

# Improving Charter School Accountability:

THE CHALLENGE OF CLOSING  
FAILING SCHOOLS

By David Osborne

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## ABOUT THE AUTHOR

David Osborne is the author or co-author of five books: *The Price of Government: Getting the Results We Need in an Age of Permanent Fiscal Crisis* (2004), *The Reinventor's Fieldbook: Tools for Transforming Your Government* (2000), *Banishing Bureaucracy: The Five Strategies For Reinventing Government* (1997), *Reinventing Government* (1992), and *Laboratories of Democracy* (1988). He has also authored numerous articles for the *Washington Post*, the *Atlantic*, the *New York Times Magazine*, *Harpers*, *The New Republic*, *Governing*, and other publications. As a senior partner of The Public Strategies Group, he has consulted with governments large and small, from cities, counties, and school districts to states, federal agencies, and foreign governments.

In 1993, he served as a senior advisor to Vice President Gore, to help run what the Vice President often called his “reinventing government task force,” the National Performance Review. He was the chief author of the NPR report, which laid out the Clinton Administration’s reinvention agenda, called by *Time* “the most readable federal document in memory.” David is currently working on a book on education reform.

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## EXECUTIVE SUMMARY

Today some 5,600 charter schools are in operation, with more than two million students. Some critics persist in a fruitless argument that these schools have failed, despite a mountain of evidence to the contrary. But regardless of your opinion about them, charter schools are here to stay. Those concerned about public education should quit debating whether we should have charter schools and instead focus on improving their quality. That will require us to do at least two big things. We must replicate the most successful charter models—the subject of a Progressive Policy Institute paper last year, *Going Exponential: Growing the Charter School Sector's Best*—and we must close down the worst charter schools—the subject of this report.

From the beginning, the charter concept was to give schools more autonomy—freedom to hire and fire their staffs and control their own budgets and curriculum—while still holding them accountable for performance. No charter would be allowed to fail its students year after year, as traditional public schools are often permitted to do. If their students were not learning, they would close.

This promise has not always been fulfilled. Hundreds of school districts have authorized charters then failed to invest in oversight. Even some statewide authorizers report that they have insufficient data to make merit-based renewal and revocation decisions.

Let me be clear: failing charter schools are at much greater risk of closing than other failing public schools. Still, if we are to harness their true potential, many states need to heighten that risk. In its first 10 years, the charter community focused mostly on *quantity*: getting charters open. Over the past ten years, it has focused increasingly on charter school *quality*. Today, it is time to open a third frontier: *authorizer quality*. The key to quality in the charter sector is quality authorizing.

In this report I discuss why it is so important that authorizers close failing charters, review the facts about charter and authorizer performance, examine why some authorizers fail to close underperforming charters, and propose solutions to these problems. To answer such questions, I have reviewed the literature and interviewed fifteen current or

former charter authorizers and another ten experts on charter schools. In addition, thanks to the generosity of the National Association of Charter School Authorizers (NACSA), I have reviewed the data accumulated by its annual surveys of authorizers.

## A REVIEW OF THE NUMBERS: CHARTER SCHOOL CLOSURES AND PERFORMANCE

Since the first charter school opened its doors in 1992, some 6,700 have followed, according to a study by the Center for Education Reform (CER). Of those, 1,036 have closed—15 percent of the total. CER knows of 131 more that have been put “on watch” by authorizers, with threat of closure within two years if they fail to remedy their shortcomings.

Despite press reports to the contrary, charters do outperform traditional public schools, while receiving almost 20 percent less money per student, on average. Many negative press reports stem from a 16-state study done in 2009 by the Center for Research on Education Outcomes (CREDO) at Stanford University.

Focusing only on math and reading scores, the CREDO team compared charter students to “virtual twins”—groups of students at traditional public schools who shared their socioeconomic and other characteristics. This method, developed for research in health care, is of dubious reliability in education, according to experts such as Stanford’s Dr. Caroline Hoxby, a leader in the field of charter school studies. But even if we accept CREDO’s methodology, the conclusions repeated by the media are flawed. The press focused on this statement in the third paragraph of the introduction: “The study reveals that a decent fraction of charter schools, 17 percent, provide superior education opportunities for their students. Nearly half of the charter schools nationwide have results that are no different from the local public school options and over a third, 37 percent, deliver learning results that are significantly worse than their student would have realized had they remained in traditional public schools.”

But deep into the report, on p. 32, CREDO finally discloses that the majority of its data is from students’ *first year in a charter school*. By the third year, charter students outpaced their virtual twins in traditional public schools. Why the first-year

**Today, it is time to open a third frontier: authorizer quality. The key to quality in the charter sector is quality authorizing.**

problems? Other research shows two things: when students change schools, their performance typically suffers in the first year; and the performance of charter schools is weakest in their first year.

Julian R. Betts and Y. Emily Tang, economists at the University of California, San Diego, who specialize in studying educational achievement, reviewed all studies of charter schools done before 2011. They threw out those that just took snapshots at one time, rather than measuring learning gains over time, and those that failed to compare charter students to demographically similar students in traditional schools. Then they examined the ninety studies that met their criteria for rigor and fairness.

Averaging all the studies, they found that charter schools outperformed traditional public schools in elementary and middle school math and reading, but they found no statistically significant differences in high school. Studies focused on urban areas showed larger positive effects from charter schools, including high schools. Eliminating the large CREDO study from the sample pushed the charter advantage up, as CREDO results were less positive than the other studies, on average—no doubt because CREDO focused so heavily on the first year.

The most trustworthy studies compare the learning gains made by charter students with those of a control group: students who applied to those charters but lost out in lotteries. In both groups, one can assume similarly motivated parents and students. But only eight such studies had been completed by 2011, when Betts and Tang published their meta-analysis. Six of the eight showed charters producing significantly greater gains in reading than traditional schools, seven in math.

Test scores are hardly the only indicators of success, of course. Indeed, “Test scores are related only weakly to adult outcomes, such as earnings and whether students graduate from high school

or attend college,” Betts tells us. Very few scientific studies have looked at charter schools’ graduation and college-matriculation rates, but those that did, in Florida and Chicago, found large positive effects on both. In addition, survey data indicates that parents are pleased with charter schools, and long waiting lists for charters suggest that many urban parents prefer them.

## WHAT OBSTACLES PREVENT SCHOOL CLOSURES?

**We must also be careful to recognize the enormous diversity in the charter world. Each state is like a different universe, with different rules and practices.**

In NACSA’s 2011 survey, it asked for “the primary barriers your organization faces when it seeks to close an underperforming charter school.” The highest number of responses named resistance from parents, students, or staff and

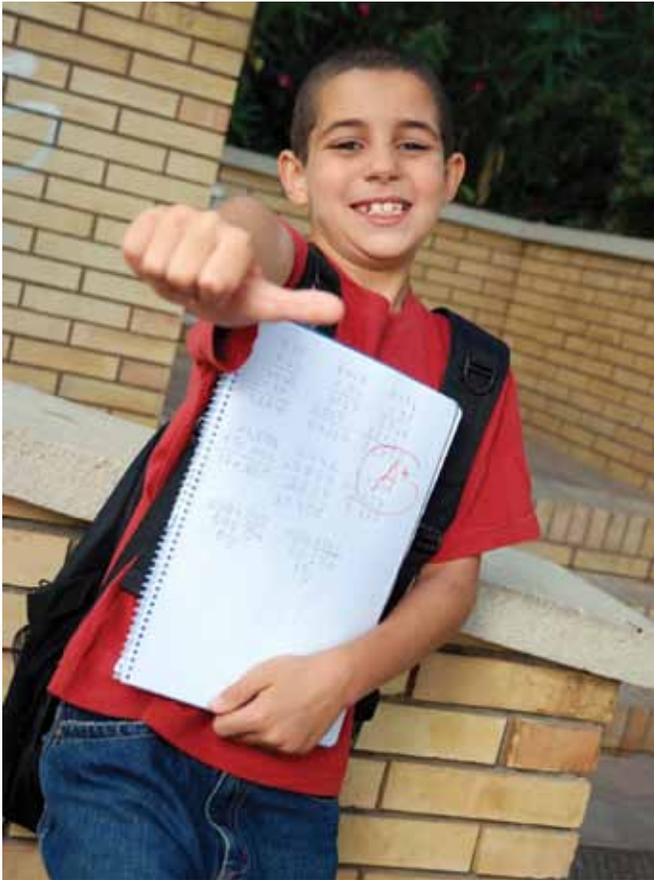
political pressure from the community. This is one reason why non-elected authorizers often do a better job than elected school boards: they are better at withstanding the pressure.

This political obstacle will be with us as long as most school boards are elected. If we understand the other obstacles that stand in the way of closing failed charters, however, we will understand what reforms are necessary. My research suggests that the other most important obstacles are the following:

- Too few authorizers collect a robust body of evidence of charter school performance over the term of the charter.

- Too many authorizers lack adequate staff and funding.
- Authorizers have incentives to keep schools open.
- Too many charters are not performance contracts with meaningful, measurable performance goals.
- Too many charter terms are longer than five years, so high stakes reviews are infrequent.
- Too many authorizers have no clear criteria for renewal and revocation.
- Sometimes, closing a charter school would send students to schools that are worse.
- In some states, appeals to the state board and/or courts reverse and inhibit authorizer decisions.
- Charter operators often make 11th hour turnaround attempts when threatened with closures.
- Sometimes a poorly thought-out charter law gets in the way of a closure.

These barriers suggest a series of solutions. But any rules that apply to all charters must be made with extreme care, to avoid closing effective schools that have low test scores because they educate a high percentage of students with learning disabilities, or former dropouts, or some other “alternative” population. We must also be careful to recognize the enormous diversity in the charter world. Each state is like a different universe, with different rules and practices. Hence it is tricky to recommend solutions that apply to all 42 states with charter laws and the District of Columbia. When we do so, we must keep the traditional medical admonition in mind: First, do no harm.



With these caveats in mind, the report offers ten broadly applicable recommendations for state and local authorities responsible for charter school oversight and accountability:

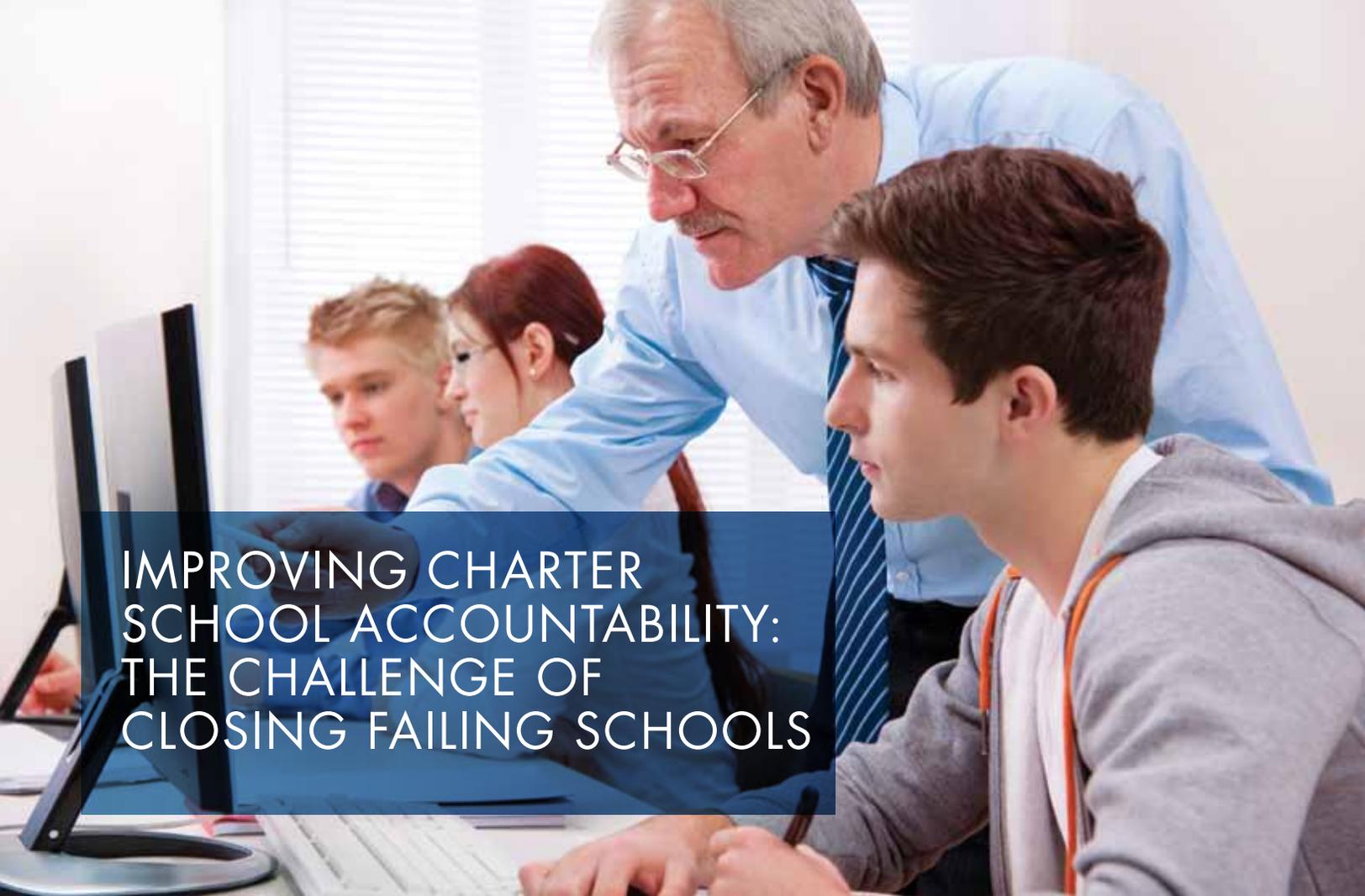
1. Invest in better measurement. States should measure student growth, and they should measure more than test scores.
2. Provide adequate funding for authorizers.
3. Require that charters be performance contracts, and enforce them.
4. Require that all charters be for five years, with a minimum of one review in between.
5. Require that authorizers adopt clear policies spelling out the conditions that will lead to a charter's revocation or renewal.
6. Require authorizers to vote on closure if a charter's performance falls below a minimum level.
7. Create at least one politically independent, single-purpose organization dedicated to authorizing charters throughout the state.
8. Encourage authorizers to replace failing charters with new charters run by organizations that have proven track records.
9. Take away the right to appeal an authorizer's decision to the courts.
10. Make authorizers accountable for the performance of their schools.

