolled almost 150,000 students (or 10 percent of students enrolled in public school) in 2017-18. In the 2019-20 school year, 297 charter school districts operate 377 schools statewide.^{c 3}

The expansion of the charter school market in Michigan has not taken place evenly across the state. Rather, charter schools have clustered in urban areas. More than 60 percent of all charter enrollment in the state is from the tri-county area of Southeast Michigan (Wayne, Oakland, and Macomb ISDs).

Table 1

Student Enrollment in Michigan, 2017-18

	Number of Students	Percent
Traditional Public School Districts	1,111,274	75.7%
Charter Schools	146,961	10.0%
Inter-District Choice	<u>210,015</u>	14.3%
Total Students	1,468,250	

Source: Center for Educational Performance and Information

^c This student enrollment number is slightly different than the number in Chart 1 because student enrollment is somewhat fluid and depends on whether it is referring to pupil membership numbers (as in Chart 1) or full-time equivalent (FTE) student numbers (as in Table 1).

Education Service Providers and Charter Schools

The degree to which education service providers (or management organizations) are used to operate any or all parts of a charter school is a big difference between charter schools and traditional schools in Michigan. The development of large management organizations would seem to run contrary to the early thinking behind charters – community-based schools largely operated by community leaders, parents, and teachers. At the outset, charters were envisioned to operate more akin to “mom and pop” schools, not like local franchises of much larger national organizations.

Management organizations vary considerably. Some are affiliated with multiple schools, while others are single-site operators. Some work with both charter and traditional public schools. They can be organized as either for-profit or not-for-profit entities. The National Alliance for Public Charter Schools (NAPCS) refers to not-for-profit management organizations as Charter Management Organizations (CMO) and those with a for-profit tax status as Educational Management Organizations (EMO).

The tax status of management organizations does not determine the level of involvement they have in the operations of schools. Some are full service companies that are connected to the education programs in the schools; others supply back office services such as personnel and business management and have less involvement in school academics. Regardless of the tax status, these entities charge fees for their services. Schools are often characterized as either “not-for-profit” or “for-profit” based on the type of management companies contracted. The reality in Michigan is that all charter schools (i.e., the body that holds the charter) are organized as not-for-profit entities under state law; management organizations are prohibited from holding charters. Most states prohibit for-profit businesses from holding charters directly.

In Michigan, an unusually high proportion of charter schools use private management organizations. According to NAPCS, in 2016-17, 52 percent of Michigan’s 308 charter schools contracted with a for-profit management company, many connected to larger networks or chains. Another six percent of schools had operating agreements with not-for-profit entities. The other 42 percent were managed by independent entities established by the schools themselves; these can also be for-profit operators. Nationwide, 35 percent of charter schools rely on a management organization to supply some level of service.ⁱ The NAPCS report does not delineate what services are provided by for-profit EMOs, not-for-profit CMOs, or the independent entities. It is likely that many of the independent entities have a for-profit status but provide less than the full menu of educational services to charter schools (e.g., do not provide instruction). Previous research found that closer to 80 percent of Michigan charters have a management agreement with a for-profit operator to provide some level of service.ⁱⁱ

It should be noted that traditional districts also contract with private entities to provide services. While they cannot contract for instructional services, over 70 percent of Michigan’s school districts contract for non-instructional services, such as curriculum development, transportation, facility management, and food.ⁱⁱⁱ This is up from 43 percent of districts just 10 years ago.

Teachers working in Michigan charter classrooms must meet and maintain the same state licensing credentials as those working in traditional public schools. A key difference between charter school and traditional public school teachers (and most other staff for that matter) is the fact that the vast majority of Michigan charter school teachers are hired by the management organizations responsible for operating the schools. Self-managed charter schools tend to directly hire their teachers. These arrangements allow management organizations flexibility to hire and fire staff, which is considered by charter school supporters to be crucial to the effectiveness of those schools.

i The NAPCS defines a management organization as one that manages at least three schools, serves a minimum of 300 students, and is a separate business entity from the schools it manages (https://www.publiccharters.org/sites/default/files/documents/2019-06/napcs_management_report_web_06172019.pdf).

ii The categorization of management companies by the NAPCS differs from other researchers that have examined Michigan’s charter school sector. Miron & Gulosino (2013, <https://nepc.colorado.edu/sites/default/files/emo-profiles-11-12.pdf>) profiled charter management agreements across the states and found that Michigan stood out with 79 percent of its charter schools operated by for-profit EMOs and another 10 percent operated by not-for-profit CMOs in 2011-12. Missouri (37 percent), Florida (34 percent), and Ohio (31 percent) were the next three states with a high percentage. Similarly, Mao & Landauer-Menchik (2013) analyzed the performance of privately-managed and self-managed charter schools in Michigan and reported that in 2011-12, 80 percent of charter schools had a management agreement for some level of service. Further, they found that 78 percent of charter school students were enrolled in schools managed by for-profit entities, 11 percent in schools operated by not-for-profits, and 11 percent in self-managed schools.

iii James M. Hohman and Chase Slasinski, “Michigan School Privatization Survey, 2018,” *Mackinac Center for Public Policy* (Midland, MI, 2018), <https://www.mackinac.org/archives/2018/s2018-09v2.pdf>.

Roughly one-third of all charter school students are residents of the Detroit Public Schools Community District. These students attend schools within the boundaries of the district as well as outside of it. Another 13 percent of charter school students come from other large school districts in the state: Grand Rapids, Flint, Ypsilanti, Lansing, and Saginaw. The remaining 27 percent of charter enrollment statewide is split among more than 420 school districts (see **Map 1**). While Michigan's charter school policies are statewide in nature, because of the distribution of schools and students, they largely affect students and families in urban communities.

New schools open and others are closed for a variety of reasons, including financial considerations due to low enrollment and poor academic performance. School closure can result from an authorizer's decision to not renew the charter contract or from a voluntarily decision by a school's governing board. As of 2019, 116 charter schools that were previously in operation for any amount of time have shuttered their doors. This excludes 13 schools that were granted approval to open (i.e., issued a state entity code), but never became operational and 16 schools that were subsequently transferred, reorganized or merged with another charter school.⁴ For the 2019-20 school year, three new schools opened (one in

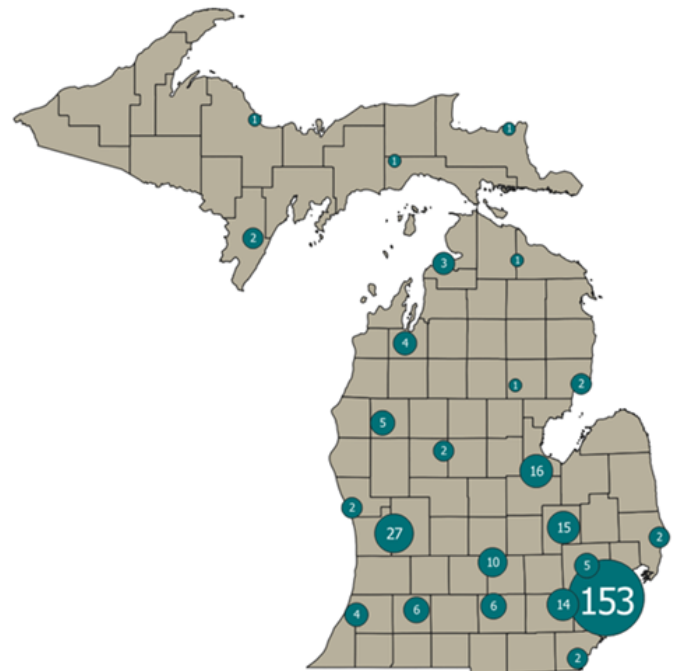
Charter School Authorizers

As of 2019, 45 states and Washington, D.C., have some form of charter school legislation with 7,000 charter schools operating around the country and enrolling over 7 million students.⁵ With so many different state laws, charter schools and the rules for charter authorization look different in every state. Authorizers serve an important role as the gatekeepers of charter schools. They give life to them, controlling the supply, character, and quality of educational offerings. The primary responsibilities of authorizers include:

- Approving the creation of new charter schools by reviewing charter applications, only approving applicants that meet standards, and supporting replication of high-performing schools.
- Monitoring the performance of existing schools and, often times, providing assistance to struggling schools; key areas of oversight include academic performance, fiscal performance and

Map 1

Number of Charter Schools by Location



Source: Michigan Educational Entity Master

Detroit) and six existing schools (four in Detroit, including three chartered by Detroit Public Schools Community District) closed.

- Closing low-performing schools by revoking or not renewing their charters.⁶

Different kinds of authorizers can meet these responsibilities and challenges in different ways. While the type of authorizer can be significant, the capacity and willingness of an authorizer to commit itself to high-quality authorizing is more important. Two of the same kinds of authorizers (e.g., two different universities) can have radically different results depending on capacity and commitment to high-quality authorizing.

Michigan Model of Charter Authorizing

Michigan law empowers every type of educational entity, except those that are formally part of the state government (superintendent, board of education, and department of education), to play a role in authorizing charters.

Different Types of Charter Schools

The majority of Michigan charter schools provide education services in ways slightly different from traditional schools (e.g., through a balanced school calendar, Montessori program, or particular education vision or emphasis). State law also allows for specific types of charter schools. Some of these alternative types of charters were created to drive greater innovation and improve student learning. These different types of charter schools were not subject to the cap placed on the number of university-authorized schools.

Schools of Excellence were created as part of Michigan's 2010 application for Race to the Top federal funds. State law permitted up to 10 new physical schools (with the first five required to serve high school students) and up to 15 cyber schools of excellence to be authorized with the approval of the state superintendent of public instruction.ⁱ In addition, an unlimited number of high quality charter schools were able to convert to schools of excellence if they met certain academic and student income eligibility requirements. All schools of excellence had to be modeled on a high-performing school (or already operating as a high-performing school) and could not be located within the boundaries of a traditional school district with an average graduation rate over 75 percent.ⁱⁱ State law allowed schools of excellence to be chartered through January 2015.ⁱⁱⁱ

Urban High School Academies may be chartered by a public university with an initial 10-year contract that must be renewed for an additional 10 years if all educational goals are met. Authorizers are required by state law to give priority to applicants that demonstrate:

- The ability to operate all of grades 9 through 12 within three years of opening
- The ability to occupy buildings that are newly constructed or renovated after January 2003
- A stated goal of increasing high school graduation rates
- Commitments for financial and educational support from the entity applying for the contract
- Net assets of at least \$50 million^{iv}

Strict Discipline Academies are charter schools created for the following types of students:

- Pupils placed in a strict discipline academy by a court or by the department of human services or a county juvenile agency under the direction of a court
- Pupils who have been expelled for bringing a weapon to school or committing arson or criminal sexual conduct in a school building or on school grounds
- Pupils who have been expelled for assaulting a school employee or volunteer or making a bomb threat to school property or a school event
- Other pupils who have been expelled from school or suspended for more than 10 days, and who are referred to the strict discipline academy by the pupil's school and placed in the school by their parent or guardian; a suspended pupil may only attend during the duration of their suspension
- Special education students whose individualized education program team recommends that the pupil be placed in a strict discipline academy
- Pupils placed in a high-security or medium-security juvenile facility^v

Strict discipline academies are created to be the last best chance for students that have not been successful in traditional school settings.

i Michigan Department of Education, *Public School Academies by Authorizer*, https://www.michigan.gov/documents/mde/Schools_by_Authorizer_396738_7.pdf.

ii Michigan Department of Education, *Memorandum re: New Schools of Excellence Application Process*, https://www.michigan.gov/documents/mde/SOE_Announcement_041411_350353_7.pdf.

iii Michigan Compiled Laws (MCL) 380.551-380.561.

iv MCL 380.521-380.529.

v MCL 380.1311b-1311l.

IMPROVING OVERSIGHT OF MICHIGAN CHARTER SCHOOLS AND THEIR AUTHORIZERS

Eligible authorizers include:

- The governing body of a state university
- The board of a community college, including a federal tribally controlled community college
- The board of an intermediate school district
- The board of a local K-12 school district

Community college districts, ISDs, and K-12 school districts can only charter schools within their geographic boundaries; however, public universities and Bay Mills Community College (a federal tribally controlled school) are statewide authorizing bodies under state law and therefore can charter schools throughout the state. Authorizers serve as the fiscal agents for the schools they charter, receiving state aid payments and forwarding the money to the schools. They are allowed to charge an administrative fee of up to three percent of the state aid received by a school to be used for administration and oversight activities. Authorizers can also charge a fee for other services, such as supporting academic performance and financial management.

The Current Makeup of Authorizers

While Michigan allows local and intermediate school districts to authorize charters, 87 percent of charter schools (serving 91 percent of all charter school students) are authorized by a university or community college (see **Table 2**).

Charter school advocates recommend allowing multiple charter authorizer types that are diverse and independent from the state department of education.⁷ Michigan does this by allowing higher education, intermediate, and local school boards, but not the state department of education, to authorize charter schools. The Michigan Department of Education has a role in oversight of all public schools,

charter and traditional, and the state superintendent has a role in overseeing charter school authorizers, but neither have a direct role in authorizing charter schools.

Chart 2 highlights charter school student enrollment by authorizer. Three higher education institutions – Grand Valley State University (GVSU), Central Michigan University (CMU), and Bay Mills Community College – do the majority of authorizing. These three institutions have authorized over 50 schools each. Collectively, they account for 55 percent of all charter schools and 61 percent of all charter students. Eight additional

Table 2

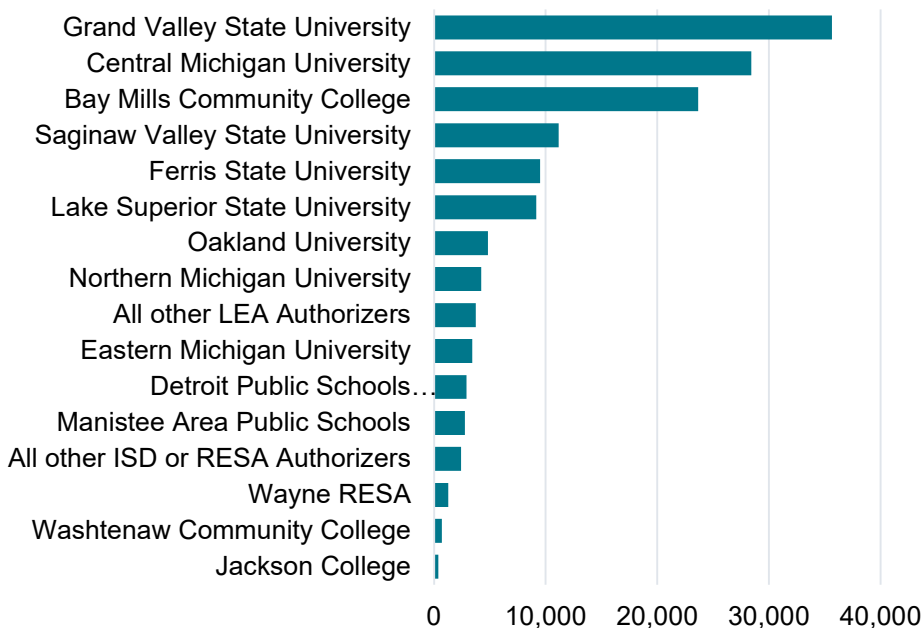
Student Enrollment and Schools by Authorizer Type

	Enrollment	Percent	Schools	Percent
University	106,349	73.7%	260	71.6%
Community College	24,767	17.2%	55	15.2%
Local School District	9,427	6.5%	30	8.3%
Intermediate School District	<u>3,715</u>	<u>2.6%</u>	<u>18</u>	<u>5.0%</u>
	144,258	100.0%	363	100.0%

Source: National Center for Education Statistics, Common Core of Data

Chart 2

Student Enrollment by Authorizer



Source: National Center for Education Statistics, Common Core of Data

universities and colleges have authorized charter schools. Most of these institutions have authorized multiple charter schools with only Washtenaw Community College and Jackson College limiting themselves to one charter school.⁸ Local school districts and ISDs throughout the state are the remaining authorizers.

The three largest authorizers in the state each have extensive charter school offices. The Charter Schools Office at GVSU, which serves as the authorizer for 62 schools enrolling over 36,000 students, employs 28 people in two offices (Grand Rapids and Detroit). The Governor John Engler Center for Charter Schools at CMU authorizes 58 schools providing education to 28,000 students across the state and employs 34 individuals in two offices (Mt. Pleasant and Lansing). The Charter Schools Office at Bay Mills Community College authorizes 46 charter schools with a staff of 20 employees at its main office in the Upper Peninsula and field representatives across the state.

Why Michigan Chose Higher Education Authorizers

Among the states with charter schools, Michigan is unique in its reliance on higher education institutions for charter school authorizing. This was intentional by the architects of the charter law. Their inclusion was rooted in the desires of the early proponents to overcome the likely reluctance of the elected, partisan state board of education and local school districts to implement the law.⁹ State policymakers – the governor and the legislature – have no direct political control over the state school board, and therefore no control over the Department of Education. The short-term goal of opening charter schools and illustrating the potential of this reform necessitated that it not get stuck in neutral right from the beginning.

Independent State Board and Superintendent. Article VIII, Section 3, of the 1963 Michigan Constitution creates an independent state board of education and superintendent of public instruction:

Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to

institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of the state department of education which shall have powers and duties provided by law.

The independence of the board is derived from the election of its members. The state board of education consists of eight members elected to eight-year staggered terms (two elected at a time at general elections). Candidates standing for election are nominated by party conventions and elected at-large. Michigan is one of 11 states that elects state school board members. Three states elect some state school board members with the others appointed. The state school boards in 34 states are appointed, usually by the governors.¹⁰

Michigan is unique in its reliance on higher education institutions for charter school authorizing.

The state school board in Michigan appoints a superintendent of public instruction who is responsible for the execution of

board policies and is the principal executive officer of a state department of education. Michigan is among 20 states, including all the states with independently elected school boards, that grant the state school board the authority to appoint the chief state school officer. In Alaska and Arkansas, the appointment must have the governor's approval. The governors of 15 states have the authority to appoint the chief state school officer.¹¹ In states where board members are appointed, the power to appoint the chief state school officer typically rests with the governor.

While a casual reading of the Michigan Constitution might lead to the conclusion that the state school board is in a position of primacy with respect to public education, terms and phrases such as "leadership and general supervision," "planning and coordinating," and "advise the legislature," do not go far in confer-

ring power on the board. Indeed, the Constitutional Convention explicitly contemplated a “consultative and deliberative” role for the board.¹² It also contemplated a strong role for the governor, who was to be an ex-officio member of the board, and whose expected relationship with the superintendent was characterized as follows:

The superintendent would be considered as administrative head of the state department of education and as such should be a staff officer to the governor and on his administrative board.¹³

Article VIII clearly singles out education as a function of importance by giving constitutional status to the board and superintendent and providing a focal point for the functions of state government related to education.

However, administration of that function has not always gone smoothly. The independent election of members of the state school board and its independent authority to appoint the state superintendent has resulted in periods in which party control of the board has not aligned with the politics of the governor.

Indeed that was the case in the 1990s when Governor Engler’s education policy objectives did not align with those of the state school board or the superintendent. To address this, the Governor used the constitutional power entrusted to the office in Article V, Section 2, to reorganize the administrative offices and instrumentalities of the executive branch. Several state departments were replaced with new departments serving the state in slightly different ways. Moreover, numerous functions were transferred among the remaining original departments. The net result was an organization chart for state government in 2002 that bore little resemblance to the organization chart of a decade earlier.

State-level education functions were not immune from this organizational break with the past beginning with the transfer of the operation of the School Bond Loan Fund to the Department of Treasury in 1993. Some of the transferred functions, such as disability determination (for purposes of Social Security eligibility), bore only a tenuous relationship to education and almost

certainly found more appropriate homes in other agencies. Other transferred functions, such as the Michigan Educational Assessment Program (the MEAP was the statewide academic proficiency test used at the time), bore a very direct relationship to education and consequently had been the subjects of questions regarding their new organizational placement.

Thus, when the effort was launched to capitalize on the new foundation grant funding system and create charter schools, there was a fear that the MDE, under the supervision of the state superintendent and leadership of the state board of education, then or in the future, would work at cross purposes to this reform effort. While a law could be crafted specifying the guidelines for charter schools. If the authority to grant charters was vested with the department and the department either refused to grant charters or created conditions

adverse to those that might apply for charters, then the charter movement may never be launched.

The solution was to give the authority to grant charters to nearly every educational entity that was not connected to the state board or MDE.

When the effort was launched to create charter schools, there was a fear that the Michigan Department of Education would work at cross purposes to this reform effort.

