NACSA:
POLICY

State Education Agency/ State Board of Education Authorizers

For more information:
Contact Christina Ricordati at
christinar@qualitycharters.org
or 312.376.2325.

National Association of Charter School Authorizers
105 W. Adams St., Suite 1900
Chicago, IL 60603-6253
Phone: 312.376.2300
Fax: 312.376.2400
www.qualitycharters.org

THE ISSUE IN BRIEF

State education agency (SEA) and state board of education (SBE) authorizers, generally referred to in this paper as SEA authorizers, offer one option for state policymakers interested in creating a statewide charter authorizer. NACSA recommends that states adopt an independent chartering board (ICB) whenever possible, but SEA authorizers can be an alternative way to provide statewide access to a high-quality authorizer if creating an ICB is not feasible. The track record of SEA authorizers is mixed, with some truly excellent statewide authorizers, as well as some that fail to foster a quality charter school sector.

NACSA RECOMMENDS

In order to create the best policy environment for the success of an SEA authorizer, NACSA recommends that enabling legislation

1. create a distinct, independent charter office with a clear mission;
2. adopt authorizer standards;
3. set clear parameters for decision making that reduce the impact of political considerations on authorizer decisions;
4. provide adequate capacity and resources;
5. practice authorizer accountability;
6. take advantage of the SEA role and share resources.

Overview: SEA Authorizers

Seventeen states currently have an active SEA authorizer. In six of these states, the SEA is the only charter school authorizer. In others, the SEA is one of many authorizers and sometimes acts as an appellate body with the power to approve or deny applications that other authorizers have denied. SEAs, state boards, and the selection of commissioners are structured differently in the states. SEAs are typically led by an elected or appointed official selected by the state board, legislature or governor. State boards of education or the commissioner of education can be the decision-making body within the state education agency.

There is wide variation among SEA authorizers in terms of size, jurisdiction, and authority. Five SEAs authorize fewer than 10 schools. At the other end of the spectrum, the Texas Education Agency has 613 school campuses in its portfolio. Most SEA authorizers oversee between 10 and 50 schools.

SEAs also play an important role as appellate authorizers in a number of states, reviewing applications for charter schools that have been denied by local education agencies (LEAs) or other authorizers. Additionally, in a handful of states the SEA is part of a two-step authorizing model in which the SEA must review or approve charter applications that have already been approved by another authorizer (typically an LEA), who then authorizes the school.

SEA Authorizer[1]		***SEA is Appellate Body***	
State	*Other authorizing options*	*State*	*Other authorizing options*
Arizona	ICB, LEA	Alaska	LEA
Arkansas	N/A	California	SBE
California[2]	LEA	Florida	LEA
Connecticut	N/A	Georgia	SBE
Delaware	LEA	Idaho	ICB
Louisiana	LEA	Iowa	LEA
Massachusetts	N/A	New Hampshire	SBE
New Hampshire	LEA	Oregon	SBE/LEA
New Jersey	N/A	Tennessee	SBE
New Mexico	LEA		
New York	HEI, LEA		
North Carolina	N/A		
Ohio	HEI, LEA, NFP	***Two Step: LEA Authorizer, with SEA Approval***	
Oregon	LEA	Alaska	
Pennsylvania	LEA	Iowa	
Rhode Island	N/A	Kansas	
Texas	LEA	Virginia	

Source: NACSA, "Workbook: Authorizer Contact Information," 2014, http://public.tableausoftware.com/views/NACSAAuthorizerContactInformation/Map?amp;:embed=y&:display_count=no&:showVizHome=no and NAPCS, "Law Database | National Alliance for Public Charter Schools," 2014, http://www.publiccharters.org/get-the-facts/law-database/

The track record of SEA authorizers is mixed. Some SEA authorizers, such as the New Jersey and Delaware Departments of Education, have worked in recent years to strengthen accountability standards and implement best practices for charter school authorizing. Other SEA authorizers, however, have a poor performance track record, either creating an overly restrictive or overly permissive authorizing environment. In Kansas, for example, the two-step SEA authorizing process has in practice stymied much charter school growth, while in Ohio, the state Legislature temporarily revoked the Ohio Department of Education's authorizing authority in 2012 due to weaknesses in the department's monitoring of charter school finances.

