

Authorizing Matters

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Issue Brief

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Steadying the Three-Legged Stool: Authorizers, Charter Schools, and Education Service Providers

A three-legged stool is always stable, regardless of its placement on an uneven surface. Keeping the top parallel to the floor and comfortable to sit on, however, requires careful steps to achieve balance among each of the three legs.

In carrying out their work, authorizers typically work to achieve steadiness in a two-party accountability relationship with a charter school. Introducing a third-party service provider adds complexity to the relationship, but need not destabilize the stool. Indeed, if constructed well, the three parties joined together can form a particularly solid and stable foundation for school success. A well-structured accountability system is the key to a stable trilateral relationship that will foster school success.

Nearly 30% of charter schools nationwide receive substantial services – such as whole-school design or comprehensive school management – from external organizations known as **education service providers** (ESPs).¹ ESPs will continue to play an important role in the growth of the charter school movement, bringing substantial capacities and resources to the schools they serve. At the same time, outsourcing core school functions creates special oversight responsibilities for charter school governing boards as well as for authorizers chartering schools with such contracts. Authorizers must understand these responsibilities in order to create a solid foundation for schools working with service providers.

In most states, authorizers do not issue charters directly to education service provider organizations.² Rather, they contract with a charter school governing board, which may choose to contract with an external service provider. In these cases, the authorizer does not have a direct contractual relationship with the school's chosen service provider. Yet in approving and overseeing schools that contract with a third party for educa-

tion services, authorizers need to recognize that their own leg of the stool remains essential for achieving and maintaining stability. Authorizers are responsible for ensuring that the charter schools they approve have a solid foundation that is built to last – with minimal risk of being weakened, cracked or broken by service difficulties, disputes or terminations that could have been avoided by better planning. Authorizers should thus embrace key responsibilities and effective practices in approving and overseeing relationships between charter schools and ESPs.

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This Issue Brief is a primer for authorizers overseeing contractual relationships between charter schools and ESPs. It will help authorizers understand the benefits that ESPs can bring to charter schools, as well as how to oversee these service relationships effectively. The brief begins by identifying the main types of education service providers serving the charter school market today and various reasons why charter schools contract



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with these organizations. It then focuses on authorizers' responsibilities in approving and overseeing charter schools that contract with ESPs, offering examples of practices that help authorizers steady the three-legged stool to support and increase school success.

A Look at the Industry

The term “education service provider” refers to a diverse group of organizations that provide comprehensive services to schools. The three major types of ESPs that serve charter schools across the country are: education management organizations, comprehensive school design providers and virtual school management organizations. A wide range of organizations fall within these three categories, including nonprofit organizations, university-affiliated institutes, for-profit companies and cooperatives.³

Education Management Organizations provide comprehensive school management services, and often educational programming as well. Education management organizations (EMOs) may be organized as either for-profit or nonprofit entities. Several for-profit EMOs started in the early 1990s with contracts to take over troubled district schools, though most EMOs now primarily manage charter schools, and some continue to operate schools under district contracts. Increasingly, nonprofit EMOs working in the charter sector refer to themselves as “charter management organizations” (CMOs). Full-service EMOs and CMOs provide comprehensive school designs in addition to school management services. Other firms

provide exclusively administrative services, while some will customize the educational and/or administrative services they offer to supplement what a school handles on its own.⁴

Comprehensive School Design Providers offer a replicable school model or a common pedagogical, instructional and governance approach shared by schools that adopt the design. Many of the early comprehensive school design providers resulted from university research on public schools, or were created to support whole-school adoption of a particular instructional approach or curriculum. Federal and private funding over the last decade furthered the development of organizations to support whole-school models and the replication of successful schools.

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Virtual School Management Organizations provide comprehensive education management primarily for virtual schools, including cyber schools, distance-learning, independent-study, home-study and other types of non-classroom-based schools. While there are many providers of online curricula, only a few organizations provide full-service virtual school management. Full-service firms hire teaching staff to support home-based or independent instruction, deliver curriculum and instructional materials (often including print materials in addition to online curricula), and provide computer technology and technology support to families.