Independent Public Universities. Michigan’s efforts to avoid charter authorizing roles for the independent state school board and superintendent was complicated by the state’s unique public university governance model.

The governance of Michigan’s 15 public universities is unusual in a number of ways. While most states’ constitutions empower the state legislature to provide for systems of higher education, Michigan’s Constitution is one of the few that enumerates specific institutions and specifies the governance and autonomy of those schools. It specifies that the state’s three flagship universities – University of Michigan (UM), Michigan State University (MSU), and Wayne State University (WSU) – are to be governed by independently elected eight-member boards.¹⁴

It also provides that the other universities are to be governed by eight-member boards appointed by the

governor with the advice and consent of the senate.¹⁵ Further, the Michigan Constitution provides the higher education boards, irrespective of elections or appointment, with the autonomy to supervise their respective schools and control their own spending.¹⁶ This authority is not, in any way, restrained by the state board of education's general powers over public education (including higher education) related to planning and coordinating. Each board appoints a president that operates under the board's supervision.¹⁷

While many other states have university systems with branch campuses of one or more universities located throughout the states, Michigan's 15 universities are independent schools (UM does have a small university system with branch campuses in Ann Arbor, Dearborn, and Flint).

Michigan is one of only two states that has elected to keep governance of higher education in the hands of each individual university board as a way to guard institutional autonomy. Public universities in most states are governed by consolidated governing boards (24 states) or coordinating board systems (24 states) that

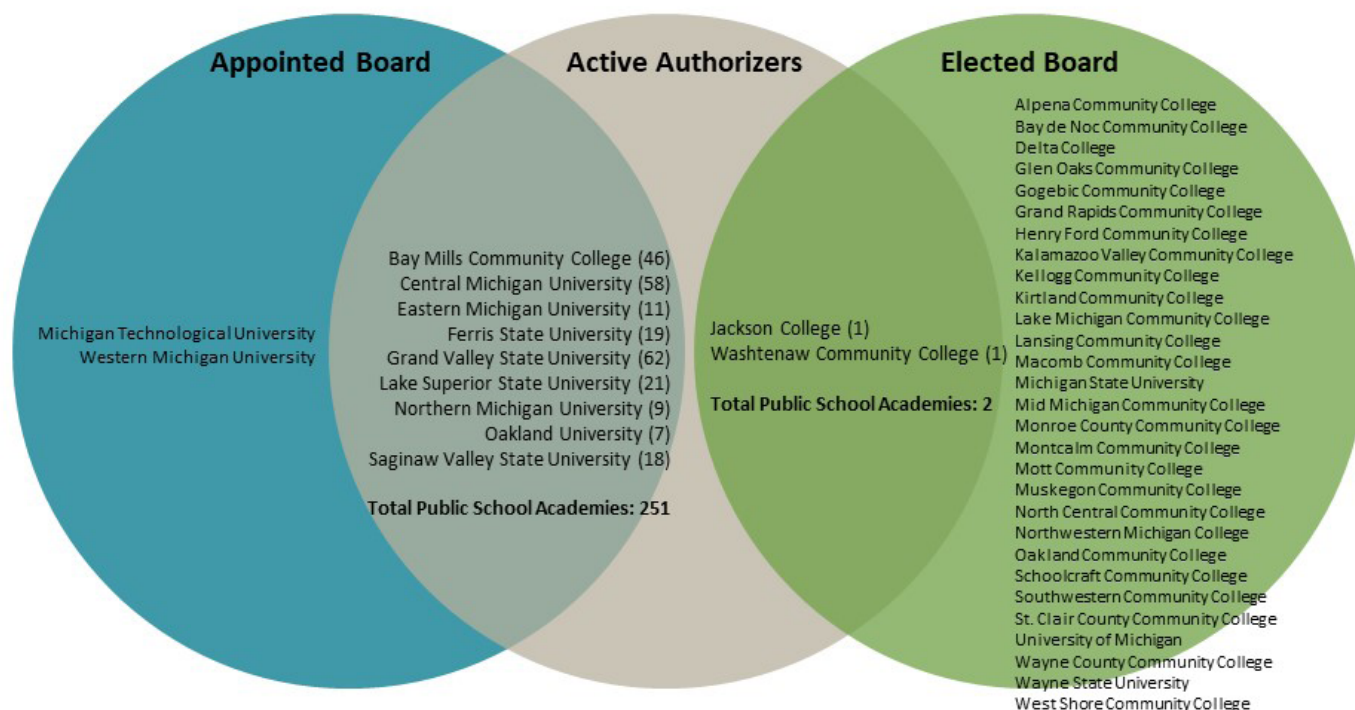
may have regulatory powers (21 states) or play only advisory roles (three states). These state universities and consolidated/coordinating boards are under the control of governors and legislatures.¹⁸

In Michigan, the governing bodies of public universities (again except for UM, MSU, and WSU, all of which have not participated in authorizing charter schools) are not directly accountable to the people. By vesting authority to issue charters and the assumed oversight responsibility associated with that authority to the governing boards of public universities, public oversight becomes less clear and possibly more difficult (see **Figure 1**).

Independent Community Colleges. Michigan's 28 community college districts encompass much, but not all, of the territory of the state. The colleges are formed by counties or school districts acting singularly or in combination with others. The election of boards to govern the colleges provides elements of democratic accountability for operation of the schools, the provision of workforce development training, and the authorization of charter schools.

Figure 1

Active Charter School Authorizers: Appointed and Elected Boards



Like the state universities, the boards of community colleges operate fairly independently of the state government and control their own operations and spending. Only Michigan and Arizona operate their community colleges (sometimes referred to as junior, technical, or city colleges) without a state-level board or entity with authority over locally governed community colleges; the other 48 states have state-level boards or agencies that govern, regulate, and/or coordinate the community colleges.¹⁹

Michigan community colleges are required to report to the state through the Center for Educational Performance and Information (CEPI) and other state agencies, but these entities do not have any regulatory or coordinating powers. The colleges also work, voluntarily, with the state as it relates to workforce development programs. They enjoy full autonomy in decisions related to training in technical fields, granting associate's degrees, or courses that can be transferred to a four-year institution. Their ability to offer baccalaureate degrees is constrained by state law.

Charter Authorizer Models in Other States

The charter school law in each state is different and these unique state laws determine who can fill the role of authorizer. Almost all states allow local school districts to authorize charter schools, but most also make other options available: higher education institutions like in Michigan, large not-for-profits in Minnesota and Ohio, and single-purpose statewide commissions like the Colorado Charter Schools Institute or the D.C. Public Charter School Board.²⁰ In 20 states, state education agencies play a role in authorizing charter schools, usually in combination with the state board of education. In many states, state boards and education agencies also have oversight responsibility for authorizers; in states that allow state education agencies to authorize charter schools, it is important that they be held accountable and subject to regular monitoring by an outside entity.²¹

Table 3 highlights some of the advantages and disadvantages of different types of authorizers.

Table 3

Charter Authorizer Models

Type of Authorizer	Advantages	Disadvantages
Higher Education Institution	Independent; education expertise; access to university resources; research capabilities may lead to innovation or best practices	May lack experience in K-12 education; may impose strict education philosophy or method on schools; community buy-in may be limited; resources may be focused on higher education; perceived lack of accountability
Independent Chartering Board	Singular focus on chartering can build expertise; ability to build authorizing practices from scratch	Community buy-in may be limited; appointed board members perceived as less accountable than elected officials
Local School District	K-12 knowledge and expertise; charters can be part of a portfolio of district schooling options; local approval maximizes political and community support	Primary focus is on traditional schools; may be hostile to charter schools; potential for friction between charters and other district schools
Non-Educational Government Entity	Brings political support, high visibility, local knowledge, and access to public and private resources	Lack of educational expertise or mission; sustainability uncertain in face of political turnover and shifting priorities
Nonprofit Organization	Independent; may be highly visible and credible; may foster innovative schools; can bring valuable areas of expertise	May lack experience with K-12 education; resources may be reserved for organization's primary mission; lack of public accountability
State Education Agency	Educational knowledge, expertise and capacity; statewide authority; allows charters to be part of a state portfolio of public schooling options	Responsibility for all public schools in state limits ability to focus on charters; may tend to emphasize compliance rather than foster innovation

Source: National Association of Charter School Authorizers (NACSA)

Table 4 shows that almost 90 percent of charter school authorizing across the U.S. is done by local school districts (however they enroll just 51 percent of all charter students nationally).²² State laws vary as to whether charter schools can give enrollment preference to students who reside within the district that the charter school is located in or if enrollment can (or must) be open to all.²³ The advantages of this model is that local school districts possess K-12 education knowledge and expertise and charter approval at this level maximizes political and community support. The big disadvantage is that local school districts may be hostile to charter schools and see them as competitors for limited students and school funding. If local school boards are not supportive of charters and they are the ones possessing sole authority to bring new schools to life, then charter schools are unlikely to be successful in a state.

In addition to local education agencies, 16 states (including Michigan) allow higher education institutions to authorize charters and 4.5 percent of all charter schools in the country are authorized by institutions of higher education. In most of the states with higher education authorizers, the higher education system is much more centralized at the state level than in Michigan. A more centralized higher education system provides more direct state oversight of higher education and therefore charter school authorizing (see **Table 5**).

Table 4

Types of Charter School Authorizers across the U.S., 2018

Type of Authorizer	How Many States Allow?	Does Michigan Allow?	Percentage of Charters Authorized by this Type
Higher Education Institution	16	Yes	4.5%
Independent Chartering Board	17	No	2.0%
Local School District	36	Yes	89.6%
Non-Educational Government Entity	6	No	0.3%
Nonprofit Organization	3	No	1.7%
State Education Agency	20	No	1.9%

Source: National Association of Charter School Authorizers (NACSA)

Table 5

University Authorizers by State

State	Number of University Authorizers	Statewide University System
Arizona	1	Yes
New York	1	Yes
Ohio	1	Yes
South Carolina	1	Yes
Florida	2	Yes
Utah	2	Yes
Wisconsin	2	Yes
Indiana	3	Yes
Minnesota	3	Yes
Oklahoma	4	Yes
Missouri	6	Yes
Michigan	8	No

Source: National Center for Education Statistics, Common Core of Data

Assessing Oversight and Accountability

Michigan's charter school sector reflects a mix of successes and failures. It is possible to say this because there is a system of oversight in place, which has allowed the state and authorizing bodies to monitor the actions and achievements of the schools. They have rewarded positive results and taken actions to remedy failures. However, the system lacks sufficient public oversight to guarantee that all charter schools are being held accountable for their performance. And public oversight of charter school authorizers is minimal.

The State's Interest in Oversight of Charter Schools

The state's interest in oversight of education begins with its constitutional responsibility. Article VIII, Section 1 of the 1963 Michigan Constitution says that, "Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." Education is a state responsibility.

Beyond the constitutional responsibility, education is recognized as a public good for which government may play an important role. Society functions better with an educated citizenry. Education provides a skilled and talented workforce.

Regardless of whether the focus is on charter schools or traditional school districts, the state must ensure that a free public elementary and secondary education is available to all school age children. This role is entrusted to the state legislature by the constitution. The directive to establish a "system" of public education is what ultimately provides the constitutional basis for charter schools in Michigan.²⁴

Charter schools, like traditional schools, receive the bulk of their operating funding from the per-pupil foundation grant. Between the foundation grant and categorical funds received for specific purposes, the state spends upwards of \$1.5 billion on charter schools.

Regardless of whether the focus is on charter schools or traditional school districts, the expenditure of state tax dollars by other entities justifies oversight to ensure that money is being spent effectively, efficiently, and equitably.

Morality and safety codes say that the state must ensure the safety of the children enrolled in public schools. To that end, the state requires school districts to conduct safety drills and safety checks on school buses, discourage bullying, and execute other efforts for the well-being of the students. These measures extend to charter schools, as their operation is an extension of the state's obligation to provide for a system of public schools.

Additionally, the state has an interest in tracking the progress of students through the education system, from their early years in pre-kindergarten through their time in higher education and career. Traditional school districts and charter schools alike must report data to the Center for Educational Performance and Information (CEPI) and the departments of treasury and education.

The state's interest in oversight of education begins with its constitutional responsibility.

Charter schools and inter-district school choice have conceptually introduced market forces to the provision of public education, but market forces alone will not guarantee quality. Government regulators require private sector companies to recall or fix faulty products. They issue warnings that some products may be harmful to pregnant mothers or small children. And they police against fraud. Government can also be a key provider of information in a regulated market, which requires public reporting around the activities of private actors.

The state's interest in charter schools takes on more significance because of the prominent role that private companies play in their operations. Oversight must protect against embezzlement of public funds, ensure that employees in the school buildings are capable of

conducting the jobs for which they were hired, promote the provision of quality education services, and protect children enrolled in public schools.

Charter schools introduce an element of choice to education (in addition to inter-district choice available in most traditional school districts). Whether the pedagogy of the charter school replicates proven models or introduces new learning philosophies, there are elements of experimentation. This is done with the lives of young children. Their futures as productive members of society and contributors to the state economy depends on them not falling victim to failed experiments.

While the free market is important in determining the success or failure of charter schools, the state must play an important role in information sharing and ensuring a minimum quality of product for the market to work well and avoid information asymmetries.

Finally, the state's interest in charter schools is important because the cost of failure is steep. Performance and market accountability assume that those that succeed will prosper and those that fail will be shut down. A closing store has a going out of business sale and a private sector service provider forced to close can just inform its clients that they need to find another service provider, but closing schools has greater societal impacts. The students and families must find new schools. Teachers must find new jobs. Student records must be transferred. Buildings and supplies must be repurposed. The cost of failure is high and should be avoided whenever possible.

Defining Accountability and Oversight

The framers of the U.S. Constitution understood government oversight and accountability to the people to be of utmost concern. To hold government accountable, the U.S. Constitution asserts a system of checks and balances to ensure public decision-makers act in the interest of the governed. This early doctrine set the groundwork for a robust system of governmental accountability. Since, systems of oversight and ac-

countability have developed substantially at all levels of government. Many states have modeled their own systems of oversight and accountability after the federal system. The basic premise is the same throughout government: institutions that receive public funding have a responsibility to be held publicly accountable.

Accountability

For accountability to function three features must be present.

1. *Accounting*. Organizations must maintain a clear record of actions. Accounting includes records of financial transactions, but also records of activities, performance, and achievements.
2. *Transparency*. The record must be made public to enable overseers and stakeholders to assess the reasonableness of actions taken by the responsible actor.
3. The organization must face *consequences* for its actions. These consequences bring those responsible to justice and create incentives for actions to be taken in the best interest of the people.

The degree to which an organization is made to follow these guidelines is determinative of its public accountability.

Four important types of accountability that can be present in public education include democratic, legal, market, and performance-based.

Four important types of accountability that can be present in public education include *democratic*, *legal*, *market*, and *performance-based*; each has its own history, set of advantages, and limitations. How an accountability system is structured also determines to whom and for what public institutions are accountable.

For over a century, traditional public schools have been held to account through a system of *democratic accountability*. Democratic accountability in education has its roots in the progressive era of the early 1900s with the formation of democratically-elected school boards. This theory of accountability holds that public schools are subordinate bureaucratic institutions that carry out the policy preferences of elected officials. Today, this ubiquitous form of educational governance is primarily accountable to the people through the ballot box and voting. While parents and residents can build

The Challenges of Educating Board Members

British Prime Minister Winston Churchill famously commented that “Democracy is the worst form of government, except for all the others.” This is especially true of local government. Governance at the local level relies on the participation of citizens to serve on boards -- including city councils, township boards, county commissions, school boards, and charter school boards of directors. While people who serve on these boards are to be honored and thanked for their service in helping government work, it also must be recognized that very few of them know much about what they are doing when they take office. While civics is taught in high school and college classes teach leadership skills, there is not a college curriculum for serving as a mayor, county executive, or member of one of these governing bodies.

For the average governmental entity, this is an issue that can be overcome. The boards often deal with run-of-the-mill issues, lend their opinions in developing budgets, and help set direction for the governmental entity. To their credit, workshops and seminars offer instruction to newly elected board members. These may be offered by the local government associations, such as the Michigan Municipal League, Michigan Association of School Boards, or the individual charter school authorizing bodies. In the charter school sector specifically, the National Charter Schools Institute offers training and educational resources to equip new and current governing board members for the various challenges they might face in providing leadership to and governing schools. Individual authorizers also provide training and preparation to help board members, who are public officials under state law, understand and carry out their governing roles and responsibilities.

However, there are subsets of governments of each type for which the boards confront much more difficult issues. Each of the boards in these subsets may be challenged with failing finances, whether caused by eroding tax bases or failures to attract and retain as many students as the budget projected. They may be challenged with decisions related to contracting with a vendor or hiring a leader, such as a school administrator or superintendent.

This creates another state interest in oversight of charter schools. Just because charter school board members answer the call and immerse themselves in being good board members, does not mean they have all of the tools needed to make informed choices on some matters.

The State of Michigan generally takes a laissez-faire approach to local government and charter schools. A tradition of home rule has meant a hands-off approach to oversight of general-purpose local governments. Similarly, the market orientation of charter schools generally requires a hands-off approach to their operations and finances. But the state has needed to intercede in the finances of local governments when finances have become dire through the emergency manager laws. And authorizers have had to close charter schools that have struggled academically and/or financially.

The common factor that separates troubled governments from other similarly situated governments is whether the leadership is able to address its own problem. Through oversight, the state or authorizing entities can monitor the actions of the government and governing boards to take corrective or remedial action when the leadership is unable to address its own problems.

relationships with teachers and principals, the professional school staff are bound by the policies enacted by elected officials, as well as those policies set by individuals appointed by the elected officials, such as superintendents.

Open meetings, held on a regular basis, are another component of democratic accountability. If an issue rises in importance, parents and citizens can have significant power by voicing their concerns to school board members in person and in public. In Michigan, there are nearly 600 democratically-elected public school boards, including local school districts and regional intermediate school districts. These boards hold regular meetings functioning as the millstone of democracy. There, citizens can engage in the decision-making process and hold their public leaders to account. While democratic accountability is imperfect, for generations it has allowed for local citizens to make their voices heard, both through the ballot box and participation in public meetings. In the ideal, schools controlled by democratic processes are supposed to reflect the needs, desires, and values of local communities.

Policymakers have also sought to control schools through systems of *legal accountability*. Governments create rules to implement legislation in the form of written regulations, standards, policies, or instructions that have the effect of law. Schools must comply with state policies applying to building standards, curriculum, fire code, and many other regulations. In many cases, failure to comply may result in the state withholding funding.

This form of accountability focuses primarily on educational inputs and processes. In essence, these regulations establish contextual goals for schools setting bounds on how schools could go about achieving their primary objective – ensuring access to a free public education for all students, regardless of race, gender, or disability.^d

^d Governmental organizations have primary and contextual goals. The primary goal of schools, for instance, is educating students. Contextual goals are additional goals achieved

While *democratic* and *legal* accountability emphasize the inputs and processes that go into the provision of education, *performance* and *market* accountability aim to hold schools accountable for their outcomes.

For more than 50 years, *performance accountability* has become increasingly centered around student academic achievement. This was pushed to new levels with enactment of the federal No Child Left Behind (NCLB) law in 2001. Performance-based accountability seeks to measure and make public the outputs of an institution (e.g., student scores on standardized tests). While this type of accountability uses the same policy levers as *legal accountability* – laws, rules, and regulations – it is distinct in its methods and objectives.

Performance-based accountability looks to refocus schools on their primary goals by measuring and reporting those metrics publicly.

Performance-based accountability looks to refocus schools on their primary goals by measuring and reporting those metrics publicly. Invariably, this is achieved by some state-designed student testing regime. Additionally, states and/or the federal government impose rewards or sanctions (financial or otherwise) on schools or districts based on the results of performance metrics. Publicly releasing performance data provides public pressure, and thus an implicit incentive, for schools to improve. Further, by incorporating concrete incentives and disincentives (such as school closure), performance-based accountability is amplified.

While “performance” has regularly been defined as academic achievement in reading and math, it must be noted that citizens expect much more from public schools. Citizens do not just want schools to prepare students for postsecondary education and/or a career. They also expect schools to prepare citizens to function in society, abide by laws and morality, participate in democracy, and more. While student achievement

in the process of executing the primary, including things like providing equal opportunity for students, maintaining safe environments for students and staff, sunshine laws, food and nutrition, safety, and a host of others. Legal accountability may drive an organization to fulfillment of its primary goals or a contextual goal.

is important, it is unclear whether such a narrow focus on academics crowds out other important goals of education.