## THE FEDERAL ROLE

Since the federal government provides charter school funding, it can also play a role. Many charter advocates fear federal rules, because solutions for all 50 states are very difficult to craft from Washington. But federal carrots might work. The Race to the Top, which dangled money in front of states to do things like raise or remove their caps on the number of charters, was effective. Most of those I interviewed thought a competitive process that stressed authorizer quality and accountability would make sense. It could be part of another Race to the Top, or it could simply be an amended version of the annual Charter School Grant Program.

## CONCLUSION

In all of this talk about closing failing charters, let us not forget that most charter schools succeed. Some have astonishing records, particularly in inner cities, sending thousands of children who would not otherwise have thought of college on to higher education. And where authorizer quality has been high, as in Massachusetts and New York City, rigorous studies have proven that charter students far outpace their traditional school counterparts. The challenge today is to strengthen the lagging states, and the key is authorizer quality. As this report hopefully makes clear, progress on that front is being made every day, and the authorizer community is determined to accelerate that progress. ■



## IMPROVING CHARTER SCHOOL ACCOUNTABILITY: THE CHALLENGE OF CLOSING FAILING SCHOOLS

Today some 5,600 charter schools are in operation, with more than two million students.<sup>1</sup> Some critics persist in a fruitless argument that these schools have failed, despite a mountain of evidence to the contrary. But regardless of your opinion about them, charter schools are here to stay. Those concerned about public education should quit debating whether we should have charter schools and instead focus on ensuring that they are all of high quality.

That shift will require us to do at least two big things. First, we must replicate the most successful charter models—the subject of a Progressive Policy Institute paper last year, *Going Exponential: Growing the Charter School Sector's Best*.<sup>2</sup> Second, we must close down the worst charter schools—the subject of this report.

From the beginning, the charter concept was to give schools more autonomy—freedom to hire and fire their staffs, and control their own budgets and curriculum—while still holding them accountable for performance. No charter would be allowed to

fail its students year after year, as traditional public schools are often permitted to do. In this sense, the basic bargain was straightforward: if their students were not learning, they would close.

This promise has not always been fulfilled. Hundreds of school districts have authorized charters, then failed to invest in oversight. Even some statewide authorizers report that they have no performance frameworks with which to rate charter schools and insufficient data to make merit-based renewal and revocation decisions.<sup>3</sup>

While some charter enthusiasts initially believed that parents would close charters that produced little academic growth by removing their children, this has proven only partially true. Twenty years of experience makes it clear that parents choose schools for many reasons other than academics; some are just pleased that their children are in a safe, nurturing environment, particularly in low-income neighborhoods where gangs and violence are common. To ensure that all children receive

a decent education—and taxpayers get a return on their investment—charters must therefore be accountable both to parents and to a public authorizing body that demands academic quality.

Some years ago, the failure to close low-performing charters became visible enough that the National Association of Charter School Authorizers (NACSA) and the National Alliance for Public Charter Schools (NAPCS) both chose to make it a priority. A widely publicized 2009 study captured the prevailing sentiment:

At present there appears to be an authorizing crisis in the charter school sector. For a number of reasons—many of them understandable—authorizers find it difficult to close poorly performing schools. Despite low test scores, failing charter schools often have powerful and persuasive supporters in their communities who feel strongly that shutting down this school does not serve the best interests of currently enrolled students. Evidence of financial insolvency or corrupt governance structure, less easy to dispute or defend, is much more likely to lead to school closures than poor academic performance.<sup>4</sup>

In 2010, no less than U.S. Education Secretary Arne Duncan weighed in with a speech at a NAPCS conference. “Unfortunately,” he told the crowd of charter supporters, “we have far too many mediocre charters, and we have far too many charter schools that are absolutely low-performing. Your best are world-class—again, your best give me extraordinary reason for hope for public education in this country—but this movement has to do a much better job of policing itself.”<sup>5</sup>

The good news is that things are improving: in recent years, several states with large numbers of underperforming schools have begun to close them. The bad news is that there is still enormous room for improvement – a fact confirmed by NACSA in its annual survey of charter authorizers. Of the 120 that answered the 2011 survey question, “Does your organization have an established policy to close underperforming schools,” almost half said no.

Let me be clear: failing charter schools are at much greater risk of closing than other failing

public schools.<sup>6</sup> Still, if we are to harness their true potential, many states need to heighten that risk. On average, charter schools do outperform traditional public schools, as we shall see. But if authorizers closed more failing charters, the gap would be much wider. The overarching aim, in short, should be to protect students, not charters.

In its first ten years, the charter community focused mostly on *quantity*: getting charters open. Over the past ten years, it has focused increasingly on charter school *quality*. Today, it is time to open a third frontier: *authorizer quality*. And the key to quality in the charter sector is quality authorizing.

By authorizing, I mean the process of awarding charters, negotiating clear performance contracts, measuring and evaluating school performance, alerting schools to problems, and renewing or revoking charters. States go about this job with a bewildering array of methods. According to NACSA, there were 957 charter authorizers last fall in 42 states and the District of Columbia. Some 859 of them were local school districts. In addition, 20 state education departments authorized charters; nine states and D.C. had created chartering boards independent of their state education agency; 46 institutions of higher education authorized charters in nine different states; Ohio and Minnesota allowed not-for-profit organizations to authorize; and two states allowed one city government each (Indianapolis and Milwaukee) to authorize. In California, Minnesota, Michigan, and Ohio, counties or regional education service providers, which offer services to districts, also authorized charters.

In the pages that follow, I will first discuss why it is so important that authorizers close failing charters. Next, I will review the facts about charter and authorizer performance, examine why some authorizers fail to close underperforming charters, propose what states can do to solve these problems, and ask whether the federal government can help. To answer these central questions, I have reviewed the literature and interviewed fifteen current or former charter authorizers and another ten experts on charter schools. In addition, thanks to the generosity of the National Association of Charter School Authorizers, I have reviewed the data accumulated by its annual surveys of authorizers.

## THE ANNUAL NACSA SURVEY

According to NACSA, 509 charter school authorizers, a majority, authorized only one charter school last year. Six organizations authorized more than 100 charters each, accounting for 27 percent of all charter schools. Another 83 authorized between 10 and 99 schools, accounting for 44 percent of all charters.

In its 2011 survey, NACSA surveyed all authorizers with five or more schools, all authorizers that were not school districts, and a sample of school districts that authorized fewer than five schools. Overall, it contacted 381 authorizers. Seventy-five percent (62 of 83) of those with 10 or more schools responded, but only 38 percent (114 of 298) of those with fewer than 10 schools responded. For both these reasons, the survey is more representative—and thus probably a bit more accurate—for larger authorizers.

## WHY CLOSING POOR CHARTERS IS IMPORTANT

The threat of closure is a big part of the charter school formula. In a traditional public school, teachers may know the students are failing, but turning that around—particularly with poor, inner-city students—is very difficult. The status quo is far more comfortable, and most teachers have lifetime tenure. So why make the heroic efforts? Why put in the extra time? In such an environment, it takes extraordinary leadership to convince enough teachers to embrace radical change.

In a charter school at genuine risk of closure, the opposite is more true. Everyone knows their job is on the line if students aren't learning, so they often pull together and do what it takes—no matter how difficult. Some of them work what appear to be miracles, particularly in our inner cities.

Traditional public schools do change, but it is normally a slow process. Our school systems were built to be stable, to do the same thing year after year: teach motivated, English-speaking Americans in a time when a high school diploma was a ticket to the middle class. But those conditions no longer prevail. We have entered the most competitive global marketplace of all time, in which one needs significant skills beyond reading and basic mathematics to earn a middle class income. On top of that, the last 35 years have witnessed the birth of the personal computer, the most revolutionary learning technology since the printing press.

To prepare students to succeed in this world, many public schools need dramatic change. Some need to educate students with little motivation, whether because of peer pressure, or family expectations, or the fact that no one in their community goes on to college. Some need to educate immigrants who don't speak English. Some need to educate students who have dropped out of school, or been in jail, or had a child. And some need to reach kids who are simply bored with the traditional academic approach and need more experiential or self-directed learning, or want to specialize in one area.

Yet the scale of change required to deal with these challenges is beyond the capacity of most public schools. It might require longer school days and school years, or fewer teachers and more educational software. It might require staffs that motivate all their students to attend college, then find financial aid and offer support through college, so students don't drop out. It might even require that high school students spend a day or two every week in an internship, so they learn that it's possible for people who look like them to get college degrees, good jobs, and decent incomes.

All these practices are becoming more common in charter schools, but not in traditional public schools. Why? Because they require the kinds of changes in teaching methods, staffing models, and allocation of resources that teachers and their unions usually resist. *And because employees at schools that ignore them get to keep their jobs, regardless.*

This is why most attempts to “turn around” a traditional public school fail.<sup>7</sup> Real transformations are simply too difficult, because they require more change than the adults in the building—and their unions, their district administrators, and their elected school boards—will tolerate. As former Assistant Secretary of Education Chester Finn says, “Turnarounds are the exception, not the rule.”<sup>8</sup>

If a school has to prove that its students are learning at an adequate pace to survive, however, the odds increase. Everyone in the building knows their jobs are at risk, so when their leaders argue that change is necessary, most are motivated to make it happen. Those who aren’t motivated may be shown the door. (In a charter school with a shared sense of mission, this is hardly their only source of motivation, of course.)

This is why we must close failing charter schools. But there are other reasons:

- To protect the entire charter sector from being discredited, we need to close charter schools that fail.
- To protect taxpayers, we need to close schools that waste their money.
- To ensure that more and more children attend good schools, we need to gradually improve the pool by replacing low-quality schools with higher-quality schools.
- And to raise the bar for all schools, charter and traditional, we need to heighten competition.

If you work in a traditional public school and your only competition is from an underperforming charter school, your job is probably safe. There is little reason to get out of your comfort zone and make big changes. But if that competition is outperforming you, and parents are moving their children (and the public dollars that fund them) from your school to the charter school, you might be more motivated to change your school.