In addition to these types of organizations, many charter schools contract for substantial services from a variety of community-based organizations such as social service providers, cultural institutions, local colleges and universities, private foundations and neighborhood groups. The opportunities and potential challenges in these partnerships are often similar to situations involving organizations more traditionally thought of as education service providers. Authorizers should approach such contractual relationships with the same diligence applied to charter school contracts with ESPs.

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Why a Charter School Might Seek Services from an ESP

Starting and sustaining a successful charter school is a tremendously complex undertaking, requiring skills, knowledge and capacities in many different areas. Charter schools that work with education service providers do so to increase their capacities and obtain educational, financial, human, physical and organizational resources.⁵

Educational resources: Creating a comprehensive academic program from scratch is a daunting undertaking, even for a school founding group with significant breadth and depth of experience. Many ESPs have extensively researched and developed pedagogical approaches, curricula, instructional materials, assessments and professional development programs. ESPs can offer schools effective teaching approaches, whole-school designs or new ways of teaching existing curricula. A school working with an ESP offering established educational programs can access the good ideas that are distinctive to that ESP, as well as materials created at other schools implementing that model. Teachers gain access to on- and off-site professional development focused on the specific approaches they will use in their classrooms. Schools benefit from support and expertise from these networks of like-minded schools and professional communities that are supported by a particular ESP.

Charter schools that work with education service providers do so to **increase their capacities** and obtain educational, financial, human, physical and organizational resources.

Financial resources: Start-up charter schools often have difficulty obtaining credit from financial institutions. Some education management organizations help school founding groups with start-up costs by providing direct loans, or by backing bank loans or lines of credit. Ongoing access to credit can be critical for many schools to cover costs while awaiting state or local payments. EMOs can also use their economies of scale to obtain better prices in purchasing school supplies and equipment.

Many nonprofit comprehensive school design providers have grants from private foundations and federal sources to support the creation of new schools replicating their successful school designs.

Some school design providers help individual schools secure funding from sources such as the federal Comprehensive School Reform Program.

Human resources: Many school founding groups find that they do not have the breadth of human resources necessary to perform all the complex aspects of a charter school: providing a quality education program, operating a nonprofit corporation (required in most states), starting a business enterprise, and acquiring and managing an appropriate facility – all while fulfilling their legal, regulatory and reporting requirements. ESPs provide networks of professionals to meet these multiple needs, and those operating nationally or regionally can recruit staff more widely to serve schools.

Capital resources: One of the largest hurdles to opening a charter school is obtaining and financing an adequate school facility, along with other capital expenses such as furniture, equipment and technology. Many ESPs assist school founders in real estate transactions, and in some cases finance acquisition or renovation of facilities.

Organizational resources: Charter schools founded by teams of educators, parents or community groups often lack experience in school management and operations, functions typically performed by school districts. To meet these needs, charter schools may contract for back-office functions such as human resources, financial management and reporting, facilities operations, regulatory compliance and technology management.

Authorizer Roles and Responsibilities

As the entities responsible to the public for overseeing the performance of charter schools, authorizers must hold charter school boards accountable for ensuring a quality education at the schools they govern. If a school relies on an ESP to implement key terms of the charter between the authorizer and the school, the ESP's effectiveness is critical to the school's ability to perform as described in the charter. Thus, it is essential for authorizers to adequately review and oversee a school's relationship with its ESP. Authorizers implement these responsibilities throughout several key stages of charter school authorizing: **reviewing charter applications, approving service contracts and charter agreements, and conducting ongoing oversight and evaluation.** The following sections identify impor-

tant authorizer responsibilities in each of these stages and offer examples of effective practices used by authorizers experienced in these tasks.

Reviewing Charter Applications

Authorizers should set expectations for charter schools contracting with ESPs early in the chartering process by establishing clear requirements for applicants. Requiring applicants to furnish information about their chosen service provider and the terms of the relationship enables authorizers to evaluate the charter school proposal fully. In addition to requesting particular information from charter applicants, it is helpful for authorizers to conduct their own due diligence by contacting schools and authorizers that have experience with the ESP involved in the proposal, and by visiting one or more schools currently served by the ESP (preferably schools serving populations similar to the proposed school).