Similar to performance accountability, *market accountability* aims to hold schools accountable based on their results. That is, rather than ensure particular educational inputs like in legal accountability, or a set of processes as in democratic accountability, performance-based and market accountability aim to design incentive structures around school outcomes. Whereas performance-based accountability dictates

those outcomes by setting targets and thresholds where tangible incentives and disincentives are triggered, the market approach attempts to establish a system that mimics free market dynamics.

The foundation of the market approach is allowing parents to choose where to send their child to school and then providing resources to schools based on the number of students they enroll. Market accountability is facilitated by school funding models that tie resources to student enrollment, rather than models that direct resources to schools directly. In theory, these policy features create incentives and disincentives for schools, not around rigid outcome measures set by the state, but by parental demand. Schools must meet the educational demands of parents and students to receive public funds in order to remain open and provide services. Market pressure urges schools to compete for student enrollment by improving educational quality.

Figure 2 highlights the different accountability structures (democratic, market, and legal) present in the charter and traditional public school settings.

Oversight

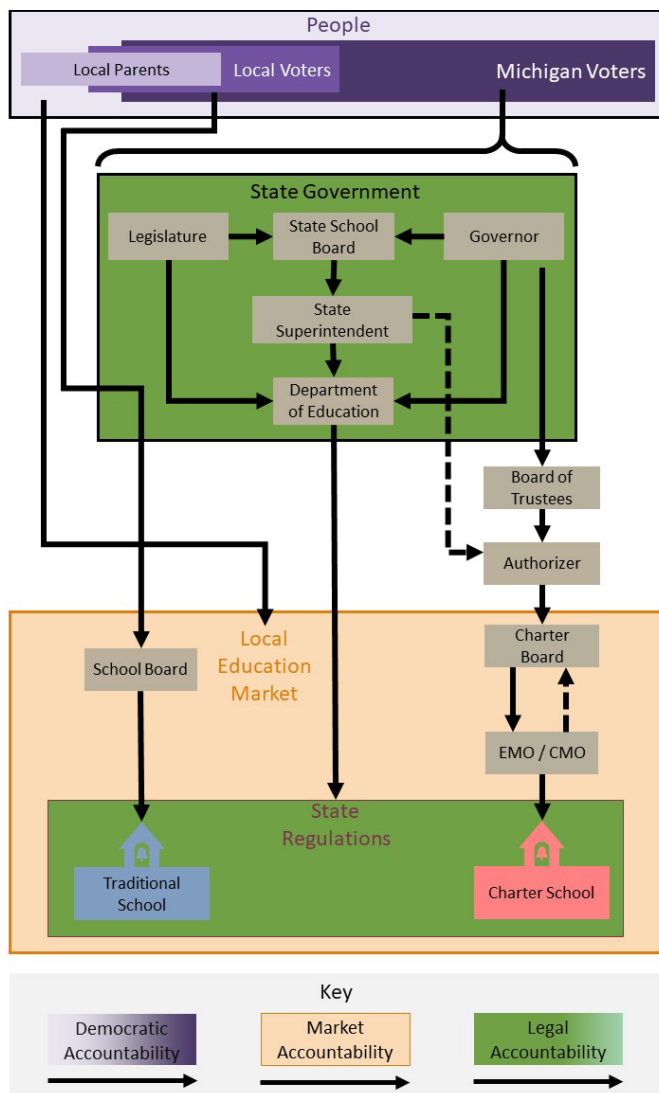
This section on oversight and accountability began with a discussion of the constitutional underpinning of checks and balances. Inherent in a system of checks and balances is the idea that there will be someone watching the actions of government. There must be a relationship wherein those performing tasks or providing services are subject to another's oversight or direction.²⁵ In other words, there must be a policymaking body attempting to detect and remedy violations of policy goals by the task performer or service provider.²⁶

For oversight to be meaningful, the overseen must feel compelled to answer questions regarding decisions and actions. In its simplest approach, this can take the form of regular reports designed to inform and a process wherein responses are provided that include information about, explanation of, and justification for particular policies or activities.²⁷

Meaningful oversight also must include enforcement. The task performer or service provider must know that it may be sanctioned or forced to take action to remedy a contravening behavior.²⁸

Figure 2

Accountability Structures: Traditional Public Schools and Charter Schools



Passive vs Proactive Oversight. Oversight can take multiple forms. *Proactive oversight* is comparatively centralized, active, and direct. The activities of the overseen are examined with the aim of detecting and remedying any violation of policy goals. The active monitoring of activities in itself can serve as a deterrent to violations of policy goals.²⁹

Instead of active examination of activities in search of policy violations, *passive oversight* relies on others — auditors, ombudsmen, citizens, interest groups, whistleblowers, etc. — to make the overseers aware that the service providers are violating policy goals. For this form of oversight to work, rules, regulations, policies, and procedures must be in place affording those third parties access to information and decision-making processes. Overseers must apply these rules and policies in a consistent and non-arbitrary manner to meet legal requirements as well as maintain public confidence. The third parties must have standing to challenge actions and bring alleged violations of policies to the attention of the overseers. The overseers must have a means of hearing the complaints, investigating the allegations, and intervening if necessary.³⁰

Most oversight systems include a mix of proactive and passive policies. The overseers rarely fully abdicate the responsibilities of oversight for others to carry out on their behalf. But a number of policies are geared toward enabling others to monitor activities and call attention to troubling issues.

Overseers may approach oversight differently based on the geographic proximity to their schools, the number of schools they are overseeing, and their own philosophical approach to balancing market accountability with legal and performance accountability.

Overseers taking a passive, hands-off approach may feel that too much oversight may quell the autonomy and independence of the schools. School administrators may be less inclined to act freely if they feel that every action is being watched and scrutinized.

These overseers will be highly dependent on data, either that which is provided to the state or separate information shared directly with the authorizers, to monitor the progress of the schools from afar. This hands-off approach means that the overseers may not know of problems until they reach crisis proportions. At such a point, necessary oversight and intervention must be much more intrusive.

Overseers following this model often rely on parents, media, and others to make them aware of potential issues. A review of several of the authorizer websites shows that this would require some effort. It is not al-

ways clear how to contact the appropriate staff in the charter school offices. To be more effective at oversight, the authorizers need to lay out clear paths for interested parties to make contact and express their concerns.

Advocates of the proactive approach to oversight suggest that data cannot always tell the true story of school operations.

Overseers may instead opt for more proactive forms of oversight. This approach recognizes the high costs of failure, both in intrusive involvement and, in the ultimate failure, revoking the charter and closing the school.

A proactive approach to oversight leads the authorizers to visit the schools frequently, building a relationship with the school personnel. Advocates of this approach suggest that data cannot always tell the true story of school operations. By being in frequent contact and building trust, authorizers may be able to identify issues at their genesis and encourage remedial actions early.

The local school districts, ISDs, and community college districts will find it easier to engage in proactive oversight because their schools are close at hand and they each have only one or two schools to keep tabs on. The universities (and Bay Mills Community College) may find it difficult to engage in proactive oversight from the resources provided.³¹ Since the administrative fees are a percentage of the number of students attending the schools that were chartered, they must authorize enough schools to create a critical mass but not too many as to require a complicated bureaucratic structure.

Evidence of Oversight. Thus, a number of policies and actions will show evidence of oversight:

- Transparency (information flow is clear, information provided is unambiguous and easy to interpret)
- Timeliness (information flows to the principal at a speed that enables it to identify problems early and lead the agent to alter course before larger problems emerge)
- Efficiency (satisfying the principles of oversight without imposing undue burden on the agent that might substantially hamper performance)

- Formal processes which compel the overseen to appear and respond to concerns (institutionalization of proactive oversight)
- Proper mix of incentives and sanctions (system uses both to optimize results – errant behavior can be corrected and, if needed, penalized and good behavior is encouraged and rewarded)

This report takes a dual track approach to analyzing oversight of the charter school apparatus: 1) focus on the charter schools themselves and 2) focus on the role that authorizers play in creating and monitoring their schools.

Oversight of Charter Schools

Michigan law, in providing for the creation and operation of charter schools, grants some degree of autonomy and independence to these schools, but, because they are educating children to fulfill a core state mission and using public resources to do so, it is essential that they be subjected to public oversight.

Charter school oversight focuses on the following key questions:

Accountability — Do the charter school board members, officials, and employees feel compelled to report information and answer questions regarding their decisions and actions? Do the accountability measures promote quality services? To whom are the school officials accountable? Do the charter school administrators understand that they may be sanctioned or forced to take action to remedy actions or decisions deemed inadvisable?

Stewardship of public resources — What actions do the overseers take to ensure that state School Aid dollars sent to charter schools are used properly? Do the overseers take actions to ensure that charter schools are available and responsive to their customers — students and parents?

Ensuring adherence to objectives and procedural standards established by law, regulation, or other means — What types of regulations are charter schools subject to? How is adherence monitored? What are the consequences of failing to adhere to them?

Avoidance of harm — Are charter school students being endowed with the tools needed to be engaged citizens, find gainful employment or meet college enrollment expectations, and be able to manage future households? Do they work to ensure that schools are located in buildings that are free of contaminants and that will provide safety in case of emergencies? Do the overseers work with the charter schools to create policies to dissuade bullying and other harmful conduct?

We should make clear at the outset, we do not view legal, or “checkbox”, accountability as fulfilling all of the responsibilities of oversight. Simply asking of an activity has been performed, if a provision is included in a contract, if the year-end balance is positive falls far short of the oversight needed to promote successful charter schools. The references to checkbox accountability in the sections to follow illustrate an attentiveness to protections against abuse or monitoring that a school is on the proper path, but they also point out inadequacies in oversight expectations.

Because the authority to grant charters for the operation of schools is delegated to entities independent of state government, responsibility for oversight is largely delegated as well. The authorizing entities have the power to grant charters as well as the power to amend, not renew, or revoke them. This delegation of authorization and oversight does not absolve the state of playing important oversight roles. Therefore, this analysis considers oversight of charter schools in two parts: 1) efforts by the state government – the

legislative branch, state board of education, superintendent of public instruction, Department of Education, Department of Treasury, and others – and 2) efforts by the authorizers.

State Government Oversight of Charter Schools

The state government plays a passive role in charter school oversight. Because state government entities do not grant charters and have limited authority to sanction charter schools, most state oversight activities are geared toward legal accountability and financial reporting. These activities provide the context for authorizers and other interests to gather information about the schools' activities and make authorities aware of violations of laws, charter provisions, or policies.

Because state government entities do not grant charters and have limited authority to sanction charter schools, most state oversight activities are geared toward legal accountability and financial reporting.

Accountability

Accountability, as it relates to state government oversight of charter schools, focuses on transparency and the academic performance of charter school students. Michigan's system requires charter schools to meet the exact same reporting and performance benchmarks as traditional public schools. While the state's school accountability system has changed numerous times since the opening of the first school, charters have not been treated any differently within the state's accountability framework (see **Accountability Systems Timeline** box on page 22).

Transparency. State transparency laws provide the context for oversight and create the basis for information sharing, which is essential for oversight to be effective. Michigan's Open Meetings and Freedom of Information Acts allow all interested parties – authorizers, parents, media, concerned citizens, etc. – to gather information and watch decisions being made.

Additionally, all public schools, are required to comply with the Uniform Budgeting and Accounting Act and adhere to the Michigan School Accounting Manual. These standards are designed to ensure that every school reports its information in a uniform, comparable, and comprehensive manner.

Like traditional public schools, charter schools also must have their financial recordkeeping reviewed by an independent third party every year.

Charter schools, like traditional public schools, have to report a broad range of information to the state's Center for Educational Performance and Information (CEPI), including:

- Student information including demographics (e.g., gender, race, economically disadvantaged); program participation rates (e.g., migrant, disabled, limited English proficient, Advanced Placement courses, dual enrollment); courses, credits, grade point averages, credentials earned; test data (e.g., M-STEP, MME, SAT); and points of enrollment, exit, transfer in/out, graduation, dropout, or completion
- Teacher information including demographics, credentials, assignment information, and effectiveness ratings
- School information including demographics, crime and safety, behavioral issues, classroom sizes, and finances³²

CEPI does not play a direct role in oversight, but is a depository of information that legislators, school administrators, parents, and citizens can use to monitor school activities. The downside of this data is that it is not real time information. There is a lag, sometimes up to one year, between collection and public availability of certain data and information. CEPI data will tell you where any particular school and/or district has been (financially, academically, operationally, etc.), but not what it is doing now or where it is heading in the future. Constructively used, the information collected and reported by CEPI can help citizens to understand the processes and productivity of one school/district relative to its peers. Interested parties must rely on compliance with the Open Meetings and Freedom of Information acts to get information about current activities.

Accountability Systems Timeline

Administrators of traditional public schools and charter schools have at times felt whipsawed by the accountability systems constructed to create performance accountability. Accountability measures have been constantly evolving with new systems sometimes replacing old systems, and at other times being layered on top of old systems. Sometimes the new systems reinforce the old systems, at other times they have seemed to contradict the old systems.

While the federal government has no constitutional authority over education, they have used fiscal federalism to incentivize states to adopt accountability policy. Most notably, in 2001, the federal government enacted No Child Left Behind (NCLB), a re-authorization of the Elementary and Secondary Education Act or ESEA. NCLB incentivized states to adopt a performance-based standard called Adequate Yearly Progress (AYP).

“Education Yes!” was part of Michigan’s implementation of the AYP standard. It gave schools a cumulative letter grade summarizing a number of metrics. In 2009, a “Beating the Odds” designation was added to identify schools that were out-performing other schools with similar demographic makeup. The federal Annual Measurable Achievement Objectives (AMAO) standards for English language learners (ELLs) was also adopted that year.

While some accountability systems adopted by Michigan are the result of changes to federal policy, many stem from the state legislature or state board of education. Perhaps the most impactful accountability standard adopted was the Top-to-Bottom (TTB) ranking adopted in 2010. Importantly, the TTB ranking did not account for student background. This metric gave schools a percentile rank and became a powerful, if not equitable, tool for informing the public of the quality of their local schools.

In 2011, the state started identifying high- and low-performing schools as well as those with large achievement gaps:

- *Reward* schools were those with the highest performance and largest performance growth
- *Focus* schools were those with the largest achievement gap
- *Priority* schools were the lowest performing schools

Some minor incentives and sanctions were included in the designations including promotion of *reward* schools and closer monitoring (and support) of both *focus* and *priority* schools as they implemented reform initiatives. Later, many *priority* schools would be threatened with school closure. This ultimate sanction, however, was never implemented.

The primary accountability system, “Education Yes!” along with the AYP standard were replaced in 2012 with the School Scorecard Dashboard system, which used a color coded meter to assess schools on several indicators. This new system, however, existed in parallel with the numerous designations and TTB ranking system. An achievement gap ranking system was also adopted in the same year. While the dashboard system was more nuanced than the Education Yes! or TTB rank, it was less intuitive.

In 2016, the federal Every Student Succeeds Act (ESSA), another reauthorization of ESEA asserted new accountability standards for states. Following the guidelines provided by ESSA, the Michigan Department of Education submitted an accountability application to the U.S. Department of Education proposing three different possible accountability systems. The first two systems would adopt a new A-F system, but required legislative action. The third was an index system, which built on the Scorecard Dashboard, and would be implemented by default if the legislature did not act. When the state legislature failed to affirmatively adopt one of the A-F systems, the MDE defaulted to a new ESSA approved school index system.

ESSA and the school index system also saw the implementation of three new school designations: comprehensive support and improvement (CSI), targeted support and improvement (TSI), and additional target support (ATS). Essentially, these designations served as indicators of academic underperformance in a district signaling the need for additional support from the state.

In negotiations over the Detroit Public Schools District’s debt, the legislature enacted a new Detroit-only accountability system, which would give schools a letter grade. The exact criteria for the letter grade was left up to a commission to be led by the city’s mayor.

(continued on next page)

Accountability Systems Timeline (continued)

During a lame-duck session of the legislature in late 2018, the state passed a new statewide A-F system intended to supplant both the school index and Detroit-only A-F system. Unfortunately, the new system failed to meet the criteria outlined in ESSA requiring the MDE to implement the new A-F system in addition to continuing the school index system. Additionally, while the new Michigan A-F system did supplant the Detroit specific A-F system, the commission in charge of implementing the Detroit-only system decided to continue on with grading schools in Detroit. The result is three separate systems: 1) the school index system that is ESSA compliant, 2) the statewide A-F system that is not ESSA compliant, and 3) the Detroit-only A-F system, which is no longer required under state law.

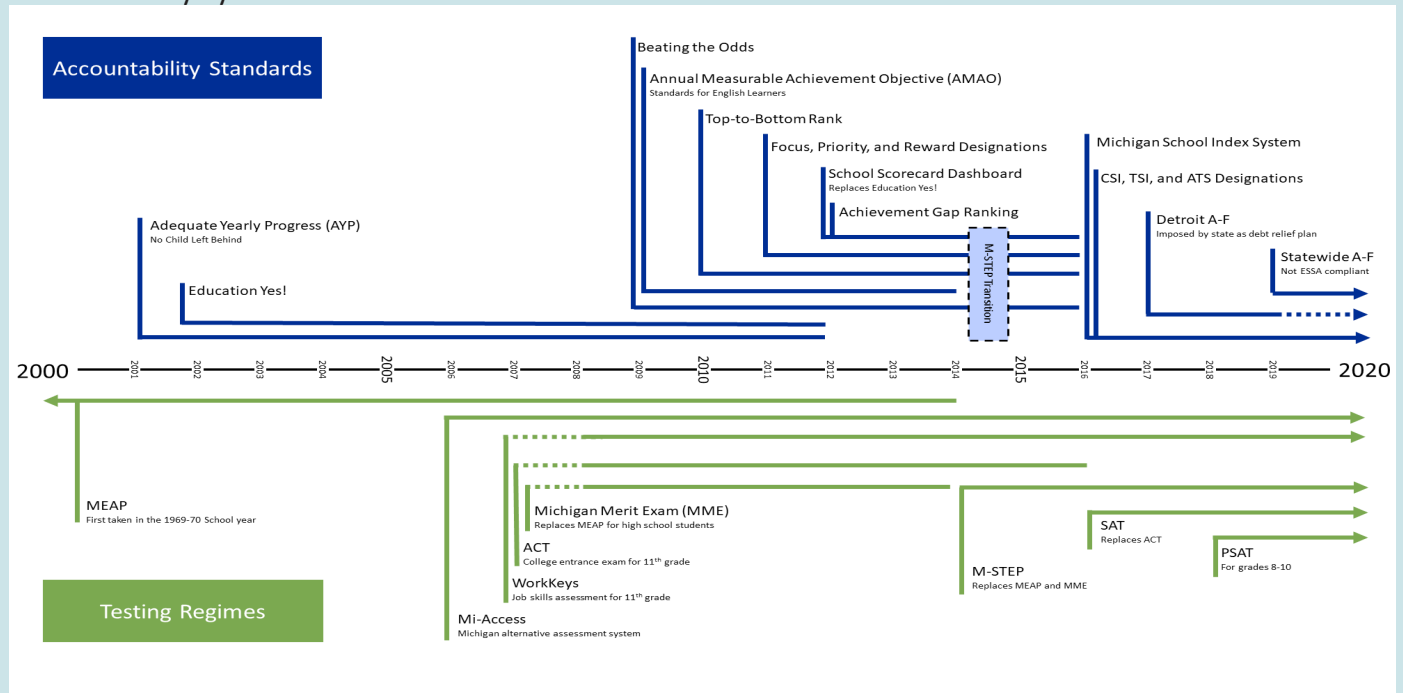
On top of the policy churn on accountability standards, there's also been churn of which test is used. In the 2014-15 school year, the MEAP test, which was used in Michigan for over four decades, was replaced by the M-STEP. The Michigan Merit Exam (MME), a test taken by students in grades 11 and 12, initially included a separate MEAP-like test for science and social studies, the ACT (for college admissions), and WorkKeys (a job skills assessment). In 2016, the three-part exam replaced the ACT with the SAT and the MEAP with a M-STEP science and social studies test. The Preliminary Scholastic Aptitude Test (PSAT) was added for 8th to 10th grade students in addition to the M-STEP. Beyond these numerous statewide tests, schools have also been encouraged by the state to adopt additional tests such as the Northwest Evaluation Association's (NWEA) test, also known as Measures of Academic Progress (MAP) tests, to comply with new test-based teacher evaluation policies. The NWEA tests are also used to measure student academic growth throughout the year and inform classroom instruction.

Updating and improving tests is good, but it also makes comparing those scores across years difficult or impossible. Additionally, requiring multiple tests per grade risks over-testing — an issue that has increasingly garnered public dissent.