Addressing a room of parents who did not want their charter school closed, Jim Peyser, former chairman of the Massachusetts Board of Education, summed it up well:



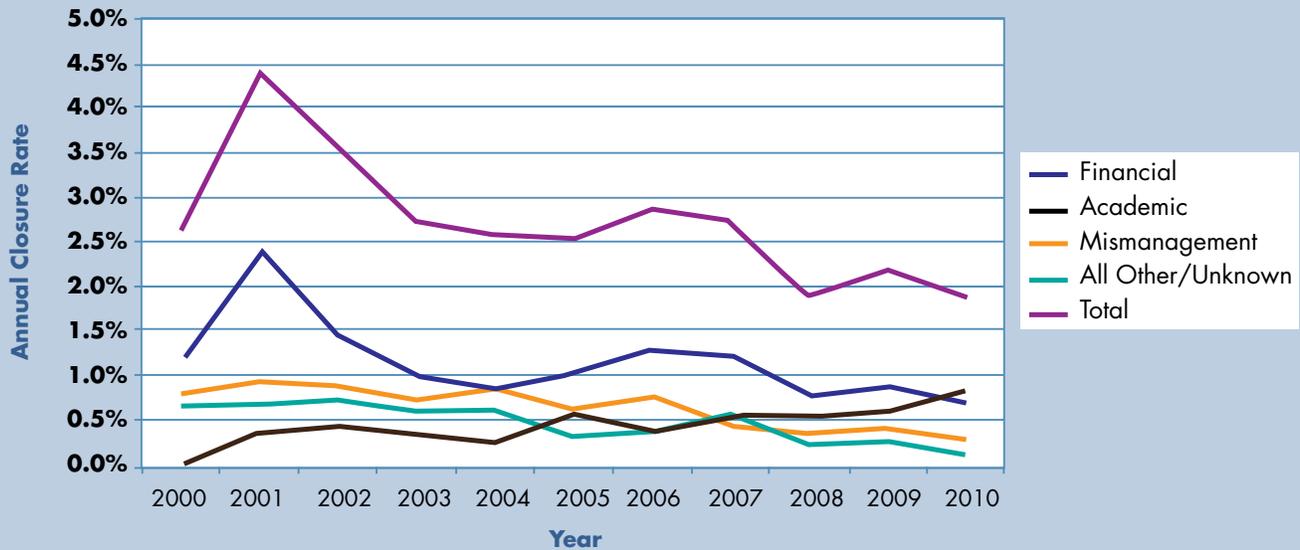
As much as we have an obligation to the 260 students currently enrolled in the Lynn Community Charter School, we also have an obligation to the many thousands of students yet to come, who deserve a higher quality public education system. For these students, whose names we do not know and whose faces we do not see, we must ensure that the promise of charter schools and education reform is fulfilled, through a system of high expectations and accountability for results.<sup>9</sup>

## A REVIEW OF THE NUMBERS: CHARTER SCHOOL CLOSURES AND PERFORMANCE

Since the first charter school opened its doors in 1992, some 6,700 have followed, according to a study by the Center for Education Reform (CER).<sup>10</sup> Of those, 1,036 have closed—15 percent of the total. CER knows of 131 more that have been put “on watch” by authorizers, with threat of closure within two years if they fail to remedy their shortcomings.

Traditional public schools close at much lower rates.<sup>11</sup> Despite the disparity, failing charters that remain open still discredit the charter movement. For that reason, NACSA, NAPCS, and state charter

**Figure 1: Annual Charter School Closure Rates by Reason**



Sources: Closure data from Center for Education Reform; data on total number of charter schools from National Alliance for Public Charter Schools. "All Other/Unknown" includes closures due to resistance from school districts, facilities issues, and other issues, as defined by CER.

associations have begun to push hard for more closures, and their work has made a difference. If one dissects CER's data, one can see that while closures for financial reasons and mismanagement have gradually declined as a percentage of all charter schools over the past decade, closures for academic reasons have gradually climbed. (See Figure 1.)

But as any charter expert can tell you, financial and management problems are often linked to academic problems. Seeing academic problems, some parents pull their children out of charters, and some of those schools fail because their revenues plummet. Charter schools are accountable both to their customers and to their authorizers, and fleeing customers have killed many schools. With this in mind, academic closures nevertheless outnumbered any other single cause by 2010.<sup>12</sup>

Unfortunately, NACSA's surveys did not begin asking for closure data until the end of the 2008-2009 school year. That year, authorizers reported closing roughly 12.6 percent of their charters up for renewal. The next year, the figure was 8.8 percent; last year, 6.2 percent.<sup>13</sup> NACSA is uncertain why the rate has declined. It may be that 2008-09 was an abnormally high year; it could be that a few

authorizers in key states were busy with other priorities in 2009-10 and 2010-11; or it could be statistical variation due to who responded to the survey each year. On its own, however, the CER data suggests a hypothesis that is consistent with what we know about charter authorizing.

In the early years, when authorizers were getting started, many did a poor job (as we will see below). This resulted in many weak charters being approved, then closing later due to financial or management problems. As some authorizers improved and the percentage of applications they approved dropped, subsequent failures for financial and management reasons declined. Meanwhile, some authorizers gradually began doing a better job of closing schools for academic reasons, so those numbers rose.

Whether or not this hypothesis is correct, culling out weak schools should raise the average performance of charters. And despite press reports to the contrary, charters do outperform traditional public schools, while receiving almost 20 percent less money per student, on average.<sup>14</sup> Many negative press reports stem from a 16-state study done in 2009 by the Center for Research on Education Outcomes (CREDO), at Stanford University.

Focusing only on math and reading scores, the CREDO team compared charter students to “virtual twins”—groups of students at traditional public schools who shared their socioeconomic and other characteristics. This method, developed for research in health care, is of dubious reliability in education, according to experts such as Stanford’s Dr. Caroline Hoxby, a leader in the field of charter school studies.<sup>15</sup> But even if we accept CREDO’s methodology, the conclusions repeated by the media are flawed. The press focused on this statement in the third paragraph of the introduction: “The study reveals that a decent fraction of charter schools, 17 percent, provide superior education opportunities for their students.

Nearly half of the charter schools nationwide have results that are no different from the local public school options and over a third, 37 percent, deliver learning results that are significantly worse than their student would have realized had they remained in traditional public schools.”<sup>16</sup>

But deep into the report, on p. 32, CREDO finally discloses that the majority of its data is from students’ *first year in a charter school*. By the third year, charter students outpaced their virtual twins in traditional public schools:

Because the number of students attending charter schools grows each year, the experience of charter school students reflected in each

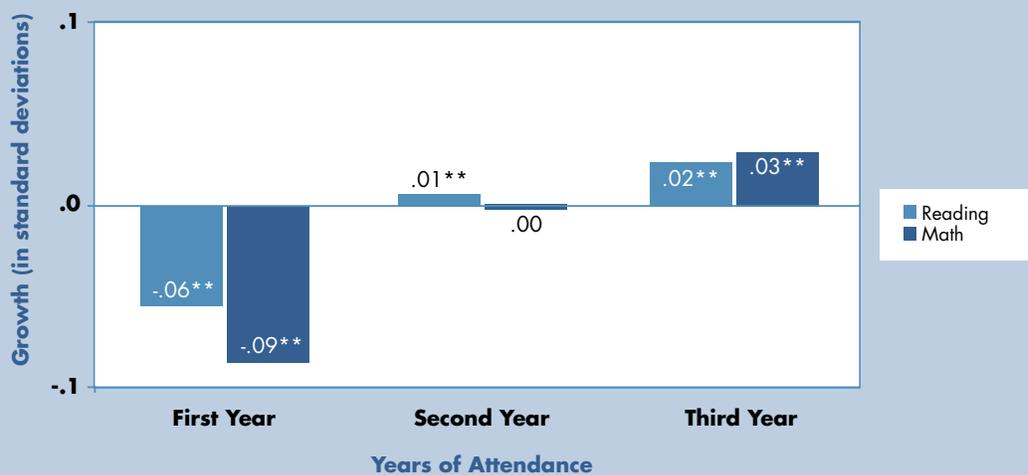
state’s data is skewed toward first-year charter students. More than half of the records in this analysis capture the first year of charter school experience. Given the improvement trends shown in Figure 10, the overall charter school effects would be expected to improve if the same cohort were followed for additional years.<sup>16</sup>

The pattern revealed in this graph is easily explained. Other research shows two things: when students change schools, their performance typically suffers in the first year;<sup>18</sup> and the performance of charter schools is weakest in their first year.<sup>19</sup> This is only common sense.

Even more flawed than the CREDO study are those that compare snapshots of student test scores at one point in time, rather than looking at learning gains over time. Because so many charters serve poor and minority students in cities—53 percent of all charter students are black or Hispanic<sup>20</sup>—their students often enter a school several years behind grade level. They may start three years below grade level, on average, but if they have risen to one year below grade level when the snapshot is taken, their school still looks like it is performing poorly compared to the state average.

In fact, if one examines how charter school students in a state score over time, one typically sees them starting far behind other public school students but gradually narrowing the gap. One recent study

**Figure 2: Charter School Effect by Students’ Years of Enrollment**



\* Significant at  $p \leq 0.05$       \*\* Significant at  $p \leq 0.01$

Source: CREDO, *Multiple Choice*



presented data on the percentage of students scoring proficient or better in ten states that were home to 71 percent of all charters. Between 2003-04 and 2008-09, charter student performance on standardized tests improved faster than traditional schools in nine states, and quite dramatically in some.

The tenth was Arizona, whose problems I will discuss below. Its charters remained eight points behind district schools in the percentage of students who scored proficient or above over the five years, though both groups made equal advances.<sup>21</sup> (Arizona has the most competition, since 25 percent of its public schools are charters. That level of competition may have increased the rate of improvement in traditional schools.)

Julian R. Betts and Y. Emily Tang are economists at the University of California, San Diego, who specialize in studying educational achievement. They reviewed some 90 studies that focused on test scores, but used more rigorous methodology than the “snapshot” studies discussed above, to capture learning gains over time and to compare charter students to students in similar neighborhoods.

Averaging all the studies, they found that charter schools outperformed traditional public schools in elementary and middle school math and reading, but they found no statistically significant differences in high school. Studies focused on urban areas showed larger positive effects from charter schools, including high schools. Eliminating

the large CREDO study from the sample pushed the charter advantage up, as CREDO results were less positive than the other studies, on average—no doubt because they focused so heavily on the first year.<sup>22</sup>

The most trustworthy studies compared the learning gains made by charter students with those of a control group: students who applied to those charters but lost out in lotteries. In both groups, one can assume similarly motivated parents and students. But only eight such studies had been completed by 2011, when Betts and Tang published their meta-analysis. Six of these lottery studies showed charters producing significantly greater gains in reading, seven in math.<sup>23</sup>

Test scores are hardly the only indicators of success, of course. Indeed, “Test scores are related only weakly to adult outcomes, such as earnings and whether students graduate from high school or attend college,” Betts tells us.<sup>24</sup> Very few scientific studies have looked at charter schools’ graduation and college matriculation rates, but those that did, in Florida and Chicago, found large positive effects on both indicators.<sup>25</sup> Simple comparisons show the same trend elsewhere: In Washington, D.C., the graduation rate from charter high schools is 24 percentage points above that of traditional schools;<sup>26</sup> in New Orleans, where 78 percent of students now attend charter schools due to post-Katrina reforms, the high school dropout rate was cut in half between 2005 and 2010.<sup>27</sup>

The success or failure of schools could also be measured by parental and student satisfaction, if authorizers conducted such surveys. Survey data from some states does show that parents are pleased with charter schools.<sup>28</sup> The long waiting lists for charters also suggest how many parents prefer charters, particularly in the inner city.

None of this is to suggest that truly bad charter schools do not exist. Indeed, by analyzing test score data, NACSA Vice President Alex Medler has discovered that in some states, low-performing schools make up a higher percentage of the charter sector than they do of traditional public schools. Large, full-time cyber schools with very low student achievement levels are a particular drag on the charter sector, he believes.

