
POLICY MATTERS OHIO

AUTHORIZED ABUSE: SPONSORS, MANAGEMENT AND OHIO CHARTER SCHOOL LAW

EXECUTIVE SUMMARY

Ohio charter school law is seen nationally as having upended standard governance practices and allowed for the proliferation of ineffective, poorly run schools that don't serve Ohio's students, families and communities at all well.

Ohio law has allowed for the “most breathtaking abuse in the nation,” according to Greg Richmond of the National Association of Charter School Authorizers.¹ Recent changes have made it easier to close charters for poor academic performance, but much remains to be done to ensure that charters provide an alternative for parents and children, and even a model for innovation. Too few Ohio charters can point to solid academic records, and current law allows the unchecked, largely unexamined, transfer of public funds to private hands, particularly in the case of the schools – roughly half of Ohio's 300-plus charters – that are run by management organizations, both for profit and nonprofit.

What can be done to improve charters in Ohio? In a July 2010 commentary published in Education Week, Richmond laid out six criteria that he said would help strengthen oversight and improve charter quality:

- Charter school board members should not be employed or selected by the school's management organization or compensated for their service;
- Charter boards should have independent attorneys, accountants and auditors;
- Management contracts should spell out rights, responsibilities, fees and services and should not include “poison pills” that bind schools to management companies;
- Charter boards should control all school revenues;
- All equipment and furnishings purchased with public funds must be the property of the school, not of the management organization;
- All loans from the management organization to the school must be appropriately documented and at market rates.

These standards are based on longstanding principles for the governance of nonprofit corporations and “agency law,” which governs the relationship established when an entity (in this case, a charter school board) contracts with an “agent” (a management organization) to work on its behalf and under its control.

FINDINGS

To see how Ohio measures up, Policy Matters reviewed management agreements, audits, websites, board lists and other charter school documents. We found that many management organizations and the schools they operate do not meet the standards set by NACSA. This reflects poorly on Ohio law, the state's charter schools and sponsors.

Our investigation finds clear evidence that management organizations are in control, not the boards that are legally responsible for the schools. Management undercuts school board independence in a number

¹ Authorizers, which approve and oversee charter schools, are known as sponsors in Ohio.

of ways, such as controlling school revenues, setting up schools and picking board members, limiting board decision-making power, and reducing board ability to contract for independent services; such practices can make it next to impossible for boards to break free from the managers they ostensibly hire. The lack of meaningful oversight provided through Ohio's system of sponsors magnifies the law's shortcomings.

This study, "Authorized Abuse: Sponsors, Management and Ohio Charter School Law," provides detail on many examples of Ohio charters and management organizations that fall short of the NACSA standards, and in some cases Ohio law. Highlighted in this summary are the most troubling cases:

- The **Richard Allen** system of charters in southwest Ohio has listed, on its website and federal tax forms, the same board members for all four of its schools, even though Ohio law prohibits individuals from serving on more than two charter boards. Also in apparent violation of the law, one board member has the same last name and home address as the schools' president, whose management company provides services to the schools. These practices reveal a management role in board selection, present a conflict of interest and undermine board independence;
- At least 27 teachers and other staff from individual charters run by **Constellation Schools**, based in Parma, serve on boards of other schools run by the company. The staff are employees of individual schools, not the management company, but Constellation's complete control of the schools suggests that the company is breaking the spirit, if not the letter, of the Ohio law that bars management company employees, consultants and their relatives from serving on charter school boards.
- One individual has played a lead role as incorporator, statutory agent, CEO, president or vice president – or some combination of those positions – in seven inter-connected charter-related organizations, including one sponsor (**Kids Count of Dayton, Inc.**), two management organizations, and four schools. This kind of "vertical integration" blurs lines of governance and autonomy and is not an isolated case among management organizations running Ohio schools.
- **Mosaica Education, Inc.**, requires charter schools to pay a "start-up fee" upon termination or nonrenewal of their contracts with the company. **Imagine Schools, Inc.**, requires a similar "termination fee." These practices subvert established governance norms, giving power to management organizations at the expense of charter school board independence.
- Management companies control the vast majority of school revenue. Some do it directly, with taxpayer money flowing straight into company bank accounts: **White Hat**, for example, gets 96 percent and Imagine pulls in up to 98 percent. Others exert power indirectly: **Constellation Schools, LLC**, is paid less than 20 percent in fees, but controls the hiring of staff; Ohio schools that have signed agreements with the **Leona Group**, on the other hand, lease staff from the Leona Ohio Employment Group, created by Leona's founder and CEO. Contracts signed with **National Heritage Academies** allow boards to set aside funds for board use, but do not allow boards to use reserves for special or independent audits.
- All the schools entering into contracts with a particular management organization sign agreements that are virtually identical to other schools working with that company. Our documentation of **one-size-fits-all contracts** shows that arms-length relationships are the exception among schools that sign with management companies in Ohio; it is highly unlikely that negotiations with a variety of autonomous boards seeking the best deal for their school would result in identical contracts.

RECOMMENDATIONS

Ohio policymakers, charter advocates and charter school sponsors should take notice of problems with the state's charter laws and practices. In his commentary, Richmond concludes that states concerned about charter governance and independence – key in his view to enhancing charter school quality – should put NACSA's criteria into law as a path to strengthening accountability and oversight. Sponsors should not approve charter proposals that don't meet these criteria, he asserted.

Based on our research for this study, following are Policy Matters Ohio's overall recommendations:

- **Revamp the law** – Legislators must overhaul Ohio charter school law based on accepted governance practices and standards, such as those outlined by Richmond. This revamping of the law should include a focus on creating a system of effective oversight to replace or revamp the current sponsor system;
- **Watch school-management relationships** – Sponsors must work to prevent abuses such as those outlined in this report. As Richmond suggested in his commentary, sponsors should not approve charter proposals that fall short. They also should police more actively the relationships between schools they oversee and the management organizations with which those schools sign contracts;
- **Boost transparency** – Increased financial transparency of the charter sector must be among the primary goals of reform efforts;
- **Investigate violations** – The Ohio Department of Education and other appropriate agencies should investigate the violations and efforts to sidestep the law that are documented in this report.

Specific recommendations regarding our individual findings are included throughout the report; both our findings and our recommendations can help guide reform efforts.

Without efforts to change Ohio law and charter practices, charter school boards will not be able to exercise their legal mandate to govern schools. Strong, careful oversight of the relationship between school board and management organization is essential.