When tests and accountability standards change regularly, they fail as instruments of accountability. While the theory of action around performance accountability systems is clear, the policy and practice in Michigan is anything but. The result is a fractured scatter-shot system that few understand. Moreover, because of this policy churn, neither educational consumers nor citizens have quality information by which to make decisions. Policymakers are forced to rely on volatile information.

Figure 3

Accountability Systems Timeline



Source: Created by the Citizens Research Council of Michigan using data from the Michigan Department of Education

Performance Accountability. Public school administrators may be overwhelmed by the sheer number of systems constructed to create performance accountability (see box on **Accountability Systems Timeline** on page 22). Over time, new forms of educational accountability have been layered on top of older forms, rather than replacing them. When multiple accountability policies exist, they can be either complementary or competing. When policy goals align, this may reinforce accountability; when they conflict, organizations may be pulled in different directions decreasing organizational efficiency and subverting accountability. However, it is because of these accountability mechanisms and state tests that it is known that charter schools, like traditional schools, span the range from high performing to struggling.

Public school administrators may be overwhelmed by the sheer number of systems constructed to create performance accountability.

In addition to these numerous reporting and testing requirements, charter schools may be subject to testing required by their authorizers in order to monitor that they are meeting the requirements of their charters (discussed in more detail below).

Siting of Schools. Determining the location of new charter schools has been a contentious issue, especially in Detroit. This is probably a more significant issue in Michigan than it is in most other states because the population of most other states, and thus the number of school age children, continues to grow. Michigan's population growth has been stagnant and the number of school age children has been declining for several years (see **Chart 1** on page 4).

Opening new charter schools in other states entails drawing students from traditional public schools, but the growing population of school age children lessens the effects on traditional schools. In Michigan, and especially in the cities, such as Detroit, in which charter schools are plentiful, the lack of growth of the number of school age children makes the opening of charter schools more of a zero-sum proposition.

The competition for student enrollment can be a particularly vexing problem in a city like Detroit where the number of high-performing schools (charter or traditional) has been low historically and there is considerable

existing capacity within the schools operated by Detroit Public Schools.³³ Many of the 100 buildings currently operated by Detroit Public Schools Community District are in need of substantial repairs and the district is looking at over a \$500 million tab to bring them up to current standards.³⁴ A complete and comprehensive effort to consolidate schools and right-size the district has not occurred to date, but may be considered in the future given the demographic trends and competitive dynamics in the Detroit education market. The state does not have any direct oversight role in either sit-

ing new schools or efforts to consolidate existing schools and decommission buildings.

Michigan law does not spell out an oversight role for either the state or local governments in the

siting of new charter schools. As with any building, the schools must obtain certificates of occupancy to use a facility. Communities can play a minimal role through zoning requirements if the road infrastructure and surrounding area is not well suited to handle the increased traffic.

On the one hand this hands-off approach for school siting is intentional. In a free market approach to opening schools, it is incumbent upon the charter school board of directors to identify a location in which an ample supply of school age children will allow the school to attract students.

Charter schools in other states share the ostensible free market approach inherent in school choice, but local school districts play a more predominant role in authorizing charter schools. Closer ties to the community provides greater opportunity for public input and working with the local government. In Michigan, universities have played the predominant role in charter school authorizing, thus there exists separation between the authorizers and the local governments.

Proposals have been floated to empower a third party to play a role in the geographic placement of charter schools in Detroit. The rationale was that the number of school-age children in the city has not been growing. Each time a new school is opened, the existing population of school children gets spread over a larger

number of education providers (see **Chart 3**). Some parts of the city have an abundance of education providers – both the Detroit Public Schools and charter schools – while other parts are lacking. The proposals attempted to rationalize the placement of school buildings to better serve the whole city.

Education Service Providers. The use of education service providers is another contentious issue. The state government does not play a role in overseeing these companies or other private organizations that contract with schools (charters and traditional) to provide a litany of services. The primary responsibility for monitoring agreements with management companies rests with the charter school boards of directors. Ultimately the boards must ensure that contractors are held to account and meet contract provisions.

Authorizers do play an indirect role here. They are required to review any agreement between a board of directors of a school and a management company before the agreement is finalized and takes effect. While authorizers are not required by state law to approve such agreements, they have the authority to disapprove an agreement if it is not in compliance with the school’s charter or state law (discussed below). The companies providing education services in the charter schools must file paperwork and pay taxes to the state, just like any other company or not-for-profit entity.

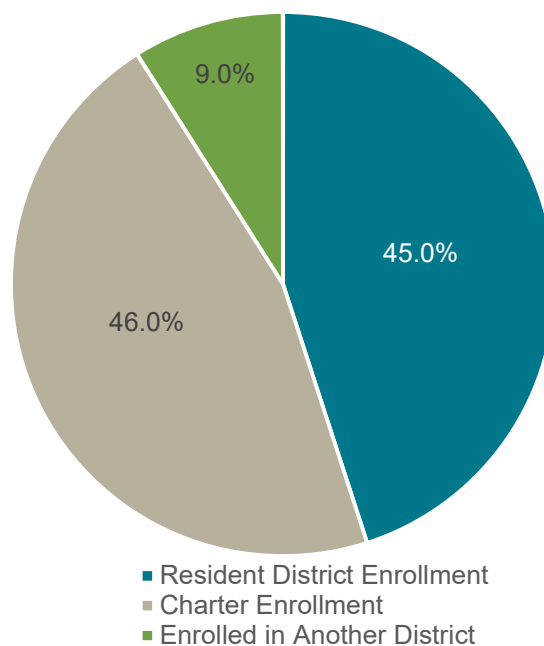
Stewardship of Public Resources

The state government plays a proactive role in oversight of public resources used for the operation of charter schools. Public school administrators must report financial information as part of their reporting to CEPI. The Michigan Department of Treasury then uses that data to assess whether potential fiscal stress exists or is likely to exist given current trends with enrollments, revenues, expenditures, and fund balances.

The consequences of the state’s financial oversight are clearer than for most other subjects. Failing finances can lead to state involvement through the Local Financial Stability and Choice Act.³⁵ This iteration of Michigan’s emergency manager laws provides for state involvement when financial unbalance is shown to exist in local government financial operations. It provides a process wherein the state and the local government can agree to a consent agreement requiring corrective ac-

Chart 3

Detroit Resident Public School Enrollment, 2018



Source: Julie Mack, “Michigan districts with biggest losses to school choice, 2018-19,” MLive, <https://www.mlive.com/news/g66l-2019/11/1f448ce3f18961/michigan-districts-with-biggest-losses-to-charters-schools-of-choice-in-201819.html>.

tions, the appointment of a financial manager, a neutral evaluation process, or Chapter 9 bankruptcy. While this threat exists for charter schools, it is presumed that the charter school authorizers would get involved to direct remedial actions or close down the school before the state government would get involved through this process. Many charter contracts have language stipulating such intervention on behalf of the authorizer to avoid state government involvement in school finances.

School Buildings. Except for the few charter schools that have been authorized by local or intermediate school districts, and perhaps community college districts, there has been at times an adversarial relationship between the charter schools and the existing traditional schools. This relationship is very much reflected in the use of school buildings. Even though some school districts are mothballing school buildings because they no longer have the student counts to warrant their use, they would rather sell them for non-education purposes or tear them down than allow charter schools to use them.

This leaves charter schools to find space elsewhere. Charter schools have varied experiences finding space in which they can establish operations. Some were able to find space in existing buildings repurposed for use as schools. Other buildings have been constructed especially for the schools.

Some have contended that education service providers/management companies are using the public funding they receive through contracts with schools to pay for the purchase of the land and construction of the buildings. Then, when the contract with a particular school ends, the management company walks away with owning the land and/or building, purchased with public funds. However, this situation is not remarkably different than what exists when other companies contract with the state, local governments, or school districts for the provision of public services or functions. Schools and local governments contract with private companies for a broad range of services.³⁶ It is understood that the governments are purchasing services, and that the sums paid will be used to pay for the personnel, capital, and operating costs of the contracting companies.

As long as traditional public schools continue to resist use of mothballed facilities by charter schools, it may be necessary for those attached to the schools to purchase land and construction of buildings to house charter schools. It is foreseeable and should be expected that school aid payments to those charter schools will be used to fund those purchases and construction. The state superintendent has authority to intervene in the siting of schools. Borrowing for such purchases and construction is subject to rules and regulations established by the Department of Treasury. The Department of Licensing and Regulatory Affairs and local building departments play important roles in construction codes.

Objectives and Standards

Michigan's charter school law was one of the first and most expansive in the nation. It permits a wide range of actors to apply for a charter, to authorize a charter school, and to manage schools. However, Michigan's model breaks with the premise of school choice because it regulates these alternative schools very similarly to traditional schools and subjects them to "all applicable laws," with a few notable exceptions.

Michigan's model breaks with the premise of school choice because it regulates these alternative schools very similarly to traditional schools and subjects them to "all applicable laws," with a few notable exceptions.

The initial legislation authorizing Michigan charter schools treated them similar to the theory behind the charter movement: limit the number of legal and regulatory requirements in exchange for an expectation of higher student performance. In keeping with the charter theory, early

draft legislation of the law required charters to meet only a handful of state laws and select portions of the Revised School Code that apply to traditional districts. In this sense, charters were to be free of many state regulations deemed burdensome or restrictive.

However, things changed as the draft bill moved through the legislative process. After considerable debate, and to gain bipartisan support in the legislature, the final version of the bill substantially shifted the regulatory focus. Instead of freeing charters from state regulatory and compliance burdens, the compromise language required all charter schools to comply with a list of specified statutory provisions (e.g., Open Meetings Act, Freedom of Information Act, and Public Employment Relations Act), as well as "all applicable laws." The inclusion of the "all applicable laws" provision was intended to assure skeptics that Michigan charter schools would be regulated the same as traditional public schools.

The inclusion of this provision, while not specifically defined in law, means that the drafters of Michigan's charter law envisioned a role for governmental regulation and oversight. These new schools would not be solely responsive to market forces.

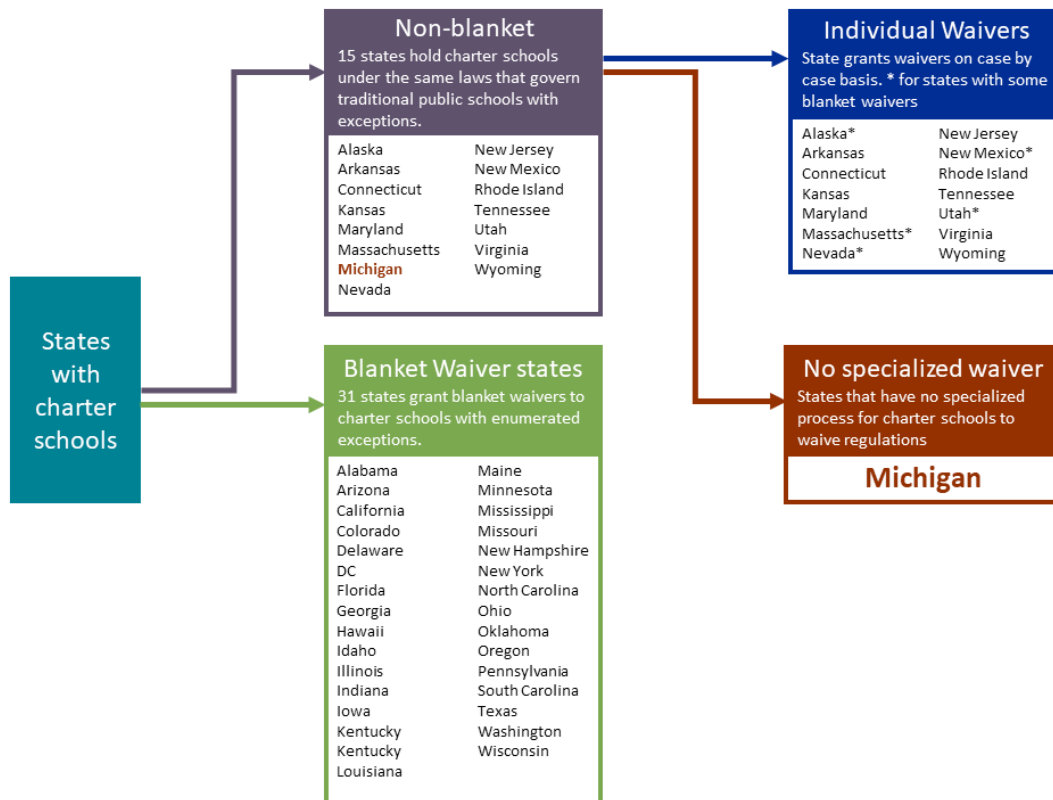
Regulations and Waivers. Public education is subject to a host of state and federal laws, rules, and policies. Schools and many individuals involved in the delivery of public education services face legal requirements that they must meet or risk sanction by a multitude of authorities exercising jurisdiction over them. Consider that state and federal laws restrict how districts can spend taxpayer dollars and how they cannot. Schools are not free to teach any material they choose, but must use textbooks and other resources aligned to state-mandated standards adopted by state boards of education. Principals often have limited authority to manage the school calendar or hire employees in ways that would be advantageous for their school's populations. Teachers must gain certain state-issued credentials before they can enter the classroom.

Schools must comply with a host of rules and regulations spanning various topics and areas: everything from sunshine laws (e.g., freedom of information and open meetings) and financial accounting to teacher

certification and pupil accounting. Laws and regulations may help to promote a minimum level of governmental transparency and educational equity, but they also may impede upon the flexibility of schools in deciding how best to educate students. This tradeoff is reflective of the inherent conflict that can exist among competing goals of public education and the effort of schools to achieve those goals. A complex regulatory/bureaucratic framework may promote key contextual goals by focusing schools' attention on specific inputs and processes (e.g., attention towards contextual goals of the civil rights movement in public education); however, rules and regulations may not provide the appropriate suite of incentives and disincentives to schools to achieve their primary goal of educating all students.

To gain autonomy from state laws and rules, schools request specific waivers. Michigan is unique in that it grants waivers to charter schools on a case-by-case basis using the same process that it does for traditional schools (see **Figure 4**). Michigan stands out as the only state that does not have a separate system for

Figure 4
Charter School Waivers



Source: Created by the Citizens Research Council of Michigan using data from the Education Commission of the States

Federal Laws

While charters may be exempted from some state laws to drive autonomy and flexibility in the sector, federal law cannot be waived. Many of the federal requirements and mandates relate to ensuring fairness for all students and families. For example, the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act ensure that students with disabilities receive appropriate special education services and that all public schools, including charters, do not discriminate in admissions, student discipline, and the provision of other services.

Furthermore, additional requirements filter down to schools as a condition of receiving federal funding that is either directly sent to schools or received through state agencies. In accepting federal funds for various programs (e.g., funds targeted at specific student populations, teachers, and school leaders), charter schools are subject to the same restrictions and conditions accompanying the dollars as traditional public schools.

permitting charter schools to bypass regulations. Many other states exempt charters from some portion of regulations governing traditional public schools. These blanket waivers promote autonomy, flexibility, and innovation in the charter school sector. Some states grant waivers on a case-by-case basis during authorization of the charter school or assess more limited blanket waivers to charter schools.

Key Exemptions from State Regulations. Teachers working in charter schools are not covered under Michigan's teacher tenure regulations. Tenure laws were originally passed to protect teachers from being sanctioned or fired because of race, gender, political views, or cronyism, and provide educators threatened with dismissal with the right to defend themselves. By being exempt from Michigan's law, charter school employees are "at-will" and most work under short-term contracts that provide school administrators much more freedom to hire and fire their teachers. Also, freedom from tenure provisions grants schools greater flexibility in teacher placement and assignment.

When management companies are used to staff charter schools, the teachers and staff are private employees and therefore prohibited from being members of the state-run teacher retirement system. Because of these personnel arrangements and the fact that many charter schools contract with management companies for instruction, many, but not all, of the charter schools do not participate in the state pension system. This prohibition does not mean that charter schools don't provide retirement benefits to their employees. Many management companies offer retirement benefits through defined contribution plans (e.g., 401(k) and 403(b) plans). Public schools participating in the state-run system are

required to contribute up to 27.5 percent of employee payroll to fund promised pension and health benefits. Nearly three-quarters of the employer contribution goes towards funding unfunded liabilities (pension and retiree health), a cost that charter schools do not face when they offer traditional defined contribution plans.

The Public Employment Relations Act (PERA) requires public employers to bargain collectively with organized representatives of employees.³⁷ The law specifies those issues that may and may not be subjects of a school district collective bargaining agreement, and limits the role of school management and collective bargaining rights under certain circumstances.

The state's charter school law specifically calls for compliance with PERA. Thus, if a school directly hires its employees and they choose to organize, then the school must bargain collectively with its employee organizations.^e However, this is not the case for charters that contract with management companies to provide classroom instruction. The management company is not a public employer under the law and these teachers are not considered public employees; therefore, they do not fall under the auspices of PERA. These employees may still organize, but they must do so under federal law. Because of the staffing arrangements in most Michigan charters, schools are effectively exempt from state collective bargaining law. Further, charter schools are exempt from required participation in the collective bargaining agreement of the traditional school district in which they are located.

^e In 2012, Michigan enacted "right-to-work"/"freedom-to-work" laws to allow all workers to choose whether or not to join a union. Under these laws, public and private employers cannot make joining a union or paying union dues conditions of employment. Right-to-work did not affect workers ability to collectively bargain.

While charter schools must accept any student who applies, including those requiring special education services, charters are able to set enrollment limits based on grade configurations and school building capacity contained in their authorizing agreements. State law requires charters to use an admission lottery if the number of applicants exceeds the school's enrollment capacity. They cannot discriminate based on a student's learning needs.

Avoiding Harm

Parents voice a number of reasons for enrolling their children in charter schools rather than their assigned public school. One survey of charter parents indicates that school safety at their local public school – bullying, racism or another threat to their child's safety – was a primary reason behind their charter choice.³⁸ State law and board of education policy require all public schools to adopt policies to dissuade bullying and encourage constructive social interactions.³⁹ State regulations to ensure building safety (e.g., building codes and inspections and safety drills) apply to all public schools, including charter schools. While these laws and rules are created by the state, enforcement and sanctions, if warranted, rests with the authorizers for behavior policies and with local governments for building safety.

Beyond the development of statewide standards and the application of measurement tools such as the M-STEP test, the state's role in oversight to protect against the potential harm of an inadequate education in charter schools is limited. While the state provides the standardized test, it is up to the schools and the authorizers to interpret the results and take action if the results suggest a lack of proficiency in a school. Neither the state superintendent of public instruction nor any other state actors have much authority when it comes to granting charters, amending existing charters, or revoking charters in the event that signs of an inadequate education is detected.

Authorizer Oversight of Charter Schools

Charter school authorizers play a critical role in ensuring that schools are held accountable for academic, financial, and other results and that only successful school charters are renewed. Strong authorizing can create and support high-quality charter schools and weak authorizing can enable poor schools to stay open. High quality authorizers set the standards for good quality charter schools and measure operators against those standards.⁴⁰ Charter school authorizers must have established mechanisms in place to oversee and hold schools accountable.

Early charter school laws were primarily focused on the actual schools and treated authorizing almost as an afterthought with few clear standards or sanctions

applied to authorizers in state laws. This absence of a clear definition for quality authorizing led a group of early authorizers to come together and create their own standards through the National Association of Charter School Authorizers (NACSA).^f This group has made promoting quality charter school authorizing its focus and has articulated principles and standards of effective authorizing.⁴¹

Strong authorizing can create and support high-quality charter schools and weak authorizing can enable poor schools to stay open. High quality authorizers set the standards for good quality charter schools and measure operators against those standards.

NACSA identified three core principles of charter school authorizing to ensure quality oversight of charter schools: 1) maintain high standards for schools, 2) uphold school autonomy, and 3) protect student and public interest.

These principles require authorizers to set and maintain high standards and then to monitor schools and close those that cannot meet these standards. Charter school authorizers are responsible for minimizing administrative and compliance burdens on schools and holding schools accountable for outcomes rather

^f NACSA is a nonprofit research organization dedicated to strengthening charter school authorizing in order to advance smart charter school growth and oversight (<https://www.qualitycharters.org/>).

than processes. Authorizers must hold schools accountable for fulfilling their public education obligations to students (e.g., fair treatment in admissions and discipline), as well as fundamental obligations to the public (e.g., sound governance and management, public transparency).