**In a race to the bottom, failing charters began to shop for the most lenient authorizers.**

**THE OTHER GOOD NEWS: SOME OF THE WORST OFFENDERS ARE TAKING ACTION**

Five years ago, areas with the most underperforming schools included Arizona, Ohio, North Carolina, and Washington, D.C. In D.C., the traditional school board authorized charters for a time but struggled. Finally it gave up, transferring its charters to the DC Public Charter School Board, created by Congress in 1996 specifically to authorize charters. With 98 campuses that educate 40 percent of public school students in the city,<sup>29</sup> that board has closed 30 schools since 1996, twelve in the past three years. Today it “has created the gold standard in charter school accountability,” according to the Center for Education Reform.<sup>30</sup>

In 2003, Ohio amended its law to allow nonprofit organizations, public colleges and universities, county education service centers, and local school districts to authorize charters. Soon 80 organizations were authorizing, with no quality control. Since they could charge each charter up to five percent of its per pupil funding, some nonprofits used chartering as a way to generate revenue, offering little support or oversight.

In a race to the bottom, failing charters began to shop for the most lenient authorizers. Things got so bad that Attorney General Mark Dann began filing suit to close charters, and in 2007, the legislature required automatic closure of any charter that fell below certain standards.<sup>31</sup> By the end of this school year, this automatic death penalty will have closed 19 schools in four years, out of about 360 schools.<sup>32</sup>

In 2011, the legislature added a law to hold authorizers accountable. If an authorizer’s schools are rated in the lowest 20 percent by the state’s performance index, it cannot open new schools until it improves. In addition, the state Board of Education can revoke an authorizer’s right to charter any schools, an action it has already taken once.

North Carolina, with 104 charter schools, also got off on the wrong foot after passing its charter law in 1996.<sup>33</sup> Until 2006, the state Board of Education did

not require a planning year for new charters, and many of those schools performed poorly. Some 44 either never opened or have since closed, according to Joel Medley, director of the Office of Charter Schools. But two years ago the board passed a policy, since codified in law, that schools missing either a test score target or a growth target in two of three years will close. (Schools in their first five years of operation can submit a corrective action plan to the board and get one more year. If they fail to improve in that year, they will be closed.) According to Medley, seven schools have received letters warning that if they don’t improve, they will not open next year.

Arizona has the most charter schools per capita of any state, enrolling 11.5 percent of public school students in the state.<sup>34</sup> Unfortunately, it also has one of the worst oversight records. Its law grants charters for 15 years and does not require a performance contract. The Arizona legislature has never adequately funded its State Board for Charter Schools, which oversees more than 500 schools.<sup>35</sup> With only eight staff, the board was not very rigorous about approving or revoking charters.

In its first eight years, for instance, it approved 75 percent of all charter applications, more than double the current national norm.<sup>36</sup> Then it provided very little oversight until the first cohort of charters approached its 15-year renewal. As a result, Arizona became famous as the “wild west” of chartering, and by 2004, seven schools had been closed for financial mismanagement or reporting violations. A few charters were also discovered offering religious instruction, and critics charged that some refused to admit children who needed special education. The original law allowed districts to authorize charter schools outside their boundaries, and until the law was amended, some did it just to make money, providing no oversight.<sup>37</sup>

About four years ago, a dozen large charter operators, worried about their industry’s tarnished reputation, took over the Arizona Charter Schools Association and began to push for stricter accountability. They worked with the charter board to adopt a method of measuring student growth pioneered by Colorado, and the board used it to create a performance framework that captures both absolute levels of school test scores and student growth rates. The board also instituted serious reviews of each charter school every five years.

**Two glaring weaknesses remain when it comes to closing charter schools: states with weak laws or understaffed boards.**

Since the board had never told its charter schools what it would take to get their charters renewed, its members did not feel it was fair to start shutting them down at renewal. In response, it required those whose test scores

and student growth were not at or above the state public school average to create “performance management plans.” If a school does not fulfill its plan and begin to improve, the board can close it—though it has not specified how long to give schools, or what level of performance will trigger closure.

Nevertheless, the board decided to adopt the same policy at five-year reviews. Deanna Rowe, its executive director, predicts that by 2014, when all schools will have gone through at least a five-year review, 40 percent will be on performance management plans. Once that day comes, expiring charters will either be renewed or revoked; there will be no option to survive by doing a performance management plan at renewal.

In this fiscal year and next, 112 charters will expire. So far, the board has renewed 47 of them, put 35 on performance management plans, and terminated five. Three voluntarily surrendered their charters, and at this writing, decisions were still pending on 22.<sup>38</sup> Though staff capacity is still a huge issue—and only time will tell if the performance management plans work—the board is clearly trying to turn the corner.

## THE BAD NEWS: WEAKNESSES REMAIN

Two glaring weaknesses remain when it comes to closing charter schools: states with weak laws or understaffed boards, like Arizona, and local school districts that don’t have the desire or capacity to exercise real oversight. In the former category are

states, such as Idaho and Utah, whose charters never expire. Charters can be reviewed and revoked, but the state authorizing boards are underfunded, they have no performance frameworks to rate charter schools,<sup>39</sup> and their schools never have to submit to a renewal process. South Carolina also has a weak law, with serious funding issues and ten-year charters that are not required to include performance goals.<sup>40</sup>

Texas has a unique problem: In 1997, under pressure to improve its worst-in-the-nation dropout rate, the legislature removed its cap on charter schools if more than 75 percent of their students were at risk of dropping out. The next year, the Board of Education approved 125 of 195 applications, two-thirds of them qualifying for the at-risk designation.<sup>41</sup> The results were not altogether pleasing, and the legislature closed that door in 2001. But the Texas Education Agency, responsible for oversight of schools chartered by the state board, has never quite caught up. Without enough staff to monitor its 200-odd schools effectively, it has closed few schools for academic reasons.<sup>42</sup>

Indeed, the rate of charter closures for any reason in Texas has always been low, compared to other states with sizable charter populations.<sup>43</sup> And last year the legislature cut the agency’s staff by a third, so the problem remains acute.

But the biggest problems are local school districts that authorize charters but fail to oversee them or close those that are not performing. According to NACSA, school districts make up 90 percent of all authorizers and sponsor 52 percent of all charter schools.<sup>44</sup> By 2010, almost 700 districts sponsored only one or two charter schools.<sup>45</sup>

NACSA has defined 12 “essential practices” for authorizers, outlined in the box on p. 15. It rates authorizers based on how many of these practices they implement. School districts score lower, as a group, than other types of authorizers, and districts with less than ten charters score the lowest.<sup>46</sup> Some authorizers report implementing as few as three of the essential practices.<sup>47</sup>

**“ESSENTIAL PRACTICES” FOR AUTHORIZERS:**

- Sign a contract with each school.
- Have established, documented criteria for the evaluation of charter applications.
- Publish application timelines and materials.
- Interview all charter applicants.
- Use expert panels that include external members to review charter applications.
- Grant charters with five-year terms only.
- Require and/or examine annual, independent financial audits of its charter schools.
- Have established renewal criteria.
- Have established revocation criteria.
- Provide an annual report to each school on its performance.
- Have staff assigned to authorizing within the organization or by contract.
- Have a published and available mission for quality authorizing.

Source: National Association of Charter School Authorizers, *Index of Essential Practices*, 2011.

“The big problem is there are so many little school districts that authorize one or two charters,” says Robin Lake, director of the University of Washington’s Center on Reinventing Public Education. “They did it only because people were loud and political, and they were never serious about wanting to oversee them well, because they don’t care if they succeed. They also don’t know how to oversee them, because they don’t do that with their other schools.”

Doug Ross, who created successful charter schools in Detroit and now oversees charters as the Detroit Public Schools’ Chief Innovation Officer, agrees that scale matters:

*If you’re going to close somebody for nonperformance, you need to have assembled a persuasive, data-based account of what’s gone on, that you can take to a board and a community. The larger authorizers in Michigan have gotten very good at that, and they’ve figured out processes for probation, warning, and so on. It’s been a product of sophistication and scale. But if you’re only authorizing a few schools, you’re unlikely to be able to marshal the data and create the processes to close schools.*

These problems are most acute in big states where school districts charter most schools, such as California and Florida. Between them, they authorize more than a quarter of the nation’s charters. California is home to 1,008,<sup>48</sup> yet only nine percent of its authorizers have more than four schools.<sup>49</sup> California authorizers’ responses to the 2011 NACSA survey provide cause for concern: almost half reported that they had no performance framework for rating charter schools, and only 8 of 39 said they had “an established policy to close underperforming schools.” (Ten more said they didn’t know whether they had such a policy.)

The problem is serious enough that the California Charter Schools Association is now lobbying for the closure of failing charter schools. It has developed a methodology to measure student growth, adjusted for socioeconomic factors. Applying this methodology to the state’s charter schools, it finds them outperforming traditional public schools.<sup>50</sup> On the other hand, most underperforming charters — those in the bottom ten percent of the association’s performance scores — continue to survive.

“The difficulty of closing low-performing schools suggests that if current patterns continue, we would not expect the concentration of underperforming charters to diminish over time,” its 2012 report concludes. Indeed, “there has been little



change in the concentration of under-performing charters over the past five years.”<sup>51</sup> In response, the association has begun to publicize those charters up for renewal that it believes should be closed, an admirable effort to pressure their authorizers.

In Florida, there are 517 charter schools, which are authorized by 43 school districts and two universities.<sup>52</sup> I have found no similar study of Florida’s charters, but the 2011 NACSA survey and interviews with authorizers suggest there are problems. Of 23 authorizers that responded to the survey, nine said they had no “established policy to close underperforming schools.” Miami-Dade County School District, which alone sponsors 109 charters, has about 20 staff in its charter office, but they focus on ensuring compliance with state law more than academic performance. “It would be a mammoth undertaking for us to have that kind of paradigm shift—where the charter office is under the gun to make sure that the students in the schools perform,” says Dwight Bernard, district director for charter school operations.

Bernard believes the charter legislation in Florida makes it extremely difficult to close failing charter schools. The district website puts it bluntly: “Current legislation does not provide adequate power to [the] district to ensure proper accountability.” Other districts echo the complaint. And when districts do try to close schools, appeals

to the State Board of Education often reverse the closures. “Our state board says it’s all about choice, and if parents choose it, that’s enough,” explains Carolyn Bridges, president of the Florida Association of Charter School Authorizers.

## WHAT OBSTACLES PREVENT SCHOOL CLOSURES?

Closing any public school is difficult. Elected school boards rarely close traditional schools (unless the district is in financial crisis), because it is political suicide: every employee in the district protests, and they—and their relatives—all vote. It is easier with a charter school, because the staff and parents from only one school protest. Other school operators welcome the opportunity to compete to run a school in the vacated building. As Miami’s Dwight Bernard says, “You get a lot of pressure from the parents of the students in the school, but not from the rest of the community or charter advocates. It’s every school for themselves. I don’t ever recall a single instance where a charter organization came out in support of another school that was on the brink of closure.”

But even one school full of protesting parents and staff is discomfiting to authorizers, particularly if they are elected board members. And closing a school creates serious disruption for children, for their families, and for staff. This is especially true for high schools, because changing schools is often more difficult for adolescents than younger children, and losing a high school means losing sports teams, performing arts groups, school bands, and other activities to which students become attached.

When NACSA asked authorizers to describe “the primary barriers your organization faces when it seeks to close an underperforming charter school,” the highest number of responses named resistance from parents, students, or staff and political pressure from the community. This is one reason why non-elected authorizers often do a better job than elected school boards: they are better at withstanding the pressure.

**One reason why non-elected authorizers often do a better job than elected school boards: they are better at withstanding the pressure.**

This political obstacle will be with us as long as most school boards are elected. If we understand the other obstacles that stand in the way of closing failed charters, however, we will understand what reforms are

necessary. My research suggests that the other most important obstacles are the following:

**Too few authorizers collect a robust body of evidence of charter school performance over the term of the charter.** NACSA asked its survey respondents to “rate your level of agreement with the following statement: Our authorizing organization has sufficient data regarding the charter schools it authorizes to make merit-based renewal and revocation decisions.” Of 165 respondents, one chose “strongly disagree,” 16 chose “disagree,” and 10 chose “neither agree nor disagree.” This suggests that the absence of suitable data for these high-stakes decisions is still a problem for about 16 percent of authorizers.

Several factors probably explain these results. As noted above, too many authorizers rely solely on test score data, which may not be sufficient to gauge true academic performance, particularly if they don’t measure growth. Most authorizers visit their schools annually, but too many focus primarily on operational issues, such as compliance with state laws and financial health, rather than on teaching quality and academic rigor. And if they rely on charters to measure and report their results on goals other than test scores, not all check to validate the numbers. Such lapses make it more difficult for authorizers to build a solid, publicly defensible case for closure.