Clearly Define the Application Requirements:

Authorizers should provide clear guidance about the information that applicants planning to contract with an ESP need to provide about the proposed provider and the planned contractual relationship. For example, authorizers may require applicants to provide a draft of the proposed service contract. The draft contract should include the company's proposed role and responsibilities, payment structure, property ownership, methods for performance evaluation, and termination and renewal procedures. Alternatively, an authorizer might require only a

summary of the key terms of the proposed service contract at this stage, deferring review of the actual contract until a later date.

Conduct Due Diligence on the Proposed ESP:

Authorizers should research an ESP's experience and performance in serving similar schools elsewhere for those ESPs that have a track record. NACSA's *Education Service Provider Clearinghouse* (see the Resources box on page 11 for details) is a valuable starting point for authorizers collecting information about an ESP and its past performance.

Authorizers experienced in approving charter applications involving ESPs find it helpful to interview (typically by phone) leaders of schools served by the particular ESP, as well as authorizers and other oversight entities (such as state offices overseeing special education, school accountability, financial audits, etc.) that have experience with the ESP. This is a valuable way to obtain additional insight and learn information that is not contained in public reports. Whenever possible, authorizers should research and seek information from schools that are most similar to the proposed school, as well as from authorizers that oversee these schools. As part of their due diligence, authorizers should try to visit schools currently served by the ESP – particularly schools serving student populations similar to the proposed school – to see the ESP's model and services in action.

RECOMMENDED REQUIREMENTS FOR CHARTER APPLICANTS PROPOSING TO CONTRACT WITH AN ESP

California's Model Application for Charter Schools, adopted by the State Board of Education, recommends that authorizers require applicants to provide recent annual reports and audited financial statements for an EMO. It also recommends that authorizers request a description of the school's intended controls over the provider's financial management services, a listing of other schools served by the provider, a summary of the company's history and prior school management performance, and biographies of its leaders.

In addition to requesting similar information to the above, the Charter Schools Institute at the State University of New York asks for detailed reports on student achievement in schools managed by the provider, specifically including performance by student populations similar to those the proposed school would serve.




The relevant excerpts from these application guides, as well as examples from other authorizers, are included in NACSA's *Resource Toolkit for Working with Education Service Providers* (see Resources box on page 11 for details).

EVALUATING “EXISTING DESIGN APPLICANTS” IN INDIANAPOLIS

To ensure sufficient due diligence on an applicant ESP’s prior performance, the Mayor of Indianapolis uses a dual-track application process, where the first stage differs depending on whether the proposed school is from a “New Design Applicant” or an “Existing Design Applicant.” For existing design applicants who intend to replicate an existing school or schools, the Mayor’s Office reviews evidence of the effectiveness of the design in existing schools and the capacity of the applicant to replicate the design as an Indianapolis charter school.

This evaluation includes a review of educational and organizational information about the school(s) being replicated, the experience of the service provider, any research that has been conducted on the school(s), phone interviews with authorizers and entities that oversee the provider’s schools, and a site visit to at least one of the existing schools. Site visits typically include meetings with representatives of the school’s administration, governing board, teachers, and students. The Mayor’s Office uses the results of this evaluation to determine whether to invite the applicant to submit a full charter application.

 **The criteria used by the Mayor’s Office for Existing Design Applicant Evaluations are included in NACSA’s *Resource Toolkit for Working with Education Service Providers*.**

Encourage the Founding Group to Make an Informed Selection of an ESP: School founding groups are often enticed by a particular education service provider’s offerings, without carefully exploring and comparing the range of options available to fulfill their school’s mission and goals. Founding groups should carefully examine multiple ESPs in order to identify the best long-term fit for the school’s mission and needs. Diligent school founders look at a range of issues for each ESP, such as: educational philosophy; instructional approach; prior performance and results; scope, quality and consistency of services offered; and

governance and management relationships with the schools it serves.⁶ Authorizers should ensure that school founding groups have thoughtfully “shopped around” before embarking on such an important educational and business partnership.