In addition to these three guiding principles, NACSA enumerates multiple standards to help ensure effective authorizing, and therefore accountable and high-achieving charter schools. These standards relate to authorizer agency commitment and capacity, application processes and decision-making, performance contracting, ongoing oversight and evaluation, and revocation and renewal decision-making. These standards provide guidelines for authorizers to provide effective oversight to schools and be accountable to the public. Best practices include things like external reviews, performance management systems, and a rigorous application process.⁴² These principles and standards are now incorporated directly or by reference into the charter laws of 18 states.⁹

Oversight Requirements in Michigan's Charter School Law

State law gives the authority to oversee charter schools almost completely to authorizers. It requires authorizing entities to ensure that schools are in compliance with their charter, applicable laws, and any rules or terms of their contracts. The Revised School Code also provides for the oversight of authorizing authorities by the state superintendent of public instruction. If the superintendent finds that an authorizer is not engaging in appropriate oversight and monitoring of its charter schools, he or she may suspend the power of the authorizing body to issue new charters.⁴³ The power of the superintendent to suspend authorizers' ability to charter new schools if they fail to provide appropriate

oversight is not well-defined in law or administrative rules. Effectively, neither state law nor administrative rule provides clear sanctions and consequences when authorizers fail to engage in proper oversight.

Michigan law ascribes several duties for the authorizing bodies in regards to issuing charters and overseeing charter schools. These statutory expectations are largely procedural, or "check box," expectations that relate to complying with state law and the integrity of the schools. The law defers to the authorizers to de-

cide how to oversee academic performance, the health and safety of the student body, and financial health of the schools. Oversight expectations in the law include:

- Ensure that the charter contract and application for the contract comply with state law
- Submit the contract to the Department of Education within 10 days of issuing charter
- Establish the method of selection, length of term, and number of members of the board of directors of each charter authorized; ensure that board members include representation from the local community
- Ensure that the board is in compliance with the terms of the contract and applicable law
- Develop and implement a process for holding charter schools accountable for meeting applicable academic performance standards set forth in the contract and for taking corrective action for a charter school that does not meet those standards
- Take necessary measures to ensure that charter school boards operate independently of any management companies involved in the operations of a charter school
- Ensure that the pupil admission process is operated in a fair and open manner and is in compliance with state law
- Ensure that charter boards maintain and release information as required by state law
- Act as the fiscal agent of charter schools⁴⁴

State law gives the authority to oversee charter schools almost completely to authorizers.

⁹ Ohio, Wisconsin, Louisiana, Colorado, and Illinois mention NACSA specifically; Alabama, Delaware, Hawaii, Indiana, Maine, Minnesota, Mississippi, Nevada, New Mexico, South Carolina, Tennessee, Texas, and Washington require nationally recognized standards.

The law as it applies to conditions under which an authorizer may revoke a school's charter is deferential to the authorizers to define the consequences of their self-defined oversight. It states that a charter may be revoked for the following reasons:

- Failure to demonstrate improved academic achievement or meet the educational goals set forth in the contract
- Failure to comply with applicable laws
- Failure to meet generally accepted public sector accounting principles and demonstrate sound fiscal stewardship
- The existence of one or more other grounds for revocation as specified in the charter

If the MDE finds that a charter school that has been operating for four years is among the lowest achieving schools in the state for at least three years (with the

Most states put authorizer oversight responsibilities in state statute. Michigan's charter school law directs the authorizers to provide oversight of their schools, but the law has left to the authorizers the nature and rigor of those oversight activities.

exception of alternative schools serving special student populations), then the MDE can force an authorizer to revoke a charter. Otherwise, state law declares that the decision of an authorizer to issue, not issue, reconstitute, or revoke a charter is solely within the discretion of the authorizing body and is not subject to review by a court or any state agency.

Most states put authorizer oversight responsibilities in state statute. Michigan's charter school law directs the authorizers to provide oversight of their schools, but the law has left to the authorizers the nature and rigor of those oversight activities.

The 10 largest authorizers in the state recognized their role in oversight and the lack of specificity in Michigan's

charter school law and created the Michigan Council of Charter School Authorizers (MCCSA).^h By pooling their resources and knowledge they have created a clearinghouse of ideas, resources, and best practices to perpetuate the success of the charter school marketplace.

The Council has published standards designed to help the authorizers understand the elements and the basic information needed to engage in oversight. The agreed upon standards help the authorizers to understand their roles as they relate to review of applicants, charter contract development, their ongoing roles and responsibilities, and the use of public funds and accountability for their use. The standards describe the oversight activities that authorizers should engage in related to:

- The charter school boards of directors
- Student application and enrollment
- Academic performance and student testing
- Special education services
- Teacher certification
- Financial accountability
- Educational service providers
- Facility and health safety
- Contract reauthorization
- Regulatory compliance
- Public disclosure and conflicts of interest

The Ability of Michigan Authorizers to Provide Oversight

This report often generically refers to charter school authorizers. While the laws apply equally to all entities empowered to authorize charter schools, it must be recognized that the different entities are not equally endowed with the ability to carry out their oversight responsibilities. The geography of the authorizers ranges from a few square miles for local school districts to the entire state for the universities.

To be an effective authorizer requires capacity including staffing, technical skills, and financial resources.

^h MCCSA represents the ten largest authorizers in the state: together they charter 85 percent of the schools in Michigan and account for 95 percent of charter students in the state (www.michiganauthorizers.com/).

Strengthening Authorizer Oversight Responsibilities in Other States

A review of authorizer practices throughout the states, highlights a number of practices that authorizers undertake to promote quality authorizing and advance high-quality charter schools in their states. This section highlights some best practices that can and should be adopted in Michigan. This is not to say that some authorizers in Michigan are not already doing these things, but that these practices are not codified in state law and, if currently done in Michigan, they are voluntary.

Increased Transparency in Minnesota

Minnesota adopted a number of accountability reforms in 2009 that had the effect of strengthening the state's oversight of authorizers. While these reforms accomplished many things, one of the best practices that is obvious with just a cursory review of authorizer websites in Minnesota is increased transparency.

The changes to state law required authorizers to submit more reports and data to the state and this information is readily available on authorizers' websites including

- Approved authorizer plans: the plan submitted to the state commissioner of education which includes information related to authorizer capacity and infrastructure (including mission and goals) and authorizer processes and decision-making (including ongoing oversight and evaluation of schools)
- Charter school guides or handbooks: a ready resource for schools with clear, explicit policies on accountability, oversight, and renewal and revocation, among other things
- Reports on revenues and expenditures: a state requirement that all authorizers annually submit a report of oversight expenses to the state and their schools
- Five-year authorizing plans
- Information on authorizer evaluation systems put into place by the state
- Authorizer policies related to shared expectations and accountability, monitoring charter schools and holding them accountable (including a range of feedback and possible interventions in schools), performance evaluations, and reauthorization

Furthermore, basic information on all authorizers (contact, annual income and expenditures, etc.) is available on the Minnesota Association of Charter Schools website.

The reforms enacted in Minnesota accomplished more than increased transparency, but one major benefit of the requirement from the state to provide more data and reporting is more information being available to the public as well. Some Michigan authorizers provide useful information on accountability and oversight on their websites, but the state could benefit from explicit policy requiring authorizer plans and applications, evaluations, and information on authorizer expenditures, and that this information be readily available to the public, thereby increasing transparency.

Dissemination of Information in Massachusetts

Charter schools in Massachusetts are granted a five-year charter contract by the state's Board of Elementary and Secondary Education, the only charter authorizer in the state, after a rigorous application process. Once a charter is granted, schools are given autonomy to organize and control their own budget and staffing. Schools have five years to demonstrate good results or risk losing their charter. Renewal of a charter in Massachusetts is based on academic success, organizational viability, and faithfulness to the terms of the charter.

(continued on next page)

Strengthening Authorizer Oversight Responsibilities in Other States (continued)

One interesting thing about Massachusetts charter law is that in order to earn renewal of a charter, a school must provide models for replication and best practices to the education commissioner and to other public schools in the district where they are located. The state lists multiple forums and activities through which a charter school may disseminate their best practices, including

- Partnerships with other schools implementing key successful aspects of the charter school's program
- Active participation in district turnaround efforts
- Sharing resources or programs developed at the charter school
- Hosting other educators at the charter school
- Presenting at professional conferences about innovative best practices¹

This requirement written into state law that charter schools share their best practices and offer models for replication is a “best practice” to be adopted by Michigan. Currently, some authorizers have come together to collaborate and share best practices in authorizing, but this, again, is voluntary and it does not include sharing the best practices of what works at particular schools. This requirement to share best practices and disseminate information in Massachusetts includes sharing these practices with traditional schools as well.

State and Charter School Collaboration in Florida

Florida adopted its charter school law, which allows local school districts to authorize charter schools, in 1996. Recognizing the importance of high-quality charter authorizing, the Florida Department of Education has taken a lead in promoting effective authorizing practices. Building off of the best practices identified by the National Association of Charter School Authorizers (NACSA), representatives from the Florida Department of Education, school districts throughout the state, and charter schools came together to develop the “Florida Principles and Standards for Quality Charter School Authorizing.”²

These standards are voluntary and are not codified into law, but the state was involved in developing them and is promoting their use throughout the state. Furthermore, the Florida Department of Education hosts an annual charter school conference to promote best practices throughout the state and to help charter schools build their capacity and ensure successful schools.³

In order for this best practice model to be adopted in Michigan, the state education department would need more funds and staff dedicated to its charter school office and a directive to commit more time and energy to collaboration with charter schools and authorizers in an effort to share information and improve charter schools throughout the state. Right now, the MDE's focus is more on regulatory compliance with regards to charter schools.

- i “Charter Schools: A Guide to the Dissemination of Best Practices,” Massachusetts Department of Elementary and Secondary Education, accessed November 6, 2019, <http://www.doe.mass.edu/charter/bestpractices/>.
- ii “Florida Principles and Standards for Quality Charter School Authorizing,” *Florida Department of Education, Office of Independent Education and Parental Choice* (2018), <http://www.fldoe.org/core/fileparse.php/9905/urlt/PrinciplesStandards.pdf>.
- iii “Florida Charter School Conference 2019,” Florida Charter School Conference, accessed November 6, 2019, <http://www.charter-school-conference.com/>.

IMPROVING OVERSIGHT OF MICHIGAN CHARTER SCHOOLS AND THEIR AUTHORIZERS

While some authorizers appear to be operating at a scale conducive to maintaining an appropriate regulatory apparatus for charter schools, others may have staffs that are too small to effectively carry out those responsibilities.

Charter school authorizers may supplement the percentage of the state school aid payment that they receive for each school they authorize from the general funds of their institutions (e.g., the general university budget might support charter offices), but the lack of state oversight of the authorizers leaves little knowledge about whether that happens very often.

One benefit of this fee system is that authorizers are guaranteed funding that is not subject to annual appropriations from the state legislature or the general governing board of the authorizer.⁴⁵ But, the lack of appropriation removes one potential element of oversight – as neither the legislature, nor anyone else, can readily understand how the funds are used. Further, absent a state appropriation, the legislature is unable to use funding as an incentive to encourage authorizers to engage in certain activities.

It is difficult to determine adequate authorizer capacity with limited research on the costs and needs of effective authorization. The intersection of scale and geography may affect the ability of the authorizers to provide oversight. Some authorizers are quite small and authorize only one school serving fewer than 50 students and others oversee dozens of schools serving tens of thousands of students. Authorizing many schools provides funding to develop sufficient staff and expertise to carry out administrative and oversight responsibilities, but creates challenges in developing working relationships with the school administrators. Authorizing only one or two schools and having them in close proximity is an advantage for providing oversight, but it limits the state funding that can be used for oversight.

Many of the small authorizers are community colleges and K-12 or intermedi-

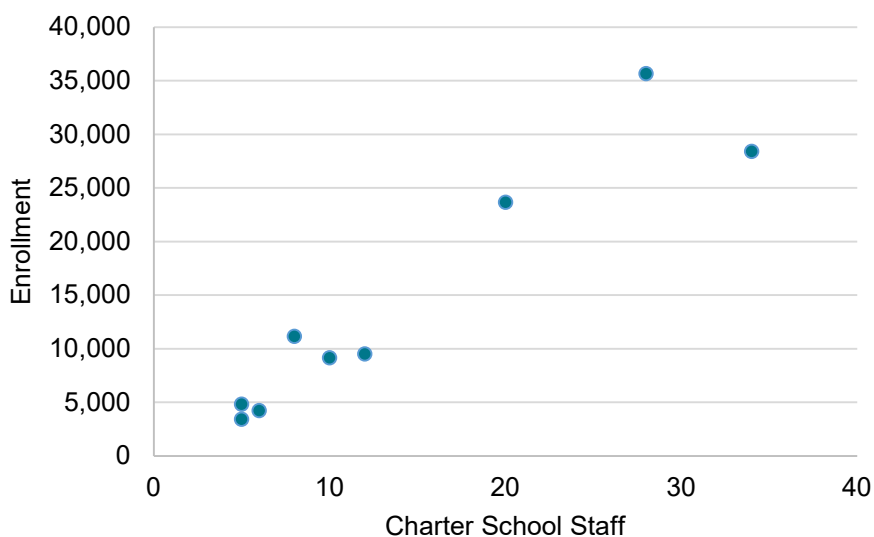
ate school districts. These authorizers are physically and politically closer to the schools they authorize. Additionally, since charter schools are under the same regulatory framework as other public schools, K-12 authorizers may be able to replicate the work they do for their own schools for charter school administration and oversight. Whether local district authorizers are effective and efficient is unclear. Because local districts have school boards elected directly by local citizens, however, they are inherently more accountable to the people.

Michigan's university authorizers have the largest portfolios of schools. Still, significant variance occurs among this group: GVSU authorizes 62 schools serving more than 36,000 students, whereas Eastern Michigan University (EMU) authorizes 11 schools serving fewer than 4,000 students. These differences are reflected in the authorizers' budgets and consequently their staff. While it is unclear whether any, or all, of the active authorizers have sufficient capacity to oversee the charter schools they administer, it is clear that authorizers require staffs of vastly different sizes to accomplish essentially the same tasks (see **Chart 4**).

GVSU, CMU, and Bay Mills authorize charter schools across the state. Whereas the sheer geographic size

Chart 4

Student Enrollment and University Charter School Office Staff



Source: Michigan Department of Education and University Charter Schools Offices websites

of the state could make it difficult to provide effective oversight at all of their schools, they have overcome this by employing field agents to oversee subsets of the total portfolio for each authorizer.

Schools like EMU and Oakland University (OU) have limited portfolios of charter schools, but oversight of those schools is facilitated by the limited geographic areas in which their charter schools are located. Both schools have authorized charters for schools that are in Southeast Michigan.

This contrasts with schools such as Ferris State University (FSU) and Lake Superior State University (LSSU) that have limited portfolios of charter schools that are spread throughout the state. FSU has authorized 19 schools located in nine counties across the state. LSSU has authorized 21 schools located in 13 counties similarly spread over a wide geographic area.

Importantly, the Charter School Office at CMU along with the MCCSA has pushed university authorizers in Michigan towards standard processes for applications and oversight. Still, these standards are voluntary. Furthermore, because Michigan's system is spread across many institutions, all operating independently and in the absence of any specific formal coordination, significant inefficiencies in governance and operations may exist that could benefit from centralization and standardization.

Accountability

Elements of accountability are evident among the authorizers, but the number of elements and the rigor with which they are applied varies among the authorizers. Accountability measures imposed by charter school authorizers are layered onto the state's measures and are often more proactive than the state's measures.

Transparency. Some of the university authorizers have augmented transparency information compiled by CEPI by preparing their own progress reports for the schools they have authorized. Depending on the authorizer, these reports may describe the demographics of the student body, progress in meeting academic standards specified in the charters, financial performance, participation of directors in board meetings, and other useful information.

While these parts of the university websites are not hard to find and they are easy to navigate, one would have to know that they are there for them to be useful. Like the CEPI data, these reports are more about where the schools have been than what they are currently doing.

Opening new schools. As detailed above, state law specifies the mandatory contents of charters. The authorizers work with the charter school applicants to specify the operating model of the school, where the school will be located, the academic standards to which the school will be kept, description of staff responsibilities, and other details. The charter documents specify the governance structure of the school board, the curriculum to be employed, and the methods of assessing pupil development.

Because Michigan's system is spread across many institutions, all operating independently and in the absence of any specific formal coordination, significant inefficiencies in governance and operations may exist that could benefit from centralization and standardization.

While each charter pays homage to the concept of high achieving schools, the rigor with which authorizers truly flesh out the charter school's plans and ability to achieve their quality school goals varies among the authorizers.

As evidenced by the list of oversight requirements of the authorizers enumerated in state law (see page 32), much of the statutory criteria for issuing and overseeing charters is simply insuring that the required elements are included in the charter. It is up to the authorizers to establish the rigor to promote quality charter schools.

With the oversight expectations spelled out in statutes of other states, authorizers are able to put great emphasis on spelling out expectations and oversight actions in the charters. By setting the stage for successful, high achieving schools at the outset, the schools are better prepared to execute the plan that was developed and the expectations are clearly spelled out against which the schools and authorizers can measure success. The argument is not that this is not found in charters entered into by Michigan authorizers, but the lack of statutory directive leaves oversight to the discretion of the authorizers and uneven expectations among charters.

Over the history of Michigan's charter school policy, the state legislature has played a significant role in controlling the growth of new schools by setting a numerical cap on university-authorized schools. It revisited the cap on several occasions and gradually increased the number of schools that universities may authorize. The state abandoned the cap on the number of university-approved schools in 2015. Over the years, the public debate around caps focused on the issue of school quality. Caps created an element of scarcity that proponents contended would require authorizers to be more rigorous in their selection and approval of schools as well as their decisions to close failing schools and replace them with higher performing ones.

Charter school advocates generally oppose caps as they are inconsistent with the underlying market orientation of the charter school model; they argue that parental demand for charter schools will act as a natural cap. A state-imposed cap arbitrarily disrupts the market for alternative educational options. Further, opponents point out that caps can deter high-quality operators from entering the market and therefore discourage more innovative charter models from gaining a foothold. They argue that arbitrary caps signal that

risk-taking and experimentation with alternative schooling models is to be discouraged in favor of more familiar and replicable options. In effect, caps stifle the innovation that the charter school theory is premised on.⁴⁶

Some researchers suggest that strict numeric caps alone are fairly blunt instruments for ensuring quality schools. Rather, they assert that the effectiveness of caps must be understood and evaluated in the broader context of the authorizing environment in a state. Specifically, researchers consider whether authorizers are strong and actively monitor school performance and the criteria they use to close down poor performers and open new schools.⁴⁷ In place of such rigid caps, charter proponents suggest that states should embrace "smart caps" – only allowing the opening of a new school

(above an absolute cap) if its educational model is "proven" and shows demonstrable gains for students.⁴⁸ Michigan adopted a "smart cap" policy in 2009 as a way to address the pent up demand for new schools (at the time there was a cap of 150 university authorized schools). As part of its application for

federal Race to the Top funds, the state created a new type of charter school – school of excellence (SOE) – and allowed a total of 10 SOE contracts to be issued by all authorizing bodies. Importantly, existing charter schools were allowed to convert to an SOE if they demonstrated specific student academic success. Under this policy, all SOE schools, both newly contracted and converted schools, did not count against the existing 150-school cap.

Performance Accountability. The rigor with which authorizers hold charter schools accountable for academic performance varies among the authorizers. The external reporting of academic performance for each school is very much focused on proficiency on standardized tests and movement toward meeting goals specified in the charters.

With the oversight expectations spelled out in statutes of other states, authorizers are able to put great emphasis on spelling out expectations and oversight actions in the charters.

Some authorizers require their charter school students to take standardized tests in addition to the state's M-STEP test. The MAP Growth assessments measure student aptitude at the beginning of the school year, mid-year, and at the end of the school year (see **Figure 5**). By testing in this way, school administrators and authorizers can know not only how each student is achieving relative to state benchmarks, but the value added during the school year.