**Too many authorizers lack adequate staff and funding.** Authorizing is time-consuming, yet only 73 percent of authorizers who responded to the 2011 NACSA survey have staff dedicated to authorizing. A few years ago, one researcher found that quite a few California school districts could not even tell her who was responsible for overseeing their charters.<sup>53</sup>

Until a recent change of policy, Detroit had nine schools overseen by the district’s in-house attorney, who had other more pressing responsibilities. In a survey done almost a decade ago by the Thomas B. Fordham Institute, authorizers in only 8 of 24 states reported “adequate” funding to support essential staff and activities.<sup>54</sup>

Florida is a good example. In recent years, budget cuts have exacerbated an already difficult situation, according to Carolyn Bridges, president of the Florida Association of Charter School Authorizers. “As we get more and more charter schools,” she says, “we’re having staff reductions or additional duties put on staff members, and there simply isn’t the opportunity to work with the schools at the level we once did.” In Polk County, where she oversees almost 50 charters, magnet schools, and choice schools, “We had to cut the person who was doing the external site visits. Are we in the schools and being as proactive as we used to be? Absolutely not; we simply can’t be, with the staff limitations we have.”

Florida’s biggest authorizer, Miami-Dade County School District, has only four staff who visit 109 charter schools to monitor their performance. When a staff member tries to close a school, Dwight Bernard reports, it is so time-consuming that she can’t adequately oversee her other charters. Broward County, just to the north, has six staff, three of whom oversee 67 schools.

**Authorizers have incentives to keep schools open.** “Closing schools is very hard, and it’s very expensive,” says Josephine Baker, former executive director of the DC charter board. Closures are often controversial and messy, and most human beings prefer to avoid such pain. They are also expensive, Baker points out, because the schools are often out of money, but students have to be placed in new schools and their records transferred; and vendors have to be paid what they are owed, or they’ll stop serving charter schools.

*If you do school closure well, in a way that takes care of the needs of children and the business people who have supported the school—vendors, banks, lease holders—it takes money. It’s very, very time consuming; it’s arduous; it’s emotionally draining; it’s energy draining. Our staff had angst about this: If we close three schools this year, how’s that going to work? How do we pay for it, and how do we handle the workload?*

**Closures are often controversial and messy, and most human beings prefer to avoid such pain.**

That alone creates a disincentive to close schools; indeed, four respondents to NACSA's survey cited the cost of closing schools as the primary barrier that

inhibited them. But on top of that, authorizing bodies often get paid somewhere between one and five percent of the per-pupil funds that go to their charters.<sup>55</sup> (According to a recent survey of 22 states, the median is three percent.<sup>56</sup>) In some states, authorizers also sell services to their charters. When one of these authorizers closes a school, it is literally cutting its own budget. In Ohio, according to many observers, a few nonprofits got into the business of authorizing simply to make money. Not surprisingly, even their worst schools stayed open, until the legislature created the automatic death penalty.

**Too many charters are not performance contracts with meaningful, measurable performance goals.**

When charter schools were invented, the charter was envisioned as a performance contract that would spell out the results the school promised to deliver and how it would measure them. Yet in an era dominated by fiscal crisis and No Child Left Behind, many authorizers have come to rely solely on standardized test scores, rather than also using performance goals tailored to each school. It's cheaper, and it fits with the prevailing obsession with test scores.

On NACSA's 2011 survey, for instance, only 56 percent of authorizers said they used mission-specific performance goals in their charter contracts, and not all of those said they used these measures in their renewal decisions. Arizona offers a good example. "We don't have performance contracts built into our charters," says DeAnna Rowe. "We're simply not staffed to have individual contracts and then monitor that performance."

In addition, some authorizers let their schools get away with vague, aspirational goals that cannot really be measured. Others try but find that measuring certain things—like student creativity or the cognitive progress of preschoolers—is extremely difficult. And many authorizers—particularly school

districts with only a few charter schools—have simply not invested the time or energy it takes to negotiate a real performance contract. As a result, when it comes time to renew the charter, they don't feel they have enough data to make a good decision.

**Too many charter terms are longer than five years, so high stakes reviews are infrequent.** Five-year terms are one of NACSA's "essential practices," because the vast majority of closures for academic reasons occur during the renewal process. Yet according to its 2010 survey, a quarter of authorizers with more than 10 schools use terms longer than five years, and about 19 percent use terms of 10 years or more.<sup>57</sup> These longer terms result in fewer closures, NACSA reports:

*Authorizers that use five-year terms close 3.6 percent of their schools annually, whereas authorizers that use terms of 10 years or longer close 1.5 percent of their schools annually... To put the difference in these rates in perspective, if two authorizers had portfolios of 100 schools and maintained these closure rates over a decade, the authorizer with five-year terms would have closed a total of 36 schools in that time; whereas the authorizer with 10-year terms would have kept 20 more schools open during that time, while closing 16 schools.<sup>58</sup>*

**Too many authorizers have no clear criteria for renewal and revocation.**

It is one thing to have performance contracts with measurable goals; it is another to set policies that define when a charter will be revoked or renewed based on how the school has performed against its goals. This is the challenge Arizona's state board now faces, for instance. According to the 2011 NACSA survey, only 70 percent of authorizers have established revocation criteria, and only 85 percent have established renewal criteria.

**Sometimes, closing a charter school would send students to schools that are worse.** Surrounding schools may be gang-ridden and dangerous; or dropout factories; or, in rural areas, too far away. "We at Fordham know from direct experience how difficult it is for authorizers, even conscientious ones, to close bad schools," write Chester Finn and Amber Winkler of the Thomas B. Fordham Institute, which authorizes charter schools in Ohio.



Kids are often content in them, as well as safe and decently cared for. Parents are frequently satisfied, welcome, and engaged, even when test scores are abysmal. Mediocre as such schools can be, they may well be better than the alternatives available to these families, often poor and minority residents of tough inner-city neighborhoods with few decent education options.

On the 2011 NACSA survey, seven respondents mentioned this problem. Even the Louisiana Board of Elementary and Secondary Education, an authorizer that has been aggressive about closing charters, adopted a policy of not closing high schools if the students' alternatives were worse.<sup>59</sup>

The way around this barrier is to close a failing school and *replace it with a better school*—a solution I will address in recommendation eight below. Districts with large portfolios of charter schools, such as Denver, Hartford, New York City, and Louisiana's Recovery School District, often try to do this. Because they control many of the school buildings, they find it easier to replace a failing charter than other authorizers do. But even some of the better statewide authorizers, such as Central Michigan University, try to replace some of the charters they close.

**In some states, appeals to the state board and/or courts reverse and inhibit authorizer decisions.** Seven respondents on the NACSA survey named a lengthy appeals process, the threat of legal actions, or judicial oversight as their primary barrier to closing schools. This problem also surfaced in six of the places where I did interviews—Texas, Florida, Arizona, Colorado, North Carolina, and the District of Columbia. Texas Education Authority personnel argue that court decisions are the greatest obstacle their board faces in closing charters.

Joel Medley, in North Carolina, says the same thing, citing decisions by judges who have not understood charter school law and practice. “A lot of the charter school language says an authorizer shall renew a charter school if the school meets or makes reasonable progress toward meeting performance standards,” says Greg Richmond, president of NACSA.

If you've got a lawyer for the charter school using that in front of a judge, it's pretty hard to prove the school's not making reasonable progress. The authorizer's attorney looks at this and says, 'If you close this, we'll get sued, and we'll probably lose.' So the board keeps them open.

**Charter operators often make 11th hour turnaround attempts when threatened with closures.** In his 2002 statement cited earlier, Jim Peyser could have been speaking for any of hundreds of charter authorizers:

The parents and students of LCCS are deeply committed to the school and passionate about its nurturing environment. Nevertheless, there is little evidence that the school has been successful in raising student achievement and its governance structure is in disarray. Now, we are asked to set aside the record of the school's first four years, and rely instead on a plan for change and a promise of stronger leadership.

Sometimes 11th hour turnaround plans convince authorizers to renew a charter, and some of those decisions no doubt work out well. But too often, mediocrity continues. Fortunately, more and more authorizers are learning to put such charter schools on some kind of probation, giving them only one, two, or three more years to prove they can produce an effective school.

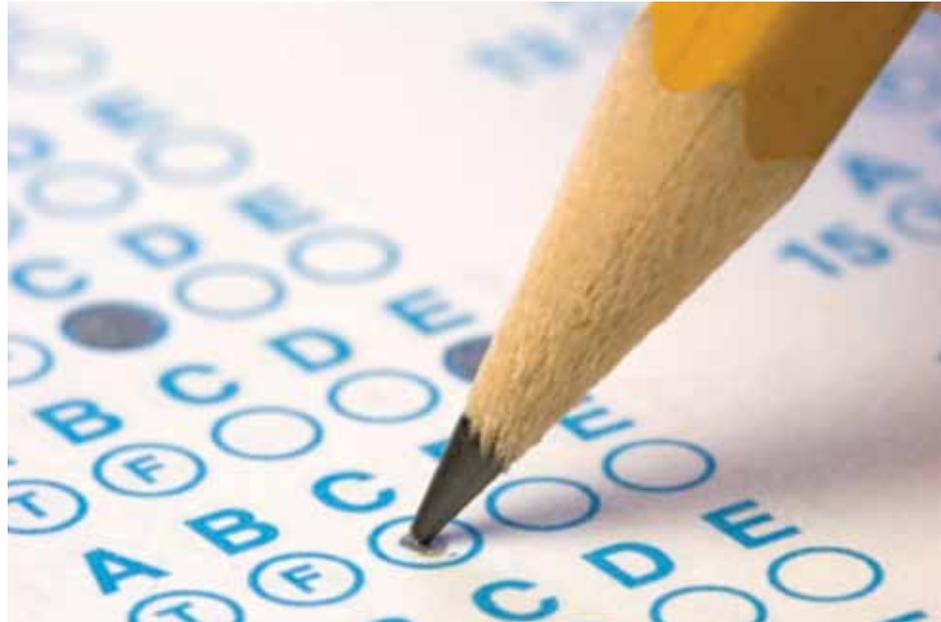
**Sometimes a poorly thought-out charter law gets in the way of a closure.** On the NACSA survey, eight respondents named statutory or regulatory limitations as the primary barrier they faced in closing charter schools—the fourth highest category. For instance, charters in some states have more than one campus, an unanticipated development when many charter laws were passed. In Washington, D.C., the law allows the board to revoke a charter but not to close one campus within a charter. Recently, when the board wanted to do that, it had to threaten to close all six campuses to convince an operator to close the one that had missed its performance target.

In other states, loopholes in the laws allow charters closed by one authorizer to transfer to a different authorizer. Seven respondents to NACSA’s survey said this had happened to them last year.

Wisconsin’s charter law allows two types of charter schools, known as “instrumentality” and “non-instrumentality” charters. The former, authorized by school districts, must employ district staff. When the Milwaukee Public Schools closes an instrumentality charter, it has to find other jobs for the principal and staff—a clear disincentive to close a failing school.

## RECOMMENDATIONS

The barriers to closure described above suggest a series of solutions. But any rules that apply to all charters must be made with extreme care. Consider the story of Harriet Tubman Elementary, a charter school in New Orleans. In January 2011, Louisiana’s Board of Elementary and Secondary Education told Tubman’s operator that it would have to close at the end of the year. Tubman’s school performance score—a two-year average based on test scores and attendance data—was below the state standard for renewal, then set at 60. When Tubman became a charter, its first year of test scores put it at a 41.3 (on a scale of 1 to 200). Three years later, in the spring of 2010, it scored 55.4. The school was improving, but not fast enough.



Tubman was run by a homegrown charter management organization, the Algiers Charter School Association. Its CEO knew there had been problems, but she had acted on them. She had replaced the principal, who had replaced some teachers, and she believed the school had turned around.<sup>60</sup> But the state board held firm; and that June, Algiers handed its building to another charter operator. By then, Tubman’s average test scores had leaped by 13 percentage points, plenty to bring it above the line—but it was too late.