In some jurisdictions, charter schools are required to follow public procurement procedures, such as advertising requests for proposals for large contracts and evaluating multiple bids. In these jurisdictions, authorizers may be required to verify that charter schools comply with procurement rules when selecting an ESP.

ASKING APPLICANTS TO JUSTIFY THEIR SELECTION OF AN ESP

The Charter Schools Institute at the State University of New York (SUNY) requires charter applicants proposing to contract with an ESP to explain in their charter application how and why they selected a particular service provider. Applicants must explain how they evaluated multiple options and conducted due diligence in selecting their provider.

 **Relevant excerpts from SUNY’s charter application guidance are included in NACSA’s *Resource Toolkit for Working with Education Service Providers*.**

Interview School Founders: Many authorizers interview prospective school founders or question them at public hearings as part of their charter application process. Well-structured interviews provide authorizers an opportunity to acquire important information about applicants, as well as their relationship with a proposed ESP. The goal of these interviews is to solicit additional information that might not be provided in the written charter application. In conducting interviews, the authorizer can decide whether or not to *allow* or *require* the interview group to include representatives of the proposed ESP. Two different approaches that experienced authorizers take in this situation are:⁷

■ **Permit the applicant group to include one or more representatives of the ESP at the interview.**

Under this approach, ESP representative(s) may take part in the interview along with key individuals seeking to form the board that would hold the charter and contract with the ESP. This approach allows the authorizer to question both the prospective charter holders and the proposed contractor about their respective goals and responsibilities. Observing how the interviewees respond to key questions – including *who* responds to what – can provide insight regarding whether the charter holders are likely to exercise appropriate ownership and leadership of the school effort.

■ **Interview the applicant group *without* any representative of the ESP present.** The rationale for this approach is that the authorizer is interested in speaking only with the prospective charter holders, and the ESP is simply a vendor like any other. Authorizers that take this approach are not interested in interviewing the ESP any more than they would be interested in interviewing a textbook supplier. The interviewers aim to evaluate the vision, knowledge and capacities of the founding group by speaking to them alone.

Either of these approaches can support a productive interview as long as the authorizer understands the benefits and limitations of each option, deliberately chooses its approach and applies it consistently.

Verify the Capacity and Independence of the Governing Board:

One of the most critical steps for authorizers in reviewing any charter school application is assessing the capacity of the governing board to create and sustain a successful school. This is especially important when a school is contracting for significant services from an outside organization, as the board needs to be equipped to negotiate and oversee the service contract effectively. If a charter school founding group does not demonstrate that its governing board will be able to fulfill its public responsibility to oversee an ESP contract, the authorizer should not approve the school's application.

PROVIDING GUIDANCE FOR GOVERNING BOARDS

Central Michigan University (CMU) oversees over 40 charter schools that have contracts with ESPs. To set expectations at the outset for school governing boards and ensure that they are informed and prepared for their oversight role, CMU developed a concise set of Educational Service Provider Policies. These policies describe CMU's requirements for all charter schools that contract with ESPs, including:

- due diligence required of each school's governing board prior to executing an agreement with an ESP;
- administrative and fiduciary responsibilities of school governing boards;
- provisions required in ESP agreements;
- information that must be submitted to CMU about proposed contracts; and
- a letter of assurances that must be signed by each school's independent legal counsel.

Other university authorizers in Michigan have adopted similar policies to guide school governing boards in laying a foundation for effective service contracting.




CMU's policies are included in NACSA's *Resource Toolkit for Working with Education Service Providers*.

The first step in reviewing a governing board's capacity is to require applicants to explain the qualifications of each proposed board member, disclose all actual or potential conflicts of interest, and supply additional background information that the authorizer needs to conduct due diligence. As discussed above, authorizer interviews of proposed board members typically shed additional light on the board's capacity to carry out its duties.

Education service providers are often significantly involved in developing charter proposals. In some instances, an EMO or school design organization initiates the planning and recruits individuals to serve on the school's governing board. In such cases, it is important that the founding group have no conflicts of interest, and thus is able to negotiate the service contract with "clean hands."