Authorizers in some other states are more proactive in measuring performance. For instance, site visits to each school are a standard part of the oversight tasks performed by the Massachusetts Department of Education (which is an authorizer in that state). Observers spend time in each classroom, conduct focus groups with various stakeholders, and review school documents. The philosophical argument against regular site visits is that the school operators can get too cozy with the authorizers, creating a friendly atmosphere in which the

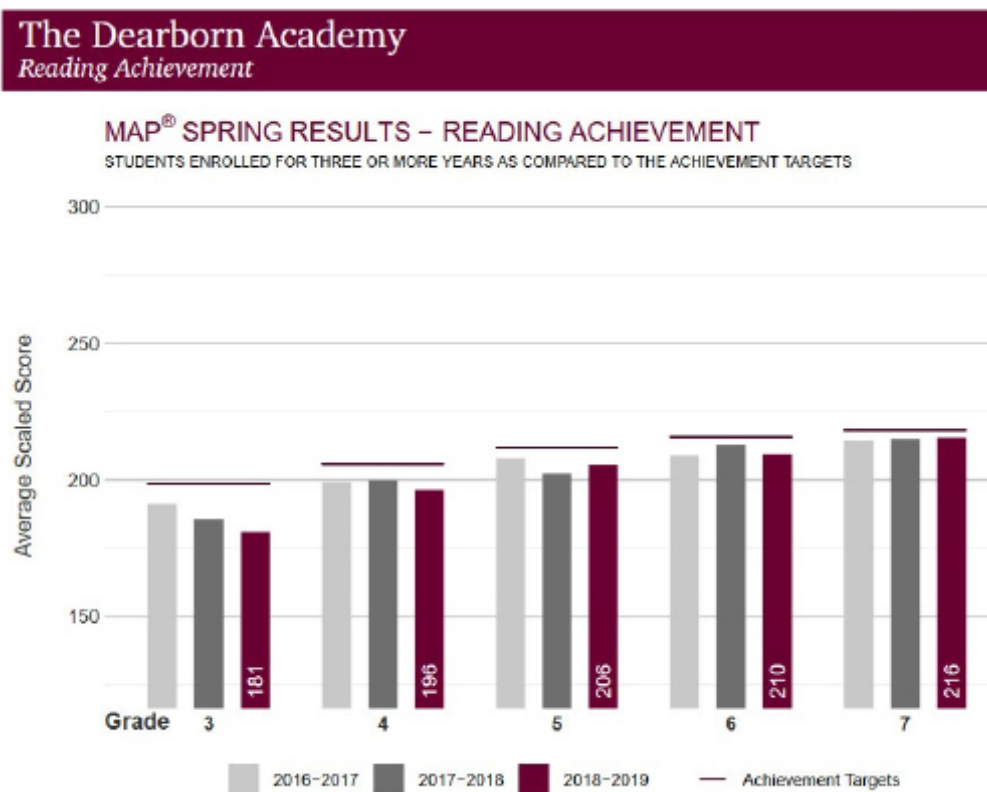
authorizers may look past some shortcomings. Massachusetts protects against this risk by soliciting individuals not attached to the department or the charter schools to perform some of the site visits. Volunteers with expertise in classroom instruction, school leadership, and/or school governance are provided with a protocol that creates guidance and uniformity in recording observations. Site visits do happen in charter schools in Michigan, but they are not required in state law and whether and how they occur depends on the authorizer.

Renewing Charters. The Michigan legislature often uses sunset provisions as a means of oversight. Laws and programs are scheduled to end on specified dates, thus forcing future legislatures to assess the extent to which those laws and programs have fulfilled their missions. Those living up to expectations are renewed and those not living up to expectations are ended. Some university authorizers have replicated that model with their responsibility to renew or revoke charters. There

is nothing in state law stipulating the length of a charter contract, instead this is something that schools and their authorizers must negotiate.

In essence, these authorizers have adopted a triage approach to charter renewals. Authorizers may have, within their portfolio of schools, some schools that are experiencing great success, some that may be experiencing moderate success, and others that are struggling. The schools that are experiencing great success in their students' academic proficiency and in the governance of the schools and their resources do not require intensive oversight and support activities. While authorizers should not end oversight of these schools (state law requires them to maintain oversight), it makes sense that their schools should have their charters renewed for longer periods of time.

Figure 5
Example of Measuring Growth Relative to Charter Expectations



Source: Central Michigan University Charter School Office, The Dearborn Academy Performance Report, <https://www.thecenterforcharters.org/cmu/PDFForWebsite/PerformanceReports/MI-82928.pdf>

Another subset of schools in authorizers' portfolios may be experiencing modest success requiring moderate levels of oversight and support. The authorizers will want to keep close tabs on these schools to ensure they are on the right path, but may assume that they are. The authorizers may renew the charters for these schools for more restrained periods of time.

Finally, the authorizers will need to provide hands-on, intensive oversight and support services for the schools that are struggling with academic proficiency, governance of the school, and its resources. The authorizers have kept the terms of the charters for these schools to shorter periods.

This should be standard practice across all authorizers.

Only high achieving schools should receive charter renewals for longer than five years. The length of charters for the others should be enough to make clear that longevity of the school depends on performance.

Only high achieving schools should receive charter renewals for longer than five years.

Education Service Providers. Perhaps the most contentious aspect of charter schools in Michigan is the use of education service providers (ESPs, also referred to as management companies). As detailed above, these are for-profit, private companies and not-for-profit organizations that specialize in some or all aspects of a school (see the box on page 5). Some ESPs provide only back office services, others are fully engaged in the classroom provision of education services, including the supply of teachers. Michigan charter schools use ESPs to a greater degree than charter schools in other states.

Contracts entered into by charter schools, whether they are providing educational services (i.e., teachers) or other types of services at the school (e.g., janitorial companies or suppliers), are between that school's board of directors and the contracting company or not-for-profit organization. All contracts entered into by charter schools must be reviewed by their authorizers before the schools can agree to the terms. The authorizers have the power to disapprove of contracts. The role of the authorizers is one of oversight to safeguard the schools from entering into bad contracts and ensure that the contracted entities are living up to the terms of the contracts.

Commensurate with state law, the authorizers must establish policies to ensure that the charter schools' boards of directors properly vet the companies with whom they are entering into contracts, that the schools have engaged independent legal counsel, and that the schools and service providers are entering into arms-length agreements. They must have policies to control against the ESPs placing their own representatives on the school boards.

There are two lines of thought in regards to the lack of transparency inherent in these contracts. On the one hand, neither the state nor its local governments ask for transparency when they contract for other services. Contracting with non-governmental entities to perform functions or provide services is fairly routine in

Michigan. Michigan municipal governments routinely contract with private companies for refuse collection, engineering, and the operations of recreation facilities such as golf courses and marinas.

Traditional public school districts routinely contract for busing, janitorial services, and food services. Governments entering into these contracts are focused on receiving the services in question through competitive bidding practices without graft or other undue practices.

On the other hand, there are few other examples of a public service being handed over almost in its entirety on a scale similar to the services provided by some ESPs. The National Alliance for Public Charter Schools (NAPCS) counts as a best practice to have laws and regulations that require the ESPs to annually provide information to the charter school governing board on how that ESP spends the public funding it receives when the ESP is performing a public function.⁴⁹

Michigan requires all school districts to report expenditure detail. The state requires a separate detailed report if a district spends more than 50 percent of its operating budget on purchased services (i.e., contracts with outside parties, such as management companies). In this report, the school must break down its purchased services by function (e.g., instruction, student support, operations and maintenance, etc.) as well as by expenditure object (e.g., salaries, benefits, supplies, etc.).

The purpose of this separate report is to provide some spending transparency of management companies. However, there is a flaw in the requirement. Ideally, this report will document expenditure detail for the total amount of purchased services; however, as written the schools are only required to report at the 49 percent threshold (even if their total purchased services constitute 75 percent of general-fund operating expenditures). This means that there is a potential for up to 50 percent of a school's expenditures (assuming 100 percent of spending is for purchased services) not to be publicly detailed.

A review of state transparency policies related to ESP finances on the NAPCS website suggests that Michigan's threshold is very high relative to other states.⁵⁰

Required Disclosure. Florida's model charter school application includes provisions requiring a description of the spending decisions the management organization can make without obtaining governing board approval, what reports the ESP must submit to the board on financial performance and on what schedule, and how the governing board will provide financial oversight.

Similarly, Ohio law requires ESPs receiving more than 20 percent of a charter school's revenue to provide a very detailed accounting including the nature and costs of goods and services it provides to the school.

Missouri law requires charter school applicants to provide a process to ensure that the expenditures that the ESP intends to bill to the charter school shall receive prior approval of the governing board or its designee.

Oregon law requires that school boards have access to ESP records and expenditures (including any profit margins).

Delaware law requires annual financial reports of the ESPs.

Open Records. Nevada law does not require that an ESP annually provide information on how it spends public funding, but several provisions prevent an ESP from being able to hide expenditures from a governing board or authorizer.

Connecticut law requires an annual audited statement of all revenues from public and private sources and expenditures related to an ESP's function with the school.

The Texas State Commissioner of Education may audit the records of an ESP regarding matters directly related to the management or operation of an open-enrollment charter school, including any financial and administrative records. The law requires management companies to maintain all records related to the management services separately from any other records of the management company.

In the State of Washington, public charter schools are subject to the Public Records Act. Public record is defined broadly to include "any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any

state or local agency regardless of physical form or characteristics." ESP records related to the oversight of the ESP contract meet definition of public record and thus the public has access via the Public Records Act.

Massachusetts and Minnesota also require financial transparency of the ESPs that operate in their states.

Stewardship of Public Resources

It is the responsibility of authorizers to act as fiscal agents for their charter schools and to ensure that their schools comply with all applicable state laws, including those related to public accounting and public finance. The ability to fulfill this responsibility varies by authorizer and the extent of their oversight mechanism. One issue that can allow low-performing or non-complying schools to stay in existence is authorizer hopping or switching.

A review of state transparency policies related to ESP finances suggests that Michigan's threshold for requiring financial disclosure from these private entities is very high relative to other states.

IMPROVING OVERSIGHT OF MICHIGAN CHARTER SCHOOLS AND THEIR AUTHORIZERS

Authorizer Hopping. Authorizer hopping or switching poses a problem if charter schools are “shopping” for alternative authorizers to avoid accountability. If the charter schools are attempting to find alternative authorizers to avoid being sanctioned, because they fear their charter is close to being revoked, or to escape stringent oversight in general, then the value of existing oversight is diminished.

Not all authorizer switching is bad. Charter schools may legitimately switch authorizers to

- Move up to a higher quality authorizer
- Escape a hostile or micromanaging authorizer
- Seek better mission alignment
- Consolidate all of its schools under a single authorizer⁵¹

Still, authorizer hopping is a serious threat to charter school accountability because it decreases the power of authorizers to hold schools accountable for their performance.

How charter school laws are framed can make a state conducive or unfriendly to authorizer hopping. The potential for authorizer shopping is maintained by two features of state policy: lots of potential statewide authorizers and little coordination or oversight over the system. Michigan has both.

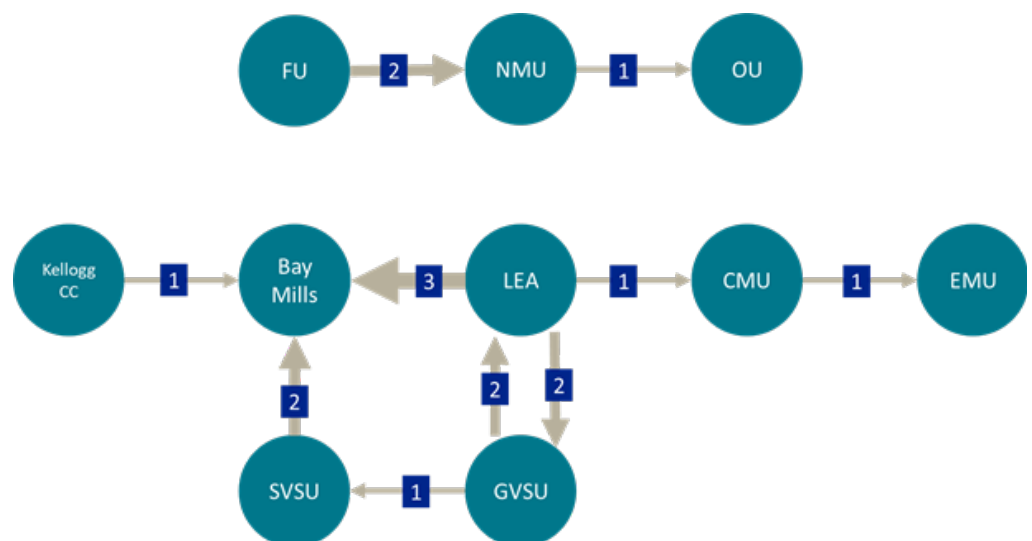
In many states, the only authorizers available are the traditional school district and/or the state. In cases where the local school districts authorize, there is very limited potential for authorizer shopping since the geography of districts makes them mutually exclusive. That is, there is only one potential school district authorizer in a geographic area. A charter school would have to physically move to switch authorizers. Alternatively, some states have no potential for authorizer switching because there is only one authorizer. Statewide organizations, even in states with multiple authorizers, may still

prevent authorizer shopping by providing organizational oversight to boost capacity of smaller authorizers.

Fortunately, despite a policy framework conducive to authorizer hopping, Michigan has had few authorizer switches considering the total number of charter schools is around 300. Between 2014 and 2019, only 16 charter schools changed authorizers (see **Figure 6** on this page and **Table 6** on page 41). The highest frequency of switches were to Bay Mills Community College (six schools switched from their original authorizer to Bay Mills during this time period). Five schools switched authorizers from one university to another. And six schools that were authorized by local districts (LEAs in **Figure 6** includes both local and intermediate school districts) switched to a university authorizer or Bay Mills.

The limited number of transfers between authorizers is likely due to non-governmental organizations that connect authorizers together. The MCCSA and CMU's Center for Charter Schools both provide guidance to university authorizers across the state. While the legal framework surrounding charter school authorization in Michigan is susceptible to numerous policy problems, individual actors have worked hard to enforce internal accountability that improves practice across the spectrum of authorizers.

Figure 6
Charter School Authorizer Switches, 2015-19



Source: National Center for Education Statistics, Common Core of Data; Michigan Department of Education, Public School Academy Updates Report

Table 6

Charter School Authorizer Switches in Michigan, 2014-15 to 2018-19

School Year	School Name	From	To
2014-15	Francis Reh PSA	Ferris State University (FSU)	Northern Michigan University (NMU)
2014-15	George Crockett Academy	FSU	NMU
2014-15	Escuela Avancemos	Grand Valley State University (GVSU)	Detroit Public Schools Community District (DPS)
2014-15	Michigan School for the Arts	NMU	Oakland University (OU)
2014-15	Detroit Community Schools Elementary	Saginaw Valley State University (SVSU)	Bay Mills Community College
2014-15	Detroit Community Schools High School	SVSU	Bay Mills
2014-15	Lincoln-King Academy	Wayne Regional Educational Service Agency (RESA)	GVSU
2015-16	George Washington Carver Middle School	Highland Park School District (HPSD)	Bay Mills
2015-16	George Washington Carver Elementary School	HPSD	Bay Mills
2015-16	Presque Isle Academy	Cheboygan-Otsego-Presque Isle Educational Service District (ESD)	Bay Mills
2016-17	Battle Creek Area Learning Center	Kellogg Community College	Bay Mills
2018-19	Escuela Avancemos	DPS	Central Michigan University (CMU)
2018-19	Faxon Language Immersion Academy	GVSU	SVSU
2018-19	Michigan Virtual Charter Academy	GVSU	Hazel Park Schools
2018-19	New School High	CMU	Eastern Michigan University (EMU)
2018-19	The Greenspire School	Traverse City Area Public Schools	GVSU

Source: National Center for Education Statistics, Common Core of Data and Michigan Department of Education, Public School Academy Updates Report

Objectives and Standards

With some notable exceptions, charter schools are subject to the same laws and regulations as traditional public schools (as was discussed in detail when reviewing state oversight of charter schools). Authorizers are tasked with ensuring schools meet all the objectives and regulations that they are subject to under law. They must hold charter school board members and officials accountable for operating under the rules, regulations, and laws that apply to them; specifically, state law requires authorizers to oversee each charter school to ensure that the board is in compliance with the terms

of its contract and applicable law. Furthermore, charter schools may include additional objectives and standards that schools must meet in the charter contract.

How well authorizers do this is unclear as there are not clear sanctions for authorizers if they do not uphold their legal obligation to oversee their schools in this way (this is discussed further in the next section). Authorizers have closed a number of schools over the years, which suggests some level of oversight and accountability by charter school authorizers (116 schools closed since 1995).

Avoiding Harm

Charter authorizers are tasked with holding schools accountable for avoiding harm. They must ensure that schools are providing students with a quality education in a safe building and an environment free from emotional and physical harm. To this end, state law requires classrooms and schools to be staffed by certified professionals. And while teacher and administrator certification by itself does not guarantee a high-quality education and/or academic success, it does provide some level of assurance to children, parents, and the general public that instruction is being led by a trained professional.

If charter schools are not doing any of these things successfully, it is up to their authorizers to intervene to assist them in improving conditions for their students, or, if improvement is not possible, to revoke the charter and close the school. While it is clear that at least some authorizers have closed schools, there are no clear reporting requirements to monitor how well authorizers are meeting these oversight responsibilities or clear sanctions for authorizers that do not ensure that their schools are avoiding harm.

State Oversight of Charter School Authorizers

Michigan entrusts primary charter school oversight responsibility to authorizers, which raises the question of who is responsible for overseeing the authorizers. To ensure the promise of the charter school reform movement, keeping tabs on authorizers is just as important as the systems and mechanisms involved in overseeing the schools themselves.

While the charter school argument is premised on the theory that market forces will determine whether schools succeed or fail, ultimately charter authorizers play a number of key roles in bringing successful schools to life, renewing contracts when schools uphold their end of the bargain, and revoking charters when schools do not meet contract terms. Authorizers set quality standards and measure operators against those standards. Strong authorizing can create and support high-quality charter schools and weak authorizing can enable poor schools to stay open.

Oversight of charter school authorizers focuses on these questions:

Accountability — Are the authorizers monitoring the activity and student achievement in the schools they have authorized to hold those schools to the expectations laid out in the charter? Are the authorizers promoting the practices of successful schools so they can be replicated? Are they taking actions to head off problems in struggling schools and closing schools

when necessary? Are authorizers following standard practices related to authorizer accreditation and quality authorizing? Who holds authorizers accountable?

Stewardship of public resources — Are the administrative fees being retained by the authorizers being used solely for administrative and oversight tasks? Do the authorizers share information and take actions to enhance public trust in the charter schools?

Ensuring adherence to objectives and procedural standards established by law, regulation, or other means — Are the authorizers including all required content in the charter contracts? Are authorizers subject to monitoring and sanctions by state policymakers to ensure adherence to objectives and standards in law? What is the role of the Michigan Department of Education (MDE) and the state superintendent in overseeing authorizers?

Avoidance of harm — Are authorizers held accountable if their schools fail students and/or cause them harm in some way?

Accountability

Accountability of Michigan charter school authorizers to state officials is negligible. The legislature has the power to make laws applying to charter schools and control funding through the appropriations process. This lawmaking process defines the boundaries for

the authorization and operation of charter schools. State law says that authorizers are expected to monitor and oversee the schools they charter, but it does not specify state oversight of charter authorizers with explicit consequences and sanctions.

This omission is significant because it is hard for the legislature and MDE to attempt to influence behavior in other ways. The legislature's use of the appropriations process to influence authorizer behavior is limited due to Michigan's school funding system that distributes funding based on enrollments, whether they are in traditional public or charter schools. Charter school authorizers are entitled to a cut of the per pupil foundation grant regardless of their oversight history. Similarly, each type of authorizer — universities, community colleges, ISDs, or local K-12 districts — receives state funding to carry out its core missions. Charter school authorizers work within the system created by law and benefit from appropriations to the schools, but the law does not provide oversight of their actions or their use of public funds.

The lack of accountability stems in part from the entities empowered to authorize charter schools.

Each exists to provide educational services to a different clientele (K-12 students in the case of local and intermediate districts and postsecondary students in the case of community colleges and universities) and authorizing charter schools is not a core function of the entity, but much more of a side endeavor. Because the governor appoints the members of the university boards (other than UM, MSU, and WSU), they are theoretically accountable to that office. However, university boards generally are judged on the operations of the universities, not the charter schools they have authorized. It is within the governor's purview to appoint board members that are friendly or averse to the charter school sector, but once appointed the members have the autonomy to control that university's role in oversight.

State oversight of universities is generally lacking. Oversight has been attempted through the appropriations process in the past. For example, appropriations

to each school has been made contingent on the university boards holding the line on tuition increases. These efforts have had limited effectiveness.

Similarly, the boards of local, intermediate, and community college districts are elected or appointed to govern those entities. Efforts to hold these officials accountable is more likely to relate to the performance of the districts' core missions than anything to do with the charter schools they have authorized.

Authorizer Accreditation

State law is largely silent on oversight of charter school authorizers. It does not require authorizers to meet any specific standards, either to begin chartering or to remain as an active body. Without clear standards from the state, the Michigan Council of Charter School Authorizers (MCCSA) has adopted oversight and

accountability standards under which the authorizers in the group have voluntarily agreed to operate (as discussed earlier in the paper). These standards pertain to charter authorization, oversight evaluation, and reauthorization and renewal. They are designed to promote quality authorizing. While they

are voluntary in nature and not legally binding, professional norms and expectations encourage MCCSA members to design their processes and practices to align with the adopted standards. In other states, the standards are statutory and adherence is obligatory.