Why are state education agencies and boards of education important?

SEAs provide a statewide authorizing option. SEAs provide statewide authorizer access, may provide uniform high standards for authorizing, and are removed from local politics. They also have an historical and established role in overseeing the public schools in the state, in some cases giving them additional constitutional and political legitimacy compared to other alternative authorizers. As appellate authorizers, they provide an authorizing option for schools that were denied by other authorizers, such as LEAs.

SEAs are existing entities, avoiding the need to create a new government agency. Creating an SEA authorizing office uses an existing agency to provide a statewide authorizer function, rather than creating a new agency. Although this approach can have some drawbacks, which are described below, it may be politically appealing in states where there is resistance to expanding state bureaucracy. While making the SEA an authorizer may expand its role and reach, a charter office can also draw on the agency's existing capacity to help reduce staff and resource consumption.

SEA authorizers may be able to leverage existing agency resources to support quality authorizing. Unlike other authorizers, SEAs have rule-making authority, including the ability to change or promulgate regulations under the state's charter school law. This authority may enable the SEA to adopt or revise rules in order to increase charter autonomy or accountability in states with weak laws or to strengthen authorizing practices across the state. In addition, SEAs can use education data they already collect from schools and districts to monitor the performance of charter schools, reducing duplicative data requests to schools. In the best scenarios, performance offices or staff within the SEA can assist authorizers in developing evaluation tools. For example, the Massachusetts Department of Education has used its position as the SEA to access information about general K-12 regulations, materials, and state contacts. Finally, SEAs have internal staffing resources that can provide additional capacity for the charter office. The Massachusetts charter school office also utilizes financial and legal expertise within the department and has drawn on the legal department to aid in charter school closures.

There are potential drawbacks to SEA authorizers, as well.

SEAs can be vulnerable to political change. SEAs in some states may be more vulnerable to political changes or pressures than some other types of authorizers. The extent to which this is the case will vary depending on state governance structures. In states where SEAs have appointed or elected leaders, turnover may occur with every election cycle, leading to shifts in the SEA's approach to charter authorizing. For example, an agency helmed by an official that was elected on an anti-charter platform may be unwilling or unlikely to support the SEA charter office. Differing political views between an SEA's political appointees and career staff may lead to a lack of mission alignment within the organization. A lack of political independence can also lead to authorizing decisions based on factors other than school quality or performance, as when elected or appointed officials choose to block a school's approval or closure for political reasons.

Authorizing may require a different mindset than many other SEA roles. Historically, one of the primary functions of the SEA has been to ensure schools' compliance with myriad state and federal program requirements, creating a compliance or "check-the-box" mindset. SEA staff may find it challenging to focus on performance-based accountability instead of compliance and may take a more regulatory oversight approach that undermines charter autonomy. In addition, as the entity that oversees district programs, the SEA may have institutional commitments to policies or practices that they hope to implement in all districts. These commitments can make SEA leaders or staff reluctant to embrace the autonomy that charter schools require to innovate in fields that are legally within the charter school's sphere of control. SEA staff may also perceive the role of the agency as providing services to and oversight of traditional public K-12 schools and may be hostile to charter schools. This can create tensions within the agency.

Ensuring adequate staff capacity can be challenging. Effective authorizing requires dedicated staff capacity. But many SEAs operate with limited staffing tied to federal program funds, which can make it difficult to secure adequate capacity for authorizing work. In some cases, states have staffed authorizing offices by re-assigning or double-staffing SEA staff from other offices, who may not have the right skills or mindset to carry out the authorizing role effectively. Policymakers must understand that charter authorizing takes additional skills, capacity, and resources and invest in sufficient capacity for charter authorizing.

Key Factors in Developing SEA Authorizers: Conditions for Successful Authorizing

Policymakers can provide the foundation for successful SEA authorizing by setting out in policy and implementation seven key conditions for success:

1. *Have a clear mission for a distinct, independent charter office:* Creating a dedicated charter office within the SEA can help to foster a culture of quality authorizing by allowing staff to focus on their authorizing roles. State policymakers should ensure that the office is able to hire staff with specialized skills and expertise related to authorizing, rather than requiring the office to fill positions with existing SEA staff who may not have authorizing expertise or skills. This may mean hiring staff with experience from the charter sector or with other authorizers. Establishing a clear mission for SEA authorizers can help to mitigate some of these potential challenges by ensuring that all stakeholders understand the purpose of the SEA authorizer.

2. *Adopt authorizer standards:* Sixteen states have adopted standards for quality authorizing based on NACSA's *Principles & Standards*. These standards establish clear expectations for authorizer practice so that quality authorizing is not entirely dependent on the commitment and vision of individual authorizers. Louisiana's charter school law, for example, outlines specific requirements for its SEA authorizer: "BESE (Board of Elementary and Secondary Education) shall engage in an application process that complies with the latest principles and standards for quality charter school authorizing, as promulgated by the National Association of Charter School Authorizers, and shall provide for an independent evaluation of the charter proposal by a third party with educational, organizational, legal, and financial expertise…"

3. *Set clear parameters for decision making that reduce the impact of political considerations on authorizer decisions:* Authorizing legislation must also clearly define decision-making responsibilities. While SEA staff may do the work of authorizing, significant decisions such as charter school approval or renewal may need to be approved by the state education executive or state board. Before granting authority to a state chief, superintendent, or commissioner, states should consider the process through which these offices are filled, since political factors may affect chartering decisions by elected or appointed leaders.

4. *Provide adequate capacity and resources:* Policymakers must also ensure that charter offices have adequate capacity, staff, and funding to meet and carry out work that meets authorizer standards. Effective authorizers need dedicated staff to oversee the charter approval process, ensure adequate oversight and monitoring of existing schools, and manage charter revocation when necessary. Dedicated capacity is also critical to enable authorizers to develop and implement the necessary tools of quality authorizing, including performance frameworks, contracts, renewal terms, and closure procedures. Many authorizers also hire consultants, application reviewers, and interviewers during application and renewal periods in order to supplement their own staff capacity.

5. *Practice authorizer accountability:* Policymakers should also ensure that SEA authorizers—as well as any other authorizers in the state—are themselves held accountable for their performance. Reasonable practices to ensure quality authorizing practices include periodic evaluations and regular reporting to a state oversight agency. In many states, the state education agency or board of education has oversight responsibility for authorizers.

   When the SEA is the authorizer, however, it should not be permitted to hold itself accountable without further oversight. It should be held accountable and subject to regular monitoring by an outside entity. If there are reasons to be cautious about an SEA's willingness or ability to be a strong authorizer, states should periodically revisit their SEA programs to study their effectiveness and their ongoing viability.

6. *Take advantage of the SEA role and share resources:* SEA authorizers should take advantage of opportunities to reduce compliance burdens for their schools and staff. Existing departments within the SEA may collect information to monitor compliance with federal programs and state regulations that overlaps with the information authorizers need to oversee their schools. Open resource sharing between the charter office and the SEA can reduce compliance and administrative burdens by allowing the authorizing office to use data collected by other offices to inform its authorizing work. Alternatively, the charter office could serve as a one-point data and information collection center for charter schools that can then share this information with other offices across the SEA.

Conclusion

States interested in creating a statewide authorizing option may consider state education agencies and state boards of education. Lessons from existing SEA authorizers show that while there are some drawbacks to this approach, these bodies can provide high-quality statewide authorizing options—whether through independent authorizing or by serving as appellate authorizers.

For more information on higher education authorizers and authorizing practices, visit the National Association of Charter School Authorizers: www.qualitycharters.org.

[1] In Arkansas, conversion of a traditional school to a charter school must be approved by the LEA and the SBE. The Pennsylvania Department of Education is the only entity allowed to authorize virtual charter schools in the state, but it cannot authorize brick-and-mortar charter schools. The Rhode Island commissioner of education or an LEA must approve a charter school application before it is presented to the SBE for final authorization. In New Hampshire, conversions require a 2/3 majority vote from district staff, school principal, and superintendent, as well as SBE approval. In New York, the Board of Regents must also approve all charter school conversions. In Maryland, under limited circumstances, the SBE may authorize restructuring (district to charter).

[2] In addition to appeals, the California State Board of Education can directly authorize "statewide benefit" charter schools.