This story illustrates one of the charter world’s toughest dilemmas: How to ensure that low-performing charters are closed without closing the wrong ones. Perhaps the most striking thing about the charter world is its diversity. Each state is like a different universe, with different rules and practices. Hence it is tricky to recommend solutions that apply to all 42 states with charter laws and the District of Columbia. When we do so, we must keep the traditional medical admonition in mind: First, do no harm. Still, there are some basics that most authorizers and experts I interviewed agreed should apply everywhere:

### **1. Invest in better measurement. States should measure student growth, and they should measure more than test scores.**

Too often, charter schools are rated low-performing even when their students are gaining more than per

year's academic growth a year. This is because they serve students who entered the school several years behind grade level. Without measuring growth, it is almost impossible to say whether a school is succeeding. Those I interviewed felt so strongly about this that almost all thought the federal government should mandate it.

**Without measuring growth, it is almost impossible to say whether a school is succeeding.**

There are several ways to measure growth, each more complicated than the last. The simplest method, known as “gain-score analysis,” is basically to

subtract last year's score from this year's score, with the difference being the “gain score.” To do this, one needs to construct an achievement scale across all grades, a difficult exercise that can distort reality.<sup>61</sup>

The preferred alternative is known as “value-added” analysis. It refers to a variety of statistical methods that take socioeconomic background into account and identify specific students rather than measuring only groups, thus accounting for changes in school population as students arrive and leave. Most states are working to develop value-added measurement systems for all their schools, but some of the big charter states, such as California, Texas, and Louisiana, still don't have them.

States should also measure things other than standardized math and reading scores. To think that such scores alone can capture the contribution of a school is absurd, particularly for charter schools, which often focus on particular content areas or types of students. And in order to promote innovation and experimentation, a single-minded focus on standardized tests pressures charters to adopt drill-and-kill methods. It also discourages charter operators in some states from opening schools focused on difficult populations, such as dropouts, children with disabilities, and children who have been convicted of crimes. This is unfortunate, because we need more innovation in education, not less; we need to encourage people to start charter schools that are unique, aimed at students who do not fit well in the traditional cookie-cutter school.

Doug Ross, who founded and ran a very successful charter with five campuses in inner-city Detroit, University Preparatory Academy, experienced this problem.

*We started off using 'big picture' design, drawn largely from the Metropolitan School in Providence, Rhode Island, with a lot of project-based learning, individualized learning. It really engaged poor kids who were unconnected and had little aspiration. But a lot of that takes time away from drill. And the way the system works now, you can't afford that anymore. The emphasis is on longer days, longer years. That's starting to lead to a dead end, I think; there are diminishing returns coming.*

If you look at the successful urban education innovations of the last 15 years, Ross points out—the KIPPs and Green Dots and so on—“they tend to have relatively traditional academics, done with relentlessness and data.” Their real innovations have been their efforts to build different cultures within their schools, with much higher expectations than the norm. “I think there's a chance that that kind of urban 2.0 design may be capping out, in terms of its ability to prepare poor children for college and life,” Ross says. “How much more mechanics can you drill into kids? It only seems to drive their ACT scores so high, anyhow.”

Graduates from University Preparatory Academy and KIPP (the Knowledge is Power Program) are telling their former teachers that their reading and math skills are sufficient when they get to college, but they're way behind in critical thinking.<sup>62</sup> Ross believes we need to develop a dramatically different paradigm. “I'm starting to worry about the space in which to do that, if everything is so cut and dried around standardized tests. Because then you don't dare trying something new; even if it works, it's disruptive in the short run, and could result in lower test scores.”

A group of education scholars called the National Consensus Panel on Charter School Academic Quality has defined measures in four areas: achievement level, progress over time, postsecondary readiness, and student engagement (attendance, continuous enrollment, and truancy).<sup>63</sup> In addition, the panel adds, “Non-traditional performance measures are often necessary to assess and demonstrate a school's achievement of its



unique mission and educational promises. These might pertain, for example, to the arts, technology, entrepreneurship or environmental education; or to character development, service learning, leadership skills, or foreign-language proficiency.”

The Partnership for 21st Century Schools, founded in 2002 by the U.S. Department of Education, the National Education Association, several foundations, and a group of technology corporations, has also outlined a series of qualities its members believe are necessary for success. They include mastery of foreign languages, arts, science, geography, history, and civics; creativity, critical thinking, problem solving, communication, and collaboration skills; and life skills such as self-direction, leadership, and responsibility.

Authorizers may want a package of standard measures applied to most charters, but as argued above, they should also negotiate customized performance goals and measures with individual charter schools. States should also require surveys of parental and student satisfaction and qualitative assessments of each charter school. As North Carolina’s Joel Medley says, “Numbers don’t lie, but you can lie with numbers.” Most authorizers visit their schools, but too many of these visits are brief, perhaps one or two hour sessions.

NACSA explains the benefits of more in-depth assessments:

Site visits provide authorizers with a mechanism for verifying and corroborating information collected through reports, gauging the culture and climate of a school, gathering evidence of performance from a range of perspectives, and demonstrating the commitment of the authorizer to authentic accountability. To achieve these purposes, a site visit must be much more than a passing drop-in or a compliance check. Rather, a quality site visit takes a holistic look at the school to determine how it is performing academically and organizationally and the extent to which it is serving the students who are enrolled.<sup>64</sup>

Some authorizers, such as the Massachusetts Department of Elementary and Secondary Education, do one or two-day visits, using a team of educators. These not only help them gauge what is really happening at a school, they give them an opportunity to provide suggestions to its leaders in a more effective fashion than simply a written report. “There are a lot of schools that get renewed because they’re not bad enough to be closed, but they’re also not really improving,” says CRPE’s Robin Lake. “Most authorizers haven’t figured out what do about that, but inspections are a huge lever they can use.”

**States should not allow charter schools if they are not willing to invest in their oversight.**

no ultimate judgment can allow a failing charter to survive. But as one arrow in an authorizer's evaluation quiver, site visits have real value. Some will, of course, argue that they are too expensive. But if we want to improve, such investments produce significant returns. For an international perspective, the British send teams into *every public school* once every three years, for multi-day assessments.

## 2. Provide adequate funding for authorizers.

Put simply, states should not allow charter schools if they are not willing to invest in their oversight. Screening applications, negotiating charters, measuring schools' progress, giving feedback, deciding whether to renew charters, and closing schools requires a great deal of work by a skilled, intelligent staff. To get enough high-quality people takes a significant investment. If governors and legislators choose not to spend that money, they will not get the results they want.

How much is enough? Central Michigan University, considered one of the best authorizers in the business, with schools that outperform their traditional counterparts, gets three percent of its charters' per-pupil revenue; it has 50 people to oversee almost 60 schools. Denver's Office of Charter Schools has six people doing oversight work for 31 schools. Its director, Brenna Copeland, says next year they'll have 38 schools. If she had ten people to oversee them, she estimates, that would probably be enough. The Charter Schools Institute of the State University of New York (SUNY), another widely admired authorizer, has 17 staff members to oversee 83 schools, and the director told me she needed two or three more roles filled. On NACSA's

Such visits are not panaceas, however. As Jim Peyser learned in Massachusetts, a weak evaluation that cites both strengths and weaknesses but comes to

first survey, in 2008, the typical ratio at the largest 50 authorizers was one staff person for every four to five schools.

NACSA's 2009 survey revealed that school districts averaged 7.6 schools per staff person, state education agencies averaged 9, universities averaged 2.7, and dedicated chartering boards averaged 1.7.<sup>65</sup> Given all this, I would suggest an ideal might be one oversight staff (or consultant) for every four schools, but of course a lot depends on who the people are and what oversight methods they use.

Starting an authorizing body is particularly expensive, and many authorizers I interviewed reported that they did a poor job in the early years. Once an authorizer hits its stride, however, there are economies of scale. NAPCS and a number of the experts I interviewed suggest that states provide start-up money to authorizers, and then provide a sliding scale of funding based on the volume of charters overseen. Three percent of charter revenues appears to be enough to provide quality oversight; with more than 30 charters, this might decline to 2.5 percent; and with more than 60, to 2 percent.<sup>66</sup>

Anything less would be a mistake. In Florida, for instance, authorizers are awarded five percent of their charters' revenues, but only for the first 250 students in a school. Hence, some multi-campus charters are paying as little as 0.5 percent, and their authorizers are strapped for money.

Authorizer funding is provided in three basic ways. Many school districts and state departments of education have to fund their charter oversight office—if they have one—from their annual budget. Other authorizers, like universities, independent chartering boards, and nonprofits, either get an annual appropriation or a percentage of their charters' per-pupil revenues. For authorizers with ten or more schools, the latter is the most common method.<sup>67</sup>

The first two approaches invite deep cuts during fiscal crises, as well as political attacks on appropriations by teachers' unions and other

anti-charter groups. The Texas Education Agency, the North Carolina Office of Charter Schools, and SUNY’s Charter Schools Institute have all experienced deep budget cuts due to state fiscal problems. The per-pupil fee has other problems; as I explained earlier, it creates a financial incentive to keep failing charters open; and it siphons money away from charters that already receive less than other public schools.

There is no consensus among those I interviewed about the best alternative, although the majority—and the National Alliance of Public Charter Schools (NAPCS)—lean toward per-pupil fees, because they are more stable over time. A mixture of appropriations and fees might minimize the dangers of both. States could also dilute the financial incentive to keep failing charters open by phasing out money over two or three years when a school closes, thus cushioning the impact on the authorizer. And they should reward high-performing authorizers with bonuses.

Common sense suggests several other guidelines. First, as NAPCS argues, charter schools should not be able to negotiate their fees with authorizers, as they do in Ohio.<sup>68</sup> This creates pressure on authorizers to charge less and minimize their oversight. Second, states would be wise to deduct the fees and write the checks to authorizers, because occasionally, when an Ohio charter is put on probation or threatened with closure, it stops sending checks to its authorizer. And third, whatever method a state chooses, experience suggests it should apply it to all authorizers, including school districts and state education agencies. If left to their own devices, too many of both skimp on charter oversight.

### **3. Require that charters be performance contracts, and enforce them.**

If a charter does not contain specific, measurable performance goals, it should not be granted. Authorizers that grant such charters should not be allowed to continue authorizing. Yet when NACSA asked authorizers on its 2011 survey if they included in their contracts “evidence-based special measures of mission specific goals (e.g., a mission specific goal for a science-focused school, a drop out recovery school, etc.),” more than a third said no.

**It is hard to hold a school accountable if no one has been clear about what results it is expected to produce.**

Accountability for results is a fundamental element of the charter model, and it is hard to hold a school accountable if no one has been clear about what results it

is expected to produce. Those measurable goals should then be the criteria by which authorizers renew or revoke charters. They don’t have to be set in stone in advance; they can be modified as the school opens, finds out exactly what kind of students enroll, and learns what is possible in the real world. SUNY’s Charter Schools Institute, for instance, finalizes the accountability goals in its charters after the school’s first year.

NAPCS urges that charter contracts include, at a minimum, goals centering upon:

- student academic proficiency;
- student academic growth;
- achievement gaps in both proficiency and growth between major student (racial and ethnic) subgroups;
- attendance;
- recurrent enrollment from year to year;
- postsecondary readiness (for high schools);
- financial performance and sustainability; and
- board performance and stewardship, including compliance with all applicable laws, regulations, and terms of the charter contract.



Some goals should be specific to the charter school in question. These schools are supposed to innovate, and often to serve unique student populations. “We have a school, for instance, that is just for special education kids from age 18 to 26; they don’t even have testing in their contract; they have mission specific goals,” says Mary Kay Shields of Central Michigan University. CMU also has a charter school in which 80 to 90 percent of the children speak different dialects of Arabic, and another with many homeless students. “You can’t use a hammer when you need a screw driver,” Shields says.

#### **4. Require that all charters be for five years, with a minimum of one review in between.**

Only a third of those responding to NACSA’s survey give five-year charters exclusively. Experience has shown that if an authorizer gives 10 or 15-year charters, the odds of serious, high-stakes reviews in the interim are not high, regardless of good intentions. Few authorizers have enough funding to oversee their charters effectively, and the first things to go are in-depth reviews. This happened in Arizona for years, and the NACSA survey reveals that it happens elsewhere as well.

Another common practice is giving out 10, 15 or 20-year renewals to high-quality charter schools as a kind of reward. “I think that’s a bad idea,” says Robin Lake.

We’ve done a lot of work on charter management organizations, and we’ve found that a lot of them get into serious problems when they grow too quickly. They get into financial difficulties, lose control of quality, and so on. They may have a good instructional plan and central strategy, but it’s not a guarantee. So I think there’s a way you can fast-track approval and not ask some questions, without letting them off the hook every five years.

In addition, school leaders are the most important determinants of school quality, and if a principal leaves, an excellent charter school can go downhill. It would be foolish to wait 15 years to close that school.



For the principal and staff, a 15-year charter is also a bit like tenure. If everyone feels their jobs are safe for the next 15 years, human nature suggests they might relax a bit. When major changes become necessary to improve student learning, they may not be quite as willing to go the extra mile. Authorizers can make reviews less burdensome for charters and CMOs that have performed well in the past by streamlining the process. But some kind of life-or-death review every five years is the best way to keep everyone in a school on their toes. The lone exception should be shorter charters for schools put on some form of probation.

The principal argument for charters longer than five years is that they help schools secure mortgage loans to buy or construct facilities. But in some states, lenders willing to give charters mortgages have emerged; and in others, the state has stepped in to fill the void. Utah created an authority to provide charters with tax-exempt bond financing, for instance,<sup>69</sup> and Michigan created a Finance Authority to insure bank loans to charters and even to make some loans, to force bank interest rates down.

Similarly, Texas allowed state-authorized charters that meet financial criteria to apply to its Permanent School Fund for bond guarantees,<sup>70</sup> and last year Indiana appropriated \$17 million to make charter

grants and loans. Different states will handle the financing issue in different ways, given their circumstances, but they have many methods to enhance charter schools' credit without having to make the loans themselves.

Other states are pressuring their school districts to share their empty facilities with charters. Indiana has required school districts to lease vacant space to charters for \$1 a year or sell it for \$1, and California has required school districts to rent empty school sites to

charter operators for nominal fees.<sup>71</sup> It is still too early to say whether such requirements work. But life-or-death reviews every five years are such an important element of charter accountability that states should look first to other solutions to solve their facilities issues. In states that fail to offer such solutions, authorizers should only offer longer charters if they conduct rigorous, high-stakes reviews every five years.

Some authorizers pose the opposite problem: they give initial charters for less than five years. In Oregon, for instance, first charters are typically for three years, and some Ohio authorizers initially give charters for one to three years.<sup>72</sup> Most of the authorizers and experts I interviewed agree that this is a bad idea. Starting a new school is not for the faint of heart. Charters' first years are often a struggle, and many solid charters don't hit their stride until their third or fourth years.

A five-year charter means the school will be judged based on four years of data, because the decision to renew must be made during the fifth year in order to provide time for an orderly closing and transfer of students if the charter closes. Four years is the right amount of time to give new schools to find their footing—neither too much nor too little.

**Some kind of life- or-death review every five years is the best way to keep everyone in a school on their toes.**

Finally, the clock should begin when the school opens its doors. New York made the mistake of counting a school's planning year, which means authorizers there

have to make their renewal decisions based on only three years of data.

### **5. Require that authorizers adopt clear policies spelling out the conditions that will lead to a charter's revocation or renewal.**

As noted above, NACSA's 2011 survey found that 15 percent of authorizers lacked renewal criteria and 30 percent lacked revocation criteria. When NACSA asked authorizers to "describe the primary barriers your organization faces when it seeks to close an underperforming charter school," a dozen cited lack of criteria for closure—the second most common response.

Without such criteria, it is hard for boards to resist the inevitable pressure to keep a school open. These criteria should define what factors an authorizer will weigh in its decisions, but they should not be hard-and-fast cutoff lines based on standardized test scores. As I have argued, authorizers should look at a multidimensional body of information, including qualitative information gathered through site visits. Central Michigan University offers a good model. "We do not have rubrics," explains Mary Kay Shields. "We say in our contract: you must achieve or make measurable progress toward these goals. Then, depending on each case, we take each school individually."

### **6. Require authorizers to vote on closure if a charter's performance falls below a minimum level.**

As noted earlier, Ohio created an automatic death penalty based solely on the numbers. Louisiana, North Carolina, and Florida have created similar

rules, but with exceptions that allow their boards to take extenuating circumstances into consideration. (All four use different standards for "alternative schools"—generally those serving dropouts, those far behind grade level, teenage mothers, students with disabilities, and other "alternative" populations.) The problem with automatic death penalties with no possibility of override is that they will inevitably close schools that are doing a good job with the most challenging students. Carolyn Bridges, director of choice, magnet, and charter schools in Florida's Polk County School District, describes such an instance:

We had charter schools within larger public high schools serving kids at risk of dropping out or who had dropped out and come back. Most of these kids wanted the full high school experience, with the social life and the sports and other activities. We ran them through an intensive experience, to get them back on track with the basics, reading and math. As soon as we felt they had recovered, we'd move them into the traditional school and fill that seat with someone else from our waiting list. The state looked at test score data and told us we had to close those programs. We showed them how graduation rates had increased by 43 percent, but the state was looking totally at its school grades, which depend largely on test scores. They threatened to withhold funding from the district, so we had to close them. It was terribly frustrating to everyone: students, parents, and staff who had worked their hearts out for these kids.

Fortunately, a local state legislator got a bill passed that required evaluations of dropout retrieval and prevention charters by different standards, so the district is in the process of reopening such schools.

Greg Richmond of NACSA recommends what he calls a "default" closure rule: the default is closure, but the authorizer can vote to override it. This makes the most sense, because it would protect schools that serve special populations. A default rule would also protect schools that could make a good case that they had turned their performance around, such as Harriet Tubman Elementary. It would raise the issue and require a board to vote, but not force closure.

“When all is said and done, I do think we need these rules,” Richmond explains.

I’d much rather have thoughtful staff making thoughtful recommendations to thoughtful boards that always make wise decisions; that’s the ideal, and I think we should always strive for that. But we see again and again, 20 years into the experiment, that ideal is rare. There are 1000 authorizing agencies in the country, and I’d be hard pressed to say that 50 of them approach that ideal—and that would be overly generous. So we should work for that ideal, but recognize that in too many places, the charter world has recreated the problem we tried to solve, which is that bad schools stay open.

To use test scores as part of its automatic trigger, a state must measure student growth, not just where charter students score at a single point in time. To give schools an opportunity to right their ships, a closure vote should be required only after at least two failing years. Nor should states apply it during a charter’s first five years; new schools should be given these early years to get on their feet.

### **7. Create at least one politically independent, single-purpose organization dedicated to authorizing charters throughout the state.**

Research, NACSA surveys, and interviews with experts all suggest that organizations with the single purpose of authorizing charters tend to outperform school districts, state education agencies, and nonprofit organizations, which have other core purposes and do authorizing on the side.<sup>73</sup> NACSA’s 2010 report singles out state education agencies in particular:

SEAs are the most understaffed and under-resourced of the large authorizers. Some SEAs appear to treat charter authorizing like another state-run education improvement program, without accommodating the unique work associated with charter school oversight. Among large authorizers, SEAs are the least likely to sign formal contracts with their schools, and are also less likely to support standards of academic performance that are higher than those required by the state to meet AYP [adequate yearly progress].<sup>74</sup>

The Center for Education Reform explains why this is so:

The inherent problem with school districts or state departments of education serving as charter school authorizers is that being an authorizer is not their main job. They are already many times overburdened with their standard responsibilities of monitoring public education, and shouldn’t be expected to also monitor a charter school’s success or failure. Expecting them to do this well more than likely results in poor performing or poorly managed charters being left open longer than they should.<sup>75</sup>

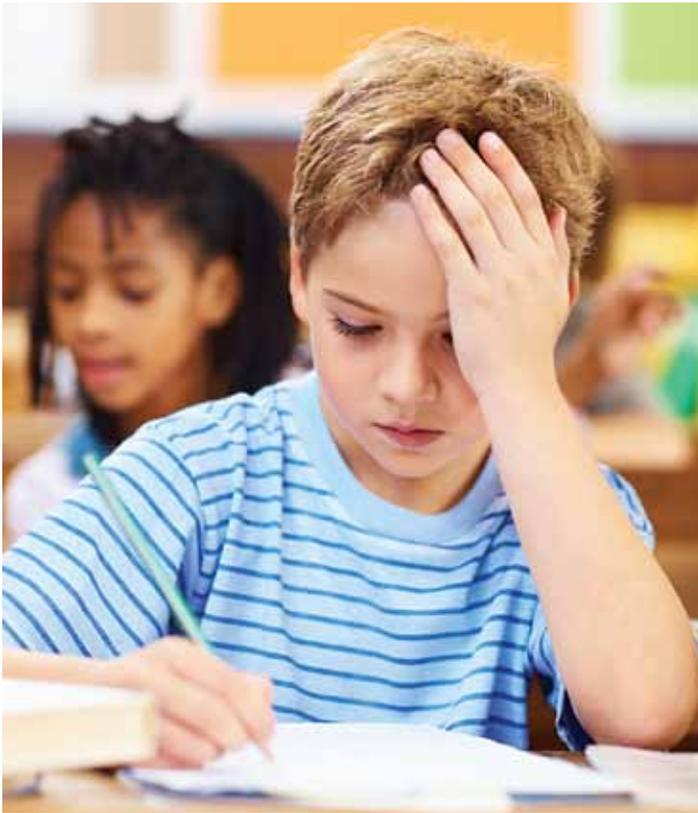
**Independent, single-purpose authorizers are able to concentrate all their energies on authorizing.**

Independent, single-purpose authorizers are able to concentrate all their energies on authorizing.<sup>76</sup> Colorado, Arizona, Idaho, Utah, South Carolina, Illinois, Nevada, Hawaii,

Maine, and D.C. all have such authorizers. Of course, if their charter law or funding is flawed in other ways, as in Arizona, Idaho, Utah, and South Carolina, such an authorizer will still have trouble closing charter schools.

The big exceptions to this observation about the superiority of single-purpose authorizers—the classic exception that proves the rule—are general purpose organizations that create subsidiaries dedicated to chartering. In Louisiana, the state Board of Elementary and Secondary Education authorizes many charters, but it has delegated oversight to a statewide Recovery School District (RSD), created to take over failing public schools and, in most cases, convert them to charters.

The RSD has produced a strong record in New Orleans, where it oversees some 60 schools: between 2007 and 2011, the percentage of its New Orleans students scoring at grade level or above has risen from 23 to 48.<sup>77</sup> Similarly, the most successful public universities in the authorizing business, such as Central Michigan University and SUNY, have created subsidiary organizations fully dedicated to chartering. School districts and



state education departments should learn from these examples and create their own subsidiaries to oversee chartering.

These and other dedicated authorizers should be insulated as much as possible from political pressure. For statewide chartering boards, insulation can be provided by ensuring that no elected official dominates appointments to the board, as NAPCS recommends in its model charter law. Terms can be staggered and appointments can be spread between the governor, superintendent, and legislative leaders.

The other reason to create an independent chartering board, as NAPCS argues, is to give those who want to create charters an alternative to their local school district. In some states, when a district turns down a charter applicant, the applicant can appeal to the state department of education. If the department overturns the district decision, the district is stuck authorizing a charter school it does not want—an unhappy situation for all concerned. When Colorado began to experience this problem, it created a state-

level authorizer, the Colorado Charter Schools Institute. But it did so with an unusual twist, born no doubt of a political compromise.

Under the new law, passed in 2004, districts can apply to the state board of education for the exclusive right to authorize charters within their borders, thus freezing the Institute out. But if the district does not perform well as an authorizer, the department can take that privilege away. According to NACSA's Alex Medler, a former chairman of the Institute's board, districts that don't want to lose their exclusive authority have adopted the Institute's model practices to ensure high quality.<sup>78</sup>

### **8. Encourage authorizers to replace failing charters with new charters run by organizations that have proven track records.**

Many charters have been renewed because if they were not, their students would end up in worse schools. But if authorizers continue to do this, we will never create the high quality we need among charters. One partial solution is to encourage authorizers to replace failing charter schools with better ones. This is easier for a district, because it sometimes owns the building and can provide it to the new charter operator. In other situations, a replacement operator has to go find facilities, not always an easy task. But any authorizer could “incubate” new charters—providing funding and consulting support during a planning year—so it has an operator and facilities lined up when it next closes a school. If state laws do not allow authorizers to transfer a charter from a failing operator to a more successful one, they could be amended. When they do vote to close a charter, authorizers could also issue RFPs for new operators in that neighborhood and give students displaced by the closure preference in other nearby charters.

Replacement does not necessarily mean taking the exact same students, however. Taking over a failing school is extremely difficult. Most of the charter management organizations that have been successful with inner-city kids, such as KIPP, start one grade at a time, in kindergarten or first grade, so they don't have to inherit lots of kids who are far behind grade level. They are generally unwilling to take over entire existing schools. Green Dot in Los Angeles and a few CMOs in New Orleans have embraced this challenge, but the jury is out

on how many will succeed. The lesson here is that replacement should not be seen as a simple takeover. Authorizers should choose a new model that has the highest chance of success, depending upon the local circumstances.

Authorizers should also lean toward CMOs with proven track records when they replace a failing charter. Unfortunately, only 30 percent of those who responded to NACSA's 2011 survey even have a policy of replicating successful charters. States could amend their charter laws to create incentives for authorizers to replace failing charters. For instance:

- They could provide additional money to replacement schools for their first few years.
- They could provide financial bonuses to authorizers that replace schools.
- They could tell authorizers whose schools fall in the bottom third on student performance that they cannot authorize a new school until they close one of their failing ones. (Alternative schools should be excluded from such a rule.)

The federal government could play a role, too. Rather than giving School Improvement Grants

to charter schools, the U.S. Department of Education could give them to authorizers, to close the school and replace it. (School Improvement Grants of up to \$2 million per school go to the lowest-performing schools to pursue one of four strategies: turnaround, restart, closure, or transformation. Most school districts have chosen the transformation option, which requires the least change.) Charter schools have agreed that if their students are not progressing, they will be closed, and the federal initiative should not undermine this commitment. But School Improvement Grant money could be a powerful incentive for authorizers to replace failing charters.

### 9. Take away the right to appeal an authorizer's decision to the courts.

Most authorizers and charter school experts agree that schools should have due process and the right to appeal negative renewal decisions to a higher authority, such as a state board of education. Given the hostility many school districts have shown to charters, this is imperative, though it sometimes keeps poorly performing charters open. (In Colorado and Florida, for instance, state boards routinely overturn closures, because a majority of their members believe that if parents have chosen the school it should remain open, regardless of test scores and other performance data. The Colorado board is elected, so one could argue it is carrying out the will of Colorado citizens. But the Florida board is appointed by the governor, which makes that argument a stretch.)

In some states, however—including Texas, North Carolina, Arizona, and Washington, D.C.—statewide authorizers cite appeals to the courts as their greatest obstacle to closing charter schools. They complain that judges are not always familiar with charter school laws and practice and often overturn decisions for procedural reasons, like a petty mistake in the revocation document. “Do I believe in due process?” asks North Carolina’s Joel Medley.



Yes, I do. But at the same time, a charter is not a guarantee. It's like a license. We don't call it a contract here; we call it a license. You get this, but you have to do these things, and if you don't, then we take it away. I think there should be some level of appeal, but not to the courts.

## 10. Make authorizers accountable for the performance of their schools.

Oddly enough, in a world where charter schools are supposed to be held strictly accountable for performance, very few authorizers are accountable for anything. A majority of those responding to NACSA's survey said their work had never even been evaluated by a third party. The big exceptions are Ohio and Minnesota, which both experienced an explosion of low-quality charters after they allowed nonprofits to authorize. Ohio can now sanction authorizers, as I described earlier.

In 2009, Minnesota passed a law requiring that all 60 of its authorizers be approved by the state Department of Education within two years. The department brought NACSA in to help design the review process, and many authorizers simply dropped out rather than face the scrutiny. After two years, only 24 were left.

Missouri's charter law also allows the state board of education to sanction authorizers— withholding their fees, taking away the right to authorize new schools for a year, or removing their authorizing authority entirely.<sup>79</sup> The problem is that the board has never exercised this authority.

At a minimum, all authorizers should be accountable for fairly implementing their charter laws. Many school districts have been accused of discriminating against charter schools, not passing on all the state money they are legally due, and the like. Joel Medley, who previously ran the South Carolina Public Charter School District, says this was “a huge, huge struggle” there. “The charter schools were begging: somebody needs to oversee these authorizers. They often alleged shenanigans with funding, because the money went from the state to the district to the charter.” State education departments should force authorizers to comply with the law and penalize those that don't.

**At a minimum, all authorizers should be accountable for fairly implementing their charter laws.**

Accountability for performance is trickier, because charter schools, by their nature, have different performance goals. But one step that makes sense in

any state is annual publication of comparative data on charter and authorizer performance. Reports on authorizers could include how many charters they have, how many students, and any performance data collected for all or most of their charters, such as standardized test scores, student progress over time, attendance, continuous enrollment rates, truancy rates, parental and student satisfaction, and the results of qualitative assessments.

Some states and cities already do something like this for charter schools. Florida, Arizona, Louisiana, and New York City give schools letter grades. Some authorizers, such as Washington, D.C., Oakland, CA, and Hartford, CT, provide the data in tiers, so everyone understands what it means for the future of their charter schools. Top tier schools are those performing well; middle tier are in between; and bottom tier schools need to improve to survive. Both these approaches, tiering and grading, provide early warning to staff members and parents about potential charter closings.

Yet no one does the same for charter authorizers. Such a report would help everyone understand which authorizers provide high-quality charter schools and which do not, and they would no doubt pressure authorizers to improve or get out of the business.

In states where charters perform reasonably well, or where there are only one or two authorizers, public performance reports should be sufficient. In other states, however, powers like those in Ohio and Minnesota may be necessary. NAPCS's model charter law urges states to designate an overseer of authorizers, with responsibility for reviewing authorizer performance and imposing sanctions on poor performers, including “the termination of the authorizer's chartering authority.”<sup>80</sup> The difficult question is who should play such a role.



In some states, the department of education or state board of education is an authorizer, and institutions rarely do a good job of overseeing themselves. In other states, the charter community would revolt if such authority were given to the education department, superintendent, or state board of education. Where superintendents and state boards are elected,

politics could play havoc with their judgments. And most state education departments are rooted firmly in the past, built to force school districts to comply with thousands of rules—some state, some federal—and submit hundreds of reports.

More experimentation and research will be necessary before anyone can say with assurance what models make the most sense in what states. There are numerous options. NAPCS suggests creating a special legislative or governor’s office of charter authorizer oversight, but this would not provide the necessary insulation from political and ideological pressures.<sup>81</sup> NACSA suggests that a university might be given the task, an idea worth exploring. Another possibility would be a new, quasi-public board, appointed in a fashion designed to keep it above the political fray, as I describe on page 29.

Some would no doubt deride this as “a new bureaucracy,” but in truth, it would not be a bureaucracy at all. It would be a new “steering organization” with a small staff, designed to steer a post-bureaucratic system of charter schools to good health. Its greatest and most expensive challenge would be constructing a measurement and data system to accurately judge the performance of charter schools. And that investment is necessary in

any state that wants high-quality charters, whether it creates a new board or not.

Paul Hill, founder of the University of Washington’s Center for Reinventing Public Education and author or editor of numerous books on charter school policy, points out that districts might benefit by allowing them to appeal to such a body when other authorizers create low-quality charters within their borders:

We think of appeal as being something to protect the charter applicant against a district that doesn’t want charters, but there’s another function it might play. I see this problem in Cleveland: charters being opened by irresponsible authorizers, who just want the money. It’s really making things hard for Cleveland. I’m wondering whether you couldn’t have a district be able to appeal a charter decision if a third party authorizes a charter in its district.

In sum, all states should find a way to provide transparent performance reports on their authorizers and to pressure bad authorizers to improve or divest their charters. Where state leaders feel a need for authorizer accountability with more teeth, they should experiment with different models, as Ohio and Minnesota have, and hire competent researchers to evaluate the results.

## THE FEDERAL ROLE

Since the federal government provides charter school funding, can it play a role beyond fixing the School Improvement Grant problem discussed earlier?

In my interviews, authorizers and other charter school advocates were uniformly leery of federal solutions. Leslie Jacobs, who sparked Louisiana’s move to charters in New Orleans when she served on its Board of Elementary and Secondary Education, could have been speaking for most of them when she said, “The feds tend to come in with too heavy a hand, too much overreaction. It’s very hard to do policy like this from the national level.”

The one thing most of those I interviewed supported was a federal requirement that states measure student growth, not just performance at annual points in time. After all, Congress already required performance measurement when it passed No Child Left Behind; it just got the method wrong.

If federal government rules are not the solution, what about federal carrots? The Race to the Top, which dangled money in front of states to do things like raise or remove their caps on the number of charters, was effective. Most of those I interviewed thought a competitive process that stressed authorizer quality and accountability would make sense. It could be part of another Race to the Top, or it could simply be an amended version of the annual Charter School Grant Program. That program already rewards states for creating laws designed to promote high-quality charter schools and for providing financial support for charter facilities equal to that provided to other public schools.

Another objective, focused on authorizer quality and accountability, would be a constructive addition. The grant process might, for instance, give states points in the competitive process for each recommendation outlined above that they have fulfilled.

There is one more step the federal government should take. Since Congress has not reauthorized the flawed NCLB law, the Obama Administration is now giving states waivers to its provisions. In that process, it has unfortunately ignored charter schools. To get a waiver, states must promise to intervene in the worst 10 percent of their public schools. They can use any of seven options, such as replacing the principal, replacing the staff, and so on. But closure is not one of the options. “So when a charter school falls into those categories,” NACSA’s Greg Richmond explains, “state policy will give them lots of money and make them do improvement plans.

Some states we talked to wrote something about this into their plan. If they didn’t, and they start to implement, and a charter falls into one of those categories, the state education agency will start to create these corrective plans. Those schools will say to their authorizers: “You can’t close us; we just signed on to this turnaround strategy with the state.” And other charters will say, “I’m not even in the lowest 5 percent, why are you closing me, when you’re not closing them?”

The U.S. Department of Education should solve this problem by amending its waivers to exclude charter schools from the intervention process.

## CONCLUSION

In all of this talk about closing failing charters, let us not forget that most charter schools succeed. On average, they outperform traditional public schools. Some have astonishing records, particularly in inner cities, sending thousands of children who would not otherwise have thought of college on to higher education. And where authorizer quality has been high, as in Massachusetts and New York City, rigorous studies have proven that charter students far outpace their traditional school counterparts.<sup>82</sup> Even the CREDO study, for all its flaws, is suggestive. Looking at its third-year data, places known for strong authorizing, such as Massachusetts, Louisiana, New York City, Chicago, and Denver, scored well; while places known for weak authorizing during the years CREDO studied, such as Arizona, Florida, and Ohio, scored poorly.

The challenge today is to strengthen the lagging states, and the key is authorizer quality. As this report has hopefully made clear, progress on that front is being made every day, and the authorizer community is determined to accelerate that progress. “What we’ve realized in the past year is that talking about quality is not the same as accountability,” says NACSA President Greg Richmond. “That’s a sharper edge on the knife. In the last year, we’ve focused more on accountability, and closing charters.” And in the coming year, he adds, NACSA will begin going into a few states and running campaigns to push authorizers to close more failing schools.

Fortunately, the task is getting easier. Fifteen years ago, when an authorizer closed a public school for subpar performance, it was an event few observers had ever witnessed. Protests were vocal, and the media, which loves novelty almost as much as it loves conflict, made sure these protests were visible. Mary Kay Shields remembers when CMU’s first closure landed her predecessor on ABC’s “Nightline.” But today, we have become so accustomed to the idea that most of the discussion is about how to close *more* schools. To quote Shields, “It’s not as hard as it used to be.” ■

## ENDNOTES

Any quotes without endnotes are from interviews with the author.

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27. Data from Louisiana Department of Education.
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29. Robin J. Lake and Betheny Gross, *Hopes, Fears, & Reality 2011*, p.10.
30. Alison Consoletti, *The State of Charter Schools*.
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32. 19 closures: Personal communication from Patrick Galloway, Ohio Department of Education, April 4, 2012. 360 total charter schools: According to Alison Consoletti, *The State of Charter Schools*, p.25, Ohio had 368 charter schools in 2011-12. I have used an approximate figure of 360 because I am referring to a period of four years, and the number grew over that time.
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Progressive Policy Institute  
1101 14th Street NW  
Suite 1250  
Washington, DC 20005

Tel 202.525.3926  
Fax 202.525.3941  
Email [info@ppionline.org](mailto:info@ppionline.org)  
[www.progressivepolicy.org](http://www.progressivepolicy.org)