Accreditation in Detroit. The 2016 state legislation to address the financial and academic failings in Detroit Public Schools also included a number of charter school reforms intended to tackle some of the concerns in the charter sector. Among the reforms was a provision to require an authorizer to be accredited by a "nationally recognized accreditation body" before it is allowed to charter a new school in Detroit. This rule was designed, in part, to limit the number of new schools coming into the Detroit market, but also, more importantly, to increase the quality of new educational offerings in a city that was lacking an abundance of high quality schools, either traditional or charter.

State law says that authorizers are expected to monitor and oversee the schools they charter, but it does not specify state oversight of charter authorizers with explicit consequences and sanctions.

At the time of the rule change, only CMU and GVSU (out of 12) authorizers with schools in the city had sought and achieved an endorsement from a national body. Since 2016, three other authorizers with schools in Detroit have received accreditation (FSU, SVSU, and Detroit Public Schools Community District).

MCCSA requested that AdvancED, a nonprofit organization that accredits K-12 schools nationally, develop Michigan's accreditation process. This process involves site visits, document and process reviews, and personal interviews with authorizers.

It is worth noting two important aspects of the state's accreditation process. First, accreditation is only required to authorize new schools, but it is not mandatory for authorizers that renew existing contracts. Related, the law is silent as to whether an authorizer, once accredited, must maintain its status.

Second, accreditation only applies to authorizers with schools in Detroit, which means it does not apply to all authorizers. While Detroit is where the majority of chartering occurs, only a handful of the state's current authorizers are working in Detroit. New schools are opened all across the state by authorizers not subject to the new accreditation process.

The National Association of Charter School Authorizers (NACSA) evaluates state charter school laws and gives credit to states that promote quality authorizing and include standards, such as accreditation and evaluation of authorizers, to improve charter authorizing in their state. NACSA lauded the state for adopting the accreditation requirement and gave it partial credit (one out of three points) for "authorizer quality" in its 2016 evaluation of Michigan's charter school law.⁵² In its review, the association suggested that the requirement is a good first step towards addressing its lack of authorizer standards, but its limiting geographic reach needs to be expanded to improve authorizer quality across the state. Further, NACSA called attention to the fact that the content of the state's accreditation process did not fully align with its principles and standards for quality authorizing.

Authorizer Evaluations

Although it was one of the first states with a law permitting charter schools, Michigan has never taken the steps to develop and implement an authorizer evaluation process. There are no legally-binding performance or quality standards that an authorizer must meet to either open new schools or maintain its ability to renew contracts. This makes Michigan unique among peer states that allow multiple entities other than local districts to issue charters. According to a national scan of authorizing laws, Michigan is the only state without an authorizer evaluation process.⁵³

There are no legally-binding performance or quality standards that an authorizer must meet to either open new schools or maintain its ability to renew contracts. This makes Michigan unique among peer states.

Authorizer evaluations generally require a state-level entity (in many cases the department of education or statewide charter commission) to regularly review and measure authorizer performance against a set of standards and best practices. According to NACSA:

Evaluations function as the authorizer equivalent of a charter school renewal evaluation, providing an opportunity to assess an authorizer's performance on multiple levels. Evaluations ensure transparency so the public and policymakers know if and how an authorizer is contributing to a high-quality charter school sector. If needed, these evaluations also provide a basis for further oversight. They require authorizers to step back from their day-to-day actions and transparently evaluate their practices. External evaluations also provide rigorous, unbiased evidence that can form a legitimate basis for authorizer sanctions.⁵⁴

Minnesota, the birthplace of charter schools, did not develop its evaluation system until 2009.⁵⁵ Authorizers in the state are evaluated against nationally recognized standards as well as state-specific criteria. Ratings (exemplary, commendable, satisfactory, approaching satisfactory, and unsatisfactory) are assigned to each authorizer. Reviews occur once every five years and are publicly reported. Authorizers receiving the lowest two ratings are ineligible to submit their five-year plan to the education department and cannot authorize new charters, accept new schools from other authorizers, or

expand existing schools. An authorizer has up to one year from the date the authorizer is placed in corrective action to address identified deficiencies; if deficiencies remain unaddressed, termination of an authorizer's approval to charter schools may occur.

The evaluation process is part of a larger authorizer oversight system the state has created to improve the quality and performance of its charter schools. This

oversight system consists of a rigorous authorizer application process, ongoing technical assistance provided by the state, annual authorizer reporting, five-year systematic authorizer evaluations by the state, state authority to sanction authorizers, and dissemination of authorizer best practices. The reforms instituted in Minnesota reduced the number of active authorizers in the state by half (from 57 in 2009 to 26 in 2015) while strengthening their capacity.⁵⁶

Superintendent's "At-Risk" Authorizer List

In the wake of a well-publicized series of reports in the *Detroit Free Press* on charter schools in the summer of 2014, State Superintendent Michael Flanagan issued a notice that he was placing 11 of the 40 current charter school authorizers on an "at-risk" list for possible suspension of their authority to open new schools. In announcing the list, the superintendent cited his statutory authority to ensure authorizers were engaging in appropriate oversight of the schools they charter.

This was the first time that a superintendent had exercised authority relative to authorizer suspension. According to the announcement, the at-risk authorizers were to be given a period of time to correct identified deficiencies before the superintendent would make a final suspension determination about an authorizer's ability to open new schools. The superintendent cited the broad areas of accountability, transparency, and fiscal governance as factors used in developing the criteria used to identify these authorizers. However, the specific metrics and minimum thresholds in each of these categories was never publicly revealed. Reportedly, MDE used the state's school accountability system to evaluate the academic performance of each authorizer's entire portfolio of schools. Further, it was reported that the department reviewed individual school contracts and websites to determine the degree of compliance with state laws concerning financial transparency.

Following the publication of the at-risk list, it is unclear what specific actions, if any, authorizers took to improve identified deficiencies as there is no public record of either these deficiencies or any subsequent action. Meetings between the various authorizers (universities, community colleges, and school districts) and state officials took place, but there is no record of what improvements were made. Apparently, whatever actions were taken were sufficient to address the state's concerns as the superintendent did not take any further formal action to suspend the authorizers' chartering abilities. In fact, in the spring of 2015, seven of the 11 authorizers were removed from the list for improving their oversight and academic performance of the schools within their portfolios. Again, it is unknown what exact oversight and academic improvements occurred that caused the superintendent to de-list these particular authorizers.

While the superintendent never moved forward with suspension, the entire episode raised a number of questions surrounding procedural and legal issues involving this authority and the ability to suspend an authorizer for failing to engage in "appropriate continuing oversight." Specifically, these questions related to whether the suspension authority requires further clarification either in law or administrative rule. One legal analysis of the law from 2014 suggests that before exercising this authority, the superintendent would have to establish administrative rules that comply with the requirements established under the Administrative Procedures Act of 1969, which was enacted to make sure government agencies and actors do not exceed the authority granted to them by law and to protect the due process rights of individuals granted under the state Constitution. Among other topics, rules adopted via the administrative procedures act would likely relate to the specific criteria used to establish an "at-risk" list, minimum performance thresholds of the authorizers' school portfolios, and an appeals process for authorizers to challenge the superintendent's actions.

Ohio adopted an evaluation system in 2012 to bring greater oversight to its authorizers. The state education department is now tasked with annually rating each authorizer based on three factors:

- The academic performance of the public charter schools overseen by the authorizer, unless schools are less than two years old or serve a majority of special education students
- The authorizer's adherence to quality practices
- The authorizer's compliance with applicable laws and rules

Those receiving a rating of ineffective are prohibited from authorizing new public charter schools. Ohio's

reforms require all authorizers to participate in comprehensive authorizer evaluations and to face sanctions for poor performance.⁵⁷

Stewardship of Public Resources

Entities that authorize contracts for the operation of charter schools are allowed to retain three percent of the School Aid Fund foundation grants distributed to those charter schools for administrative and oversight activities. Each of these entities is required to engage an independent auditor and file financial reports with the state, but they are not required to independently report finances related to their charter school oversight or administrative activities to the state.

Origins of the Assurance and Verification Review

In June 2002, the Michigan Office of the Auditor General issued a performance audit of the Office of Education Options in MDE. Issued eight years after the first charter school opened, and well into the early maturation of the charter experiment, the audit provided the first in-depth examination and assessment of the state government's role in overseeing charter school authorizers. The final report was extremely critical of MDE's performance up to that time, concluding it was not effective in its oversight of charter authorizing bodies and only somewhat effective in its evaluation of charter contracts and applications.

The auditor general reported nine material conditions (a finding that something could impair the ability of an organization to operate a program efficiently and effectively) noting that, with respect to its authorizer oversight activities and responsibilities, the Michigan Department of Education:

- Did not establish and implement necessary rules, policies, and procedures to monitor authorizer operations
- Did not allocate all available resources to administer the charter program and did not request additional resources from the legislature to effectively oversee the program and authorizers
- Should establish a comprehensive process to evaluate and improve the effectiveness of its charter program operations
- Did not provide adequate guidance to authorizers to assist them in identifying and eliminating conflicts of interest in charter school operations and oversight
- Did not provide guidance to authorizers to help ensure that management company contracts preserve governing charter school boards' independence, that management companies provide effective services at a reasonable cost, and that management companies provide services in a manner open to public scrutiny
- Did not verify that authorizers' internal controls were adequate to ensure that charter school operations were non-religious

Although the report is ancient history at this point, it is significant in the history of the charter movement in that it prompted the development of MDE's assurance and verification review process for authorizers.

Accountability for use of these funds is self-reported. The state does have an auditor general, but responsibility of this office is confined to financial and performance post audits of state government operations and implementation of state laws. The auditor general does have limited authority to audit public universities and community colleges, but does not have the constitutional authority to audit ISDs or K-12 school districts as it relates to the use of state School Aid Fund dollars.

Authorizers are required under state law to act as fiscal agents of the schools they charter. This includes monitoring the fiscal stewardship of their charters and monitoring that funds are spent efficiently. However, without a clear evaluation system for authorizers, it is unclear how well they are holding their schools accountable for public dollars spent.

Objectives and Standards

With the state's delegation of the authority to grant charters to the education entities, the role of state law is strictly confined to defining what must be included in a charter contract and the role of state actors is confined to monitoring that such language is included and that the authorizers are engaged in rudimentary forms of oversight.

Michigan law relies largely on voluntary compliance of authorizers to oversee the processes for charter application, review, and decision-making regarding renewal or nonrenewal. State law provides for limited state oversight of authorizers once they are up and running. Further, the limited oversight powers conferred to the state superintendent of public instruction and the MDE have not been well-defined either in law or through administrative rules. Despite calls by legislative branch officials, including the Auditor General, to identify and request clarifying legislation or administrative rules related to the state's oversight authority, no such changes have been made to law or rule. The ongoing lack of clarity of these powers limits the effectiveness of the state to carry out its statutory oversight responsibilities.

Role of State Superintendent and Department of Education

The Revised School Code empowers the state superintendent to suspend the power of an authorizing body to issue new charter school contracts if it is found that the authorizer is not “engaging in appropriate continuing oversight.” The specific duties of authorizing bodies are discussed in an earlier section, but some general oversight responsibilities relate to holding schools accountable for academic and fiscal performance and ensuring that charter school boards are representative of the community, independent of education management companies, and in compliance with their charter and state laws.

The superintendent's power to oversee charter school authorizers is limited in some important ways. The first limitation has to do with the form of sanction at the superintendent's disposal – authorizer suspension. This power does not allow for termination or revocation of an authorizing body's power, but only suspension of its activities prospectively. Unlike revocation or termination,

suspension is temporary and assumes that an authorizing body will be able to resume opening new schools at some point in the future.

The superintendent's power to oversee charter school authorizers is limited in some important ways.

Another limitation relates to the schools that are potentially affected by the superintendent's suspension authority – new schools. The power does not extend in any way to existing schools chartered by an authorizing body. While under suspension, an authorizer is prohibited from granting charters to open new schools, but its existing schools, regardless of their performance, can continue operating.

In order for the state superintendent to properly implement this power, the state must fully develop a system of authorizer evaluations through the administrative rules process.⁵⁸

Authorizer Assurance and Verification Reviews. A finding contained in a 2002 Auditor General report that examined the performance of MDE's Charter School

Office recommended that the department develop an authorizer oversight system (see box on page 46). In response, the Charter School Office, in collaboration with a number of authorizers, developed the assurance and verification (AV) review process to provide the state with some level of assurance that authorizers are engaging in the required oversight of the schools they charter. This has served as the state's primary mechanism to verify that authorizers are engaging in the required "appropriate continuing oversight."

The AV review process relies on authorizers to rate themselves on 16 components of authorization and oversight (down from 18 components originally) for the schools they charter. This self-assessment focuses specifically on the authorizer's "processes" to monitor their entire portfolio of schools, rather than a school-specific evaluation. In addition to providing a rating for each component, authorizers are asked to provide written descriptions of each critical process and document evidence of their use. This includes a general overview of the primary methods, frequency, and any standards employed with each oversight process. Authorizers do not arrive at a cumulative rating or grade for their oversight performance, rather each component is rated separately. There are five broad areas of the self-assessment:

- Application, authorization, and contracting (five components)
- School governance (five components)
- Facilities (one component)
- Quality of learning (two components)
- Financial accountability (three components)

After an authorizer conducts the self-assessment and shares it with MDE, department staff visit the authorizer to review documents to ensure that the key oversight

processes, documented by the authorizer, are in place and being performed. The department provides a rating for each component, noting where it is in agreement with the self-assessment as well as where it identifies deficiencies. Authorizer AV reviews are conducted on a rotating basis with each authorizer visited roughly once every three years. Results of the AV review, including the department's rating for each oversight category and any resulting recommendations, are not publicly posted. Apart from issuing general recommendations, the department does not have the authority to require an authorizer to take any corrective action for deficiencies noted in the review or issue sanctions of any type.

The assurance and verification review process relies on authorizers to rate themselves. This self-assessment focuses specifically on the authorizer's "processes" to monitor their entire portfolio of schools, rather than a school-specific evaluation.

The AV review is not required by state law or administrative rule. While it is the key piece of the state's limited oversight work, it is very much a voluntary mechanism. Participation is not compulsory and there are no state sanctions associated with refusal to participate. Since the implementation of the AV review, authorizers

have participated willingly and there is no indication that any have refused to engage in the process.

In many respects because of the voluntary nature, the AV review serves more of a technical assistance function, rather than a regulatory function. Further, the state lacks the authority to compel an authorizer to take any specific actions it might deem necessary to enhance an authorizer's oversight duties. As a technical assistance resource, the review process is likely more helpful for new or smaller authorizers as opposed to larger, established ones. The larger authorizers generally have well-established practices and processes for monitoring charter contract compliance with the major components involved in a review. The results of these reviews are not posted on MDE's or the authorizers' websites, making it difficult for the public or other interested parties to determine whether authorizers are in compliance with their oversight responsibilities.

The Public School Academy Unit. The PSA Unit within MDE is the primary state governmental unit tasked with providing oversight and technical assistance to charter authorizers. The unit works with authorizers during the contracting process and reviews all school contracts to ensure that all statutory requirements are met before a school is able to receive public funds.

Technical assistance consists of providing training for new authorizers, as needed, and collecting and disseminating best practices. The primary oversight duties entail staff conducting AV reviews and follow-up. Additionally, it administers the U.S. Department of Education Charter School Grant Program that provides funding to support opening, expanding, and replicating high quality charter schools. Michigan received a \$47 million allocation for 2018-2023 to finance planning, program design, and initial implementation activities of charter schools.

The ability of the state to provide oversight of charter authorizers is limited, in part, by the capacity of the PSA Unit. The unit's staff is small, consisting of five posi-

tions and a budget of around \$700,000. Further limiting the unit's oversight is the lack of statutory authority to ensure that authorizers are enforcing charter contracts. The unit is tasked with providing technical assistance and conducting compliance-based oversight (e.g., checking contracts to make sure required elements are present), but it does not have the power to verify

that contract terms are being fulfilled. And, if contract provisions are not being met, it does not have the power to verify that authorizers are following through with the necessary remediation.

The MDE's PSA Unit is tasked with providing technical assistance and conducting compliance-based oversight (e.g., checking contracts to make sure required elements are present), but it does not have the power to verify that contract terms are being fulfilled.

Avoiding Harm

Oversight to avoid harm to students is not applicable as the focus is on oversight of charter school authorizers. However, we can ask if authorizers are held ac-

countable if their schools fail students and/or cause them harm in some way. The answer, in Michigan, is no; at least, no formal process exists in state law to hold authorizers accountable for any harm caused to students by the schools they authorize, renew, or fail to close. This is not really possible without a formal review process for charter authorizers.

Issues, Alternatives, and Recommendations

The information covered in this report raises questions on whether or not public oversight is adequate for both charter schools and charter school authorizers. Oversight of public education is necessary; leaving oversight responsibilities to charter authorizers without public oversight of the authorizers and their diligence in monitoring their schools is inadequate.

Accountability can take many forms. Democratic accountability helps to provide public oversight of traditional public schools, but is generally lacking with charter schools. Instead, charter schools rely on market accountability, but it alone is not sufficient to provide quality charter schools and it does not provide public oversight. Legal accountability, or compliance-based regulation (also referred to as “checkbox” oversight) is present for all public schools, but its focus on inputs rather than outputs can provide the façade of accountability while hindering true oversight. In addition to compliance-based regulation, charter schools must meet standards set by their authorizing bodies. The lack of public accountability in place for most of those authorizing bodies (i.e., universities) means the public cannot easily know about the rigor of their oversight activities. Without public accountability, the value of the oversight is minimal.

Beyond the existence of these different types of accountability in the charter sector, true oversight requires formal processes to hold schools and authorizers accountable coupled with a proper mix of incentives and sanctions. It also requires transparency, timeliness, and efficiency to be effective.

Strengthen Oversight of Charter Schools

Charter schools are subjected to limited oversight from the state government (state actors have authority to close low-performing schools), as well as oversight from their authorizers. How well authorizers oversee their schools by holding them accountable for meeting

legal requirements and performance goals written into their charter contracts depends on the authorizer. It is difficult to paint with broad brush strokes as it applies to assessing the efforts of Michigan’s authorizers to ensure accountability of the schools they charter because of the number of charter school authorizers (40) and assortment of those entities (as well as those that are eligible but have not yet ventured into this market). Some charter schools are indeed subject to intense oversight from their authorizers with systems of clear rewards and sanctions, but this oversight is not “public” and is dependent on the capacity of the authorizer.

True oversight requires formal processes to hold schools and authorizers accountable coupled with a proper mix of incentives and sanctions. It also requires transparency, timeliness, and efficiency to be effective.

Public oversight of authorizers is lacking in Michigan. The state can force the closure of the lowest-performing schools and the state superintendent can “suspend” authorizers that are not engaging in appropriate oversight and monitoring of their schools, but this authority is without clear definitions

on its scope and extent. All power given to the MDE and state superintendent is without explicit standards or consequences and that limits its effectiveness.

MDE, like many state departments, approaches oversight as the exercise of “checkbox” accountability. Are the statutorily required provisions included in the charter contract? Is the charter board free from influence from the education service provider and representative of the community being served? Did the schools finish the school year with a surplus? Performance accountability is measured in the percent of students that are rated proficient on the state’s standardized test. Michigan’s declining status among the states in education achievement suggests the state should be providing oversight of the charter school authorizers to the same degree as is found in the states leading the way.

Increased oversight of charter school authorizers by the state government would lead to increased oversight of the schools themselves, as authorizers that are not committed to strengthening and growing successful

charter school models through public oversight would not be allowed to charter schools.

Regulations

Charter schools may be subject to more regulations than traditional public schools (due to requirements placed on charter schools by authorizers in addition to state law), but it is not clear that these additional regulations provide better results. That is not meant to pass judgment on the academic achievements of charter schools relative to their traditional public school counterparts, but rather a commentary on the diffusion of oversight responsibility among multiple actors that may obfuscate public accountability.

Oversight of traditional public schools is the responsibility of locally elected school boards and several state actors. Charter schools bring new actors into the mix – authorizers and appointed school boards. The state's role in oversight is less clear because much of the oversight responsibility over these schools and their appointed boards is passed on to the charter school authorizers. The majority of authorizers are institutions of higher education, that are fairly autonomous from the state and from voters (as far as public oversight is concerned).

So, while charter schools may be subject to many of the same regulations as traditional schools (e.g., curriculum requirements, revenues available, minimum qualifications for teachers, school enrollment and the number of days of school, etc.), they are not subject to the same level of public oversight as traditional schools. The focus of policymakers should be to address that. Improving oversight will work to make the charter schools better.

Effects of Charter Over-Regulation. Allowing charter schools more flexibility around compliance-oriented regulations and associated reporting requirements would allow differentiation in the educational market. Over-regulation stymies innovation and can cause schools to become more risk-adverse, especially under

a regulatory regime that emphasizes test scores and checkbox oversight. Differentiation is key because it is the mechanism by which charter schools innovate and thus increase educational productivity across the whole system. A key idea behind the charter school movement is that autonomy permits schools to experiment with different kinds of curricula and pedagogical styles offering a diverse array of options to students. Unfortunately, there has been less differentiation in Michigan's charter market than expected. Research as early as 1999 began to show that the charter school sector in Michigan was not geared toward innovation, but rather replication.^{59 60} This lack of differentiation and innovation might be attributable to Michigan's accountability structure, or more likely, its regulatory compliance framework.

Regulations can also create barriers to entry for certain charter schools. Smaller, self-managed schools may find it harder to navigate the regulatory environment and succeed, compared to larger network-based schools that have greater capacity and experience to manage compliance-oriented regulations. Over regulation can discourage aspiring schools from applying for a charter in the first place.

Accountability and regulation are not the same thing. Accountability mechanisms can consider cognitive and non-cognitive outcomes and can include holistic evaluations that reflect student and parent input. Regulation is more compliance and input-based. Compliance with reporting requirements and other regulations takes time for school officials (and budget resources) away from the work of educating students. Over time, policymakers have layered on mechanisms for accountability with compliance and input-based regulations (see box on page 22). School accountability mechanisms should focus on outcomes, not inputs.⁶¹

Public oversight of charter schools does not require that charters comply with all the same regulations as traditional schools, but does require a focus on out-

Public oversight of charter schools does not require that charters comply with all the same regulations as traditional schools, but does require a focus on outcomes and transparency and timeliness in reporting those outcomes.

comes and transparency and timeliness in reporting those outcomes.

Education Service Providers

Michigan charter schools rely on education service providers (ESPs) to a greater extent than other states for operation of the schools, staffing the classrooms, and many other aspects. Inherent in that relationship is a trust that private companies and not-for-profit organizations will efficiently use public resources for their intended purposes. A lack of transparency related to the actions and finances of the ESPs diminishes that trust.

Michigan collects data from traditional school districts and charter schools that purchase services in an amount equal to, or greater than, 50 percent of their general-fund current operating expenditures. This is a very high threshold relative to the significance of the role of these third party vendors and relative to disclosure requirements in many other states. The extent to which charter school operators in Michigan contract with ESPs suggest that greater transparency would be highly beneficial. While the state may wish to minimize the reporting requirements for de minimis amounts spent on ESPs, that protection should be far below the current 50 percent threshold. And reporting requirements should apply to all finances involved in contracts, not only the amounts at specified thresholds.

Strengthen the State's Power over Authorizers

Oversight without the threat of sanctions is just monitoring. In order for the state government to provide meaningful oversight over the charter school authorizers, the autonomy of the universities and community colleges involved in authorizing must be altered.

Improving the practice of existing authorizers is possible, but will require the authorizers to answer to the state for their actions and the performance of the charter schools they have authorized. The current structure of higher education in Michigan provides a great deal of autonomy to universities and community

colleges and does not allow for incentives or penalties to encourage compliance. The options before state policymakers then, is to change the structure or to alter how the charter school system works in this structure.

This has been a common exercise among the states. Fourteen states have created independent chartering boards and fourteen states have enacted authorizer oversight or accountability policies in recent years.

Change Who is Able to Authorize Charter Schools

The most drastic option is to change who is able to authorize charter schools. This report documents the inability of the state government to cause meaningful

Strengthening the state's power over authorizers has been a common exercise among the states. Fourteen states have created independent chartering boards and fourteen states have enacted authorizer oversight or accountability policies in recent years.

changes to the governance of universities or to affect governance decisions. The report also discusses the best practice of having multiple entities able to authorize charter schools and for local school districts to possess that ability. Some states have vested chartering authority with their state board of education. In Michigan that is complicated by the independence

and autonomy the state board enjoys relative to the rest of the executive and legislative branches. Some other states have created an independent state department with the sole responsibility of overseeing authorizers and authorizing schools when others choose not to. The research for this report did not produce evidence that the current authorizers were negligent in their activities. The problem is we simply don't know. This would therefore be a drastic change not necessarily warranted by current circumstances.

Adopt Administrative Rules

This report, and others before it, identified the powers of the state superintendent of public instruction to suspend authorizers' ability to open new schools. Like others before it, the report discusses the absence of administrative rules that would clarify what conditions warrant suspension of this ability, an appeals process, and a means of ending a suspension. Twenty-five years after the law enabling charter schools was enacted, it is time to draft those administrative rules and

take action if authorizers have schools that are failing the students enrolled in them.

Reduce Autonomy

It may be necessary to amend the state Constitution for the state to have any real oversight of the university charter school authorizers. The Michigan Constitution creates a system of higher education in which each institution is independent of the others (excepting UM Dearborn and Flint) and the whole system is independent of the state. Should MDE attempt to engage in the type of oversight discussed above, that autonomy may cause one or more universities to resist intrusion of their constitutionally granted autonomy.

Additionally, a governor or legislature down the line may wish to alter the oversight rigor of the state government, only to be met with the reality that MDE is most directly governed by the independently elected state board of education and the superintendent is appointed by that board. This provides democratic accountability and the authority to provide public oversight, but it leaves a weakened chain of command within the structure of state government.

Most of the other states that have increased public oversight of charter authorizers have done so by granting explicit oversight responsibilities (e.g., accreditation, evaluations, reporting requirements, etc.) to state actors like the state board, superintendent, and department of education in state law.

Authorizing as a Privilege, Not a Right

In Michigan, charter school authorizing tends to be viewed more as a right than as a conditional privilege. Outside of the state law prescribing which bodies are eligible to grant charters, there are no barriers to entry for authorizing. The authority to charter schools is not conditioned on authorizers being able to demonstrate experience, effectiveness, or the capacity to engage in this work. The state does not have systems or policies in place to certify or approve who can authorize schools. There are no minimum standards that must be met. Similarly, with the exception of restrictions placed on

authorizers opening new schools in Detroit, authorizers do not need to be accredited to open new schools.

This “by-right” approach to authorizing creates a roadblock to serious accountability.⁶² Further, there is no formal and regular evaluation of authorizers once they have begun granting charters. Neither state law nor the coordinated efforts of the authorizers limit which authorizers may charter new schools or the operators of those schools. In many respects the Michigan model diverges from other states where authorizers are required to meet minimum quality thresholds to both begin the work of opening new schools as well as remain in the business of granting charters.

Colorado was the first state to make authorizing an earned right when it established a Charter School Institute (CSI) with statewide scope in 2004. Local districts can ask the

Colorado Board of Education for exclusive chartering authority within their boundaries, but they have to demonstrate “a recent pattern of providing fair and equitable treatment”

for their charter schools.⁶³ The CSI is a public charter school commission focused on quality authorizing as its mission. It serves as both an alternative authorizer (to local schools districts) and a model authorizer; it has statewide chartering authority except within districts that have been granted exclusive chartering authority.⁶⁴

In Minnesota, authorizers must go through a thorough application process and gain the approval of the state education commissioner in order to begin the work of granting charters. Potential authorizers must demonstrate their capacity and commitment to meet specified statutory standards and expectations.

Similarly, both Indiana and Nevada require authorizers to submit applications and gain approval from the state to gain chartering authority. Importantly, these states also require authorizers to undergo regular performance reviews (e.g., Nevada conducts reviews every three years) to maintain their authority.

In Hawaii, the state board evaluates all authorizers and must approve new ones.

Michigan’s “by-right” approach to authorizing creates a roadblock to serious accountability.

A 2016 Washington state law requires the state board to decide whether local school districts could begin authorizing. A detailed application process requires submission of a strategic vision for chartering; a plan to support the vision; evidence of budget and personnel capacity; and drafts of proposed charter application processes, performance frameworks, and renewal and revocation processes.

Michigan should emulate the reforms instituted in several other states to make authorizing a privilege to be earned and maintained. Michigan law establishes the types of educational institutions that may authorize charter schools, but that does not mean that they are all capable or have the inclination to perform all tasks involved in authorizing and overseeing charter schools.

Accreditation Requirements for All Authorizers

NACSA evaluates state charter school laws and gives credit to states that promote quality authorizing and include standards, such as accreditation and evaluation of authorizers, to improve charter authorizing in their state. In Michigan, accreditation is expected only of authorizers that wish to charter schools in Detroit. Accreditation is important because it conveys to customers – people potentially enrolling in schools chartered by that authorizer and the general public – that the entity meets or exceeds general expectations of quality.

In the absence of a state requirement, the Michigan Council of Charter School Authorizers (MCCSA) has adopted oversight and accountability standards under which the authorizers in the group have voluntarily agreed to operate. While creation of the MCCSA and adoption of standards is commendable, the goal is not to have the overseen policing themselves. It is the state's responsibility to oversee the authorizers and ensure some levels of quality. Living up to standards should not be voluntary.

Furthermore, it is the duty of state policymakers to define expectations. What is good for authorizers of

schools in Detroit is good for authorizers for schools throughout the rest of the state. Accreditation should be expected of all charter school authorizers.

Appeals Processes

Another form of accountability that is lacking in Michigan is allowing for appeal of charter decisions to a higher authority. Eighteen states give state boards some form of appellate review over authorizer decisions; ten states (including Michigan) provide no specific appeal path; and the others fall somewhere in between.⁶⁵ State law in Michigan explicitly states that authorizer decisions are final; the only possible form of “appeal” is that the MDE can force revocation of a charter for consistently low-performing schools.

Improve Authorizer Oversight Activities

Accountability and oversight of authorizers across the states, and especially in Michigan, has been lax. Although state boards have supervisory power over

public education, it has been rare for them to intervene in relationships between authorizers and their charter schools. Accountability with clear roles for state actors and explicit expectations and sanctions for authorizers is needed. Without clear accountability, some authorizers will be too hostile to charter

schools (e.g., reject too many proposed charters) and some will be too lenient (e.g., authorizing lots of schools without focusing on quality).⁶⁶ Without transparency, the public will not know about the authorizers and schools that are succeeding or those that are failing.

Statutorily Define Oversight Responsibilities of Authorizers

Most states put authorizer oversight responsibilities in state statute. Michigan's charter school law directs the authorizers to provide oversight of their schools, but the law has left to the authorizers the nature and rigor of those oversight activities. Other than the checkbox accountability documented above, it does not require authorizers to meet any specific standards, either to begin chartering or to remain as an active body.

What is good for authorizers of schools in Detroit is good for authorizers for schools throughout the rest of the state. Accreditation should be expected of all charter school authorizers.

The activities and responsibilities of authorizers should be clearly spelled out in state law.

NAPCS released a model charter school law in 2009, which covered new ground related to authorizer accountability. Recommended provisions of the model law related to authorizer accountability include:

- Registration process for local school boards to affirm their interest in chartering to the state
- Application process for other eligible authorizing entities to affirm their interest in chartering to the state
- Authorizer submission of annual reports, which summarizes the agency's authorizing activities as well as the performance of its school portfolio
- Regular review process by authorizer oversight body
- Authorizer oversight body with authority to sanction authorizers, including removal of authorizer right to approve schools

These provisions are intended to 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.⁶⁷ Michigan should amend the Revised School Code to clearly define the oversight responsibilities of charter school authorizers.

Define State Government Responsibilities

The state, including MDE and the state superintendent, is providing primarily compliance-based regulation (legal accountability) of the charter school authorizers. It is not clear that much can be done to truly strengthen the state's hand in performing this function without some amendments to the charter school law.

Again, administrative rules should be drafted that would allow the superintendent to use the statutory powers granted to that office by the current law. Recall that the Revised School Code empowers the state superintendent to suspend the power of an authorizing body to issue new charter school contracts if it is found that the authorizer is not "engaging in appropriate continuing oversight." Administrative rules would be needed to identify the specific criteria that would be used to establish an "at-risk" authorizer list, the minimum performance thresholds of the authorizers' school portfolios,

and an appeals process for authorizers to challenge the superintendent's actions. The rules also should provide clarification for conditions or actions that would enable authorizers to end their suspensions.

Beyond this first step, things could get complicated. In many other states, when the state government is not responsible for authorizing charter schools, the state has real power to monitor and oversee the authorizers.

It is not clear that much can be done to truly strengthen the state's hand in performing this function without some amendments to the charter school law.

According to NACSA, a state-level accountability system for authorizers should include:

1. Rigorous application, selection, and approval processes for authorizers
2. Annual public reporting on authorizer and public charter school performance and regular state review and evaluation of all authorizers
3. Mechanisms for sanctioning underperforming authorizers and terminating authorizers that fail to meet quality standards and performance expectations.⁶⁸

NACSA recommendations to improve Michigan's law include requiring authorizer evaluations, strengthening authorizer sanctions, instituting a strong renewal standard, and requiring all authorizers to use performance frameworks. Michigan is the only state with multiple non-school district authorizers that does not have an authorizer evaluation explicitly in state policy. A fully developed system of authorizer evaluations would allow for explicit sanctions for underperforming authorizers, including the ability to revoke an authorizer's authority to issue new charters and oversee existing schools.⁶⁹ State law and/or administrative rules should clearly spell out the powers of MDE and the state superintendent to oversee the charter school authorizers. The factors for which authorizers will be held accountable and the consequences for failing to live up to expectations should be clearly delineated.

Sunshine Laws

Michigan's sunshine laws do not do enough to create accountability for charter school authorizers. State laws have always required a degree of transparency for charter schools, but those same laws usually have less stringent transparency requirements for authorizers. States tend to ask for "bean-counting" reports that show compliance with regulations rather than true transparency on how authorizers monitor schools, ensure school funds are spent appropriately, and spend their own public dollars related to charter authorizing.

In Illinois, the statewide charter commission and other authorizers are required to submit biennial reports and then the state board reports to the general assembly every two years on charter performance, including comparisons to similarly situated schools, and makes suggestions for needed regulatory changes.

States tend to ask for "bean-counting" reports that show compliance with regulations rather than true transparency on how authorizers monitor schools, ensure school funds are spent appropriately, and spend their own public dollars related to charter authorizing.

A 2011 amendment to Indiana's charter school law allows the state board to require an authorizer to appear at a hearing if it renews (or fails to close) a charter that is not meeting minimum standards.⁷⁰

In Minnesota, authorizers are required by law to submit reports of their annual expenses related to authorizing to both the state commissioner and their charter schools.

Michigan could adopt some of these practices and require authorizers to submit regular reports to the state on activities related to authorizing and monitoring their schools.

Improve Quality of Authorizing

In a 2016 report, The Education Trust-Midwest makes recommendations to strengthen authorizing, and therefore the charter school sector, in Michigan based on best practices incorporated in other states. Recommendations include:

1. Requiring all existing and new authorizers to complete a rigorous application process prior to becoming – or remaining – an authorizer
2. Setting rigorous standards for school openings, renewals, and expansions
3. Holding authorizers accountable for their schools' performance, based on student learning outcomes
4. Requiring full transparency for all authorizers, including their schools and operators
5. Requiring special authority for chartering schools in high-challenge jurisdictions⁷¹

Some states have explicitly required authorizers to implement effective practices identified by the National Association of Charter School Authorizers (NACSA). One report found that effective authorizers tend to have:

- A mission focused on authorizing
- Multiple schools (five plus)
- Adequate capacity for quality oversight, including dedicated staff focused exclusively on authorizing
- Clear, consistent application processes and criteria
- A charter contract that is separate from the application and includes authorizer's performance framework and criteria for revocation and renewal
- Clearly defined, consistent standard or framework for evaluating school's academic performance
- Regular financial audits of schools
- Transparent reporting on school performance – both to themselves and the general public
- Clearly defined criteria for charter renewal, revocation, and closure⁷²

Public Funding Dedicated to Authorizer Oversight

In order for MDE to provide greater oversight of charter authorizers, it needs the money to do so. To some extent, MDE's checkbox accountability reflects the resources available to the department. State departments suffered budget reductions as a result of the Great Recession a decade ago. Staffing was cut and department heads had to prioritize what functions must be performed and what functions, though it would be nice to perform them, had to be eliminated. Some funding has been replaced in the interim, but not to the extent it was before Michigan's difficult financial period.

Increased state appropriations would be needed for regular evaluations, site visits, greater reporting on charter authorizers and their portfolios of schools, the implementation of rewards and sanctions, and the staff to complete these functions. This will require the state legislature to appropriate the necessary funds for increased oversight of charter authorizers by the MDE.

Review Finances of Administrative Fees

Michigan's charter school sector has been operating for 25 years with authorizers entitled to withhold up to three percent of the state aid distributed to their charter schools for administration and oversight responsibilities. Is this more than is needed for those tasks? Does it create a slush fund for the authorizers? Is it too little, requiring general operating funds to supplement the administrative fees? The lack of transparency or power for the state to audit the authorizers leaves state policymakers and the public unable to evaluate the sufficiency of that funding source.

Reforms to Minnesota's charter school law required authorizers to annually submit a report of their authorizer and oversight expenses for the previous year to the State Commissioner of Education and to their charter schools. The goals of these annual reports was to determine the true cost of authorizing and ensure that authorizers are not misusing funds that should be dedicated to authorizing.⁷³

Michigan's 40-plus authorizers collect approximately \$35 million per year in state aid from the three percent oversight fee they are allowed to charge. To put this figure in perspective, consider the fact that it represents roughly 33 percent of all state and local funding

received by the MDE, which is responsible for overseeing the education of approximately 1.5 million students statewide.ⁱ Collectively, authorizers serve 10 percent of the total public school enrollment in Michigan.

Independently prepared financial reports should be required of the universities' charter school offices and authorizer-related activities for the other entities. The authorizers should be required to file them with the state and the state should actively review the audits to understand how the administrative fees are used. With a few years of audits on hand, the legislature should revisit the three percent fee to consider whether it needs to be adjusted.

Authorizer Hopping

The abundance of entities authorized to charter schools and the lack of coordination or oversight of the system makes Michigan especially susceptible to authorizer hopping. Authorizers have been aware of this ability and individual actors have worked hard to enforce internal accountability that improves practice across the spectrum of authorizers. Still, the oversight that does exist is weakened when potentially weak schools can escape stringent accountability and possible closure if they are able to start fresh with new authorizers.

Authorizers accepting switches when the schools otherwise would be subject to revocation of their charters should be considered to be perpetuating failing schools and that action should count against them just as if the schools were authorized by them in the first place.

Siting Schools

Without a change in who is authorized to charter schools, the siting of schools in Michigan, especially in Detroit, will continue to appear haphazard and disjointed. The alternative is to diminish the autonomy authorizers have to work with potential school organizers. As suggested above, a rigorous application, selection, and approval processes for authorizers would be a positive change to strengthen oversight. Such a change could include a requirement for coordination and consultation before opening new schools.

ⁱ The Research Council's calculations based on data from the Center for Educational Performance and Information, Senate Fiscal Agency.

Conclusion

The argument for changing the charter school oversight system is simple: the costs of failure are too great. The success, or lack thereof, of all our schools, traditional and charter, impacts the lives of our children and the economy of our state. The charter school movement expanded the actors involved in public K-12 education to include charter authorizers, new schools, and, in some cases, private education management companies. If we want accountability from these entities that now play an established role in providing a public education, then we need public oversight.

It is clear that charter school authorizers are engaging in some levels of oversight, but the rigor of their actions is less than clear because of the number of entities that can participate as authorizers and the autonomy from direct state oversight granted to the universities that are the most active participants in the charter school sector. Creating thoughtful authorizer oversight requires deliberation and care and will take effort from state policymakers as well as current and future authorizers. “The central point is that no one should be in the business of authorizing unless they

have a real commitment to quality practice and the capacity needed for the work.”⁷⁴

The ability to expect proactive oversight out of the Michigan Department of Education and the state actors involved in public education would require a sea change in their approaches to oversight, sufficient state resources to carry out any new oversight responsibilities, and perhaps constitutional and/or statutory changes to current law. It also requires that those actors involved in providing public education through charter schools, whether school operators or authorizers, be committed to oversight. This can be accomplished through state laws explicitly requiring these actors to comply with requirements that will increase public oversight of their activities.

Without public oversight, charter schools may or may not be operating within the confines of state law and successfully educating students, but we have no way of knowing of failure until it is too late and it has irreversibly impacted the children and families involved and the economic well-being of our state.

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