Charter schools in most jurisdictions are subject to state nonprofit governance laws and, in some jurisdictions, government contracting requirements. These laws typically require a charter school board to demonstrate an arm's-length relationship with and independence from any entity with which it does business, regardless of whether the contractor is a for-profit or nonprofit organization. State laws vary as to the extent of influence they permit an external organization to exercise on a governing board (e.g., appointment of members, numbers of required independent, disinterested directors).⁸ But even if applicable law is silent on the issue, the importance of ensuring an arm's-length distance between a contractor and the charter school board is critical. Thus, authorizers should institute explicit policies prohibiting any director, officer or employee of a service provider contracting with a charter school from serving on the school's governing board.

In addition to complying with state laws, a charter school seeking designation as a public charity under Section 501(c)(3) of the Internal Revenue Code will also need to prove to the Internal Revenue Service (IRS) that it will operate for the public benefit. If the school hires a private management company, the IRS will look at a number of factors in evaluating the public benefit, including: the independence of the governing board, whether the parties have an arm's-length relationship, the terms of the management contract, any name-branding requirements, and the degree to which the school's board is captive to the management company for additional services. Authorizers should make sure that prospective charter schools seeking federal tax exemption understand the IRS' expectations. Authorizers can use the IRS' considerations in their own assessments of the independence and oversight capacity of charter school governing boards contracting with ESPs.

 **Detailed guidance from the IRS on this subject is included in *Charting a Clear Course: A Resource Guide for Building Successful Partnerships between Charter Schools and School Management Organizations*.**

Overseeing service contracts, particularly for comprehensive school management or whole-school designs, can be complex and challenging for volunteer members of charter school boards. Employing independent staff is one way for school governing boards to achieve the capacity needed for effective, independent oversight of ESP contracts. Some charter school boards budget a small percentage of revenues to hire their own staff to oversee the day-to-day performance of contracted services and to manage board operations.

STAFFING THE BOARD TO PROVIDE CONSISTENT, QUALITY OVERSIGHT

Two multi-campus charter-holding entities, the Chicago Charter School Foundation and the Friendship Public Charter School (in Washington, DC), both employ full-time staff devoted to supporting the charter school governing board in its oversight and evaluation of school management contractors. The boards of these schools contract with management companies to manage all the schools they operate. The boards allocate a small percentage of school revenues to fund these staff positions and other board operations. The staff, who are independent of the management companies, keep the boards abreast of developments in the schools, prepare financial and programmatic reports, monitor the companies' performance and assist the boards in negotiating management contracts.

In addition to monitoring the management contractors, board staff at these nonprofit organizations oversee capital projects and fundraising. In the case of Friendship, board staff also provide support services to the schools to enhance the academic programs offered by the management companies.

Require the School to Have Independent Legal Counsel:

Authorizers should require and verify that any charter school governing board contracting with an ESP retains independent legal counsel to represent the school in contract negotiations as well as throughout its relationship with a service provider. Service providers typically have standardized contracts that they present to the schools they intend to serve. At the very least, charter school boards must scrutinize and carefully negotiate such contracts to ensure that the contract will serve the school's needs effectively. It is important that governing boards retain their own legal counsel to help navigate this task. Qualified legal counsel can also help a charter school board take the initiative in drafting a service contract, thus starting negotiations with a document that articulates the school's needs and the relationship that the governing board seeks with its contractor.

Approving Service Contracts and Charter Agreements

When a school proposes to obtain comprehensive or substantial services from an ESP, it is important for its authorizer to review and approve the proposed contract before it is executed. Only through such review can the authorizer confirm that the contract complies with applicable laws, authorizer policies and the school's charter agreement. While the contract is negotiated between the school and ESP, the authorizer remains responsible for ensuring that the contract is structured to protect the public interest in a high-quality, successful school.

Authorizers should review proposed contracts for both **substance** and **clarity**. These are equally important, because contractual problems and disputes are frequently caused by errors of omission or ambiguity that could easily have been avoided if more careful attention had been devoted to details and language in the service contract.

