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Testimony of Piet van Lier on for-profit charter school operators

Primary and Secondary Education Subcommittee of the House Finance and Appropriations Committee June 2, 2010

Good afternoon Chairman Dyer, Ranking Member Morgan and members of the Primary and Secondary Education Subcommittee of the House Finance and Appropriations Committee. My name is Piet van Lier, and I am a senior researcher at Policy Matters Ohio, the nonpartisan state policy research institute. Thank you for the opportunity to testify today about the role of governing boards at schools managed by for-profit management companies.

Policy Matters recently released a study of the practices in Ohio of Imagine Schools, Inc., the nation's largest for-profit charter school management company. Imagine manages 71 schools around the country, including 11 in Ohio. I believe our findings are relevant to this hearing about the relationship between charter management companies and governing boards of schools they operate.

Aside from its status as the country's largest for-profit charter operator, what got Policy Matters interested in Imagine is the level of criticism and scrutiny the company has faced in other states for its complex real estate deals, poor management, poor academic record and disregard for the governing authorities of its schools. Until now, it has received no such scrutiny in Ohio.

In a 2008 memo to his principals and corporate managers, Imagine CEO Dennis Bakke outlined his views of the role of charter school boards. In it he expressed his position that Imagine-managed schools are "our schools" because the taxpayer money flowing to Imagine-run schools is "our money." He encouraged his managers and administrators to disregard and minimize the power of appointed school boards. In Ohio as in other states, these boards are governing bodies with legal mandates to run charter schools the company manages, but Bakke suggests in the memo that board members be required to sign undated letters of resignation before joining the board.

The memo reads, in part, that board members "believe they are the 'governing' Board even if that adjective to describe the board has never been used by an Imagine School person." Bakke also writes that the first significant role of board members is "to affirm (vote FOR if legally required) significant items like our selection of the Principal and the budget...."

In Nevada, parents with children in an Imagine school have complained about a lack of local control in school governance and the state department of education has recommended denying a charter to Imagine; In Indiana, the sponsor of an Imagine school set up a corrective action plan that included training for board members who had not been operating within the law and lacked knowledge of the board's proper role in running a school. I could detail similar problems in states like Florida, Maryland and Georgia.

Here in Franklin County, four board members of Imagine's Groveport Community School resigned in frustration because Imagine denied them a meaningful role in governance, according to former board members.



Said one: “We finally concluded that what was desired from [Imagine] was for the board to be a rubber stamp rather than a governing body.... It seemed like anything that the board had an opinion about, if we didn’t agree 100 percent with what was proposed, there was resistance” from the school principal, business manager and treasurer.

Said another former member: “I know that when board members started resigning, it was because of frustrations over feeling like we were just there for show, that we had no true voice in the actual happenings of the school, in policy developments.... The school wanted yes men around the table, and most of us had grander ideals.... The principal made decisions in concert with Imagine Schools. There were a lot of conversations going on between the principal and Imagine; the board would find out four, five, six months out.”

This is not just a case of disgruntled board members. Imagine has structured its relationship with school governing boards – particularly through its operating agreements – in a way that severely limits board control. For example, nearly all state and federal funds flowing to the school are deposited in an account owned and controlled by Imagine, not by the board. Imagine charges an administrative fee of 12 to 13 percent of revenue, and a monthly “development” fee of \$2,500 over 20 years for school start-up costs. State audits show that as much as 98 percent of school revenues are paid to the management company. Schools in other states that have tried to break free from Imagine have ended up owing the company hundreds of thousands of dollars, according to news reports.

The similarities between Imagine and White Hat are striking. For example, management agreements White Hat signs with its schools provide that each school pay White Hat a minimum of 96 percent of all school revenue, according to the recent lawsuit brought against White Hat by 10 schools in Akron and Cleveland.

These kinds of practices drain funds that could be better spent in the classroom. The Imagine schools we looked at, for example, spend only about 40 to 45 percent of revenue on classroom instruction, including teacher compensation and classroom materials, a much lower percentage than successful charter schools. This diversion of funds to management, rent and occupancy costs leads to academic failure. Of the six Imagine schools rated by the state of Ohio, five are in Academic Emergