



## 2016 NACSA LEADERSHIP CONFERENCE

### Lines in the Sand: How Do Authorizers Toe the Legal Line?

Whether discussing charter contract terms, responding to a crisis, or presenting conditions of renewals, authorizers are often in the position of needing to use their own judgment about what the law requires them to do, allows them to do...or simply never contemplated their needing to do. Authorizers are increasingly under threat of legal action for exercising their judgment in fulfilling their most basic obligations, such as developing charter contracts, establishing performance standards, or reviewing growth plans. Are authorizers going too far? Are charters supposed to be able to do whatever the market allows?

**Session Title:** Lines in the Sand: How Do Authorizers Toe the Legal Line?

**Session speakers:** Lisa Scruggs (Duane Morris, LLP)  
Mindy McNichols (Miami-Dade County Public Schools)  
Gail Greely (Alameda County Office of Education)

**Context:** We structured this panel as a hybrid traditional roundtable and series of case studies. Each panelist presented a case study from her state in which the authorizer was confronted with a legal question, and then discussed their legal philosophy in resolving it. We then asked the audience to work in small groups to analyze how they could use their own charter laws to resolve an issue presented in one of the case studies. The primary goal of the session was to encourage participants to reflect on their personal legal philosophies—extreme caution, wild west vigilantism to achieve certain policy ends, or something in between—and when that might need changing. We also sought to “demystify” legal work by helping participants to better appreciate how they work with legal mandates and constraints in their day-to-day work, and to more completely think through legal action based on authorizer practices.

**Key Takeaways:** We ended our session by outlining these key takeaways for authorizers:

1. Common sense is your best decision-making tool. It gives you firmer footing in the event of a challenge.
2. All laws have gaps and gray areas. Be thoughtful about the means used to address policy goals and willing to address these gaps and gray areas head on. Where the law is an obstacle to your policy goals, consider advocating for a statutory or regulatory change.
3. Think through all possible consequences both when you start down a particular course of action, and whenever opportunities for reconsideration arise.



### Additional Resources:

Charter School Lawyers Network - <http://www.publiccharters.org/involved/joinapcsa/>  
Speaker Contact Information -

- Gail Greely, [ggreely@acoe.org](mailto:ggreely@acoe.org)
- Lisa Scruggs - [ltscruggs@duanemorris.com](mailto:ltscruggs@duanemorris.com)
- Mindy McNichols - [MMcNichols@dadeschools.net](mailto:MMcNichols@dadeschools.net)