Most experienced authorizers require charter schools to submit proposed management contracts for review and approval, either at the charter application stage or at a later point as a condition prior to signing the school's charter. After the school is operating, experienced authorizers typically review and approve all material contract amendments as well as new or renewed ESP contracts.

Ensure that the Contract Addresses Key Provisions:

Service contracts vary greatly, even between different schools served by the same ESP. Regardless of whether a school contracts for comprehensive management or exclusively a school design, a well-drafted contract is essential to protect the interests of the school, the ESP, the authorizer and the state. Authorizers should examine charter school-ESP contracts closely in each of the following areas:


- **Roles and Responsibilities:** allocating responsibilities between the parties in areas such as financial management; personnel; charter performance and compliance; educational, operational and policy decision-making; and any areas where the governing board has non-delegable legal responsibilities (e.g., adopting an annual budget);
- **Contract Duration, Renewal and Termination:** ensuring that a governing board has the right and ability, if necessary, to terminate a contract in a timely manner if it is in the school's interest;
- **Performance Oversight and Evaluation:** describing clear methods and standards that will guide the governing board in overseeing and evaluating the service provider;
- **Compensation and Finances:** identifying how and how much a service provider will be compensated for its services, and what role a management service provider will play in developing budgets and managing finances;
- **Intellectual and Physical Property:** addressing ownership of instructional materials developed at the school using public funds, and of physical property obtained to operate the school; and
- **Contingency Planning for Terminated Contracts:** ensuring a smooth transition in the event that a service relationship is terminated, including the transfer of school records and property.



There are many considerations within each of these broad areas, and what is right for one school may not be right for another. Authorizers should understand the range of options available to schools in all of these areas and why a governing board might choose one approach over another. A detailed discussion of important considerations and contractual options is included in *Charting a Clear Course*.

REVIEWING MANAGEMENT CONTRACTS

The Massachusetts Department of Education and Central Michigan University have both developed substantive checklists to guide their review of proposed charter school management contracts. The authorizers use these checklists to confirm that proposed management contracts comply with state law, contain required provisions, and assure the authorizer that the relationship between the school and its service provider is well-structured. These review tools also help the authorizers identify any areas in a proposed contract that might lead to conflict, confusion or inappropriate discharge of a governing board's non-delegable responsibilities. In the event of a significant contractual deficiency or concern, the authorizer will require revision of the contract.

 **These checklists are included in NACSA's *Resource Toolkit for Education Service Providers*. In addition, another detailed checklist for reviewing management contracts is included in *Charting a Clear Course*.**

Incorporate ESP Policies into the Charter Agreement:

Authorizers should incorporate specific policies pertaining to ESP contracts into the *charter agreements* of schools entering such arrangements. For example, the Chicago Public Schools (CPS) attaches a "Comprehensive Management Services Rider" to its charter agreement with any school contracting with an ESP for comprehensive management. The rider requires schools to submit any management contract to CPS for review at least 30 days prior to its effective date, so that CPS can review the contract for compliance with law and the agreement between CPS and the charter school. The rider specifies a number of provisions to be included in any charter management contracts, including: clauses allowing the school to terminate the contract for cause; EMO provision of information required for oversight and financial reporting; background checks for all employees of the EMO that have daily contact with students; compliance with federal and state funding requirements; and budgets that clearly identify all revenue received by the EMO.

Likewise, Central Michigan University (CMU) requires its Educational Service Provider Policies to be attached as an appendix to charter agreements for schools operated by an ESP. These policies explain CMU's requirements for charter schools contracting with an ESP.

 **CMU's policies and Chicago's contract rider are included in NACSA's *Resource Toolkit for Working with Education Service Providers*.**

Conducting Ongoing Oversight and Evaluation

After a charter school begins operating, authorizers have an ongoing responsibility to keep the three-legged stool steady. Effective and regular communication among the parties is essential to ensure that governing boards, school staff and ESP staff understand and fulfill their responsibilities. In addition, authorizers need to ensure that governing boards effectively evaluate the performance of their ESPs.

It is appropriate for authorizers to require charter schools to submit any material revisions to ESP contracts, as well as new or renewed contracts, for authorizer review prior to execution. Whenever a material change is made to an ESP service contract, authorizers should examine the proposed changes to ensure that they comply with applicable laws and regulations.

USING BOARD SELF-ASSESSMENTS TO GAUGE EMO PERFORMANCE

Ball State University, a charter authorizer in Indiana, requires all charter governing board members to submit an annual self-assessment to the University. These surveys are designed to provide the University with feedback from board members on conditions at the school, as well as to remind board members of the breadth of their oversight obligations. The self-assessment includes a section on EMO relationships and performance (if applicable), asking board members to evaluate how well the school's management organization is performing in the areas of financial management, staffing, education programming, and communicating with the board.

 **This assessment is available online at: www.bsu.edu/teachers/article/0,,28510--,00.html**

Communicate Effectively with the Governing Board:

It is important for authorizers to maintain open two-way communications with charter school governing boards, especially if the board is contracting for full-service school management. While a board may outsource school management, it cannot outsource or delegate its ultimate legal and fiduciary responsibilities for the school. Even though an authorizer might communicate primarily with staff of the school or service provider, the authorizer must also maintain direct, regular communications with the governing board. This two-way communication between the authorizer and governing board helps ensure that board members fully understand their obligations, and that the authorizer and board communicate directly about any concerns.

Encourage Governing Boards to Conduct Comprehensive Evaluations of ESP Performance:

As the entity responsible for overseeing an ESP's services, a charter school's governing board should regularly evaluate the ESP's performance. Authorizers should encourage governing boards to conduct diligent performance evaluations of their service providers, and may do this in part by requiring boards to establish contract monitoring procedures and requesting that boards report on evaluations that they conduct.

While authorizers will be interested in the results of such evaluations, their primary value is to the school itself. Both school governing boards and their service providers benefit from agreeing – at the outset

of contracting – on the methods and content of the board's evaluation of the provider. Well-conceived evaluations can also be valuable for governing boards in negotiating contract renewal with an ESP.

Conclusion

A significant number of charter schools contract with education management organizations, comprehensive school design providers and virtual school management organizations to implement the school's charter. These education service providers fill a growing role in the charter school movement and bring capacity-building resources that many schools need. At the same time, the addition of a third-party service provider to a charter school adds a new dynamic to authorizers' responsibilities and their relationships with the charter schools they oversee.

Authorizers need to establish the conditions and practices that will enable all three parties – the school governing board, the service provider, and the authorizer itself – to successfully fulfill their roles in creating and sustaining a quality charter school. Balancing the three-legged stool demands special attention, but experienced authorizers in many states have established effective policies and practices from which others can learn. With foresight and preparation, authorizers can construct a stool with a stable foundation to support success for charter schools contracting for education services.

EVALUATING A SERVICE PROVIDER'S PERFORMANCE

Charter school governing boards can enlist expert help from a variety of external resources to review a contractor's performance. For example, toward the end of its initial contract with Edison Schools, the Board of Trustees of Boston Renaissance Charter School engaged *pro bono* assistance from consultants at McKinsey & Company and Harvard Business School to review Edison's performance under the contract and recommend options for the school going forward. This assistance proved helpful to the school in negotiating its contract renewal with Edison.

Governing boards can also conduct their own evaluations without outside assistance. For example, the Board of Directors of Mosaica Academy Charter School in Pennsylvania (now called School Lane Charter School) developed its own performance assessment tool to evaluate its management contractor's performance. The assessment included rubrics and narratives assessing Mosaica's performance in the following areas: quality of service, management, teamwork and communication, analysis and decision-making, leadership, relations with others and technical performance.



This performance assessment tool is included in NACSA's *Resource Toolkit for Working with Education Service Providers*.

RESOURCES ON WORKING WITH EDUCATION SERVICE PROVIDERS

Resource Toolkit for Working with Education Service Providers, 2nd ed., 2005

(National Association of Charter School Authorizers).

This toolkit contains many of the materials developed by experienced authorizers that are referred to in this Issue Brief, including application guidance, contract review checklists, service contracting policies, and performance evaluation protocols. The publication can be downloaded at www.charterauthorizers.org/files/nacsa/ESPToolkit2005.pdf or ordered from NACSA.

Education Service Provider Clearinghouse, 2005 update

(National Association of Charter School Authorizers).

This online Clearinghouse features descriptive profiles of 44 national and regional education service providers. It includes summaries of the services provided by each ESP, its unique educational programs, organizational structure and contact information, and references to performance data, research reports, evaluations, and news articles. The Clearinghouse also includes information about each charter school served by the ESPs during school year 2004-05. The Clearinghouse is online at www.charterauthorizers.org/esp.

Charting a Clear Course: A Resource Guide for Building Successful Partnerships between Charter Schools and School Management Organizations, 2nd ed., 2005 reprint

(National Alliance for Public Charter Schools).

This manual guides schools in selecting a service provider, negotiating a performance-based contract, and managing a service contract effectively. It includes a checklist of important issues to address in contracting for management services. The publication can be downloaded at www.publiccharters.org/pdf/cfnn/contracting.pdf or ordered from either the Alliance or NACSA.

ENDNOTES

¹ NACSA estimate for school year 2004-05, based on data collected for the *Education Service Provider Clearinghouse*, available online at: www.charterauthorizers.org/esp.

² The vast majority of authorizers do not enter charter agreements directly with education service provider firms, whether the latter are organized as for-profit or nonprofit entities. Only a handful of state charter school statutes allow authorizers to issue charters directly to for-profit entities. In addition, some authorizers commonly issue charters directly to nonprofit charter management organizations (CMOs).

³ Some ESPs have organized trade associations to represent their industry. Some of the more prominent groups include the National Council of Education Providers (see: www.educationproviders.org); the Coalition for Comprehensive School Improvement (see: www.improvingschools.org); and the North American Council for Online Learning (see: www.nacol.org).

⁴ Miron, Gary and Christopher Nelson, *What's Public about Charter Schools? Lessons Learned About Choice and Accountability*, Corwin Press, 2002; Lin, Margaret and Bryan Hassel, *Charting a Clear Course, A Resource Guide for Building Successful Partnerships between Charter Schools and School Management Organizations*, 2nd edition reprint, National Alliance for Public Charter Schools, 2005, available online at: www.publiccharters.org/pdf/cfnn/contracting.pdf; and Bulkley, Katrina E., "Balancing Act: Educational Management Organizations and Charter School Autonomy" in Bulkley, Katrina E. and Priscilla Wohlstetter, *Taking Account of Charter Schools, What's Happened and What's Next?*, Teachers College Press, November 2003.

⁵ Resource categories adapted from Wohlstetter, Priscilla et al., *Charter School Partnerships... 8 Key Lessons for Success*. Los Angeles, CA: Center on Educational Governance, University of Southern California, 2005. Available online at: www.usc.edu/education/cegov/.

⁶ Three resources that schools can use in evaluating the services offered by ESPs include: Lin and Hassel, *Charting a Clear Course; Guidelines for Ensuring the Quality of a National Design-Based Assistance Provider*, New American Schools, 2000, available online at: www.naschools.org/contentViewer.asp?highlightID=48&catID=86; and Hassel, Bryan and Lucy Steiner, *Guide to Working With External Providers*, Learning Point Associates, 2004, available online at: www.ncrel.org/csri/tools/gwep.pdf.

⁷ Commentary on interviews is excerpted, with some modification, from *Guidance for Interviewing Charter Petitioners, Discussion Draft*, National Association for Charter School Authorizers, August 3, 2005.

⁸ For good discussions of the issues arising with interrelated governing boards, see *Opinion Request re: Charter School Conflicts*, New Mexico Attorney General, March 22, 2004, available online at: www.ago.state.nm.us/divs/civil/opinions/a2004/CharterSchoolConflicts.htm and *Charter Schools in the District of Columbia: Improving Systems for Accountability, Autonomy, and Competition*, DC Applesseed Center, April 2001, available online at: www.dcappleseed.org/projects/projects.cfm?project_id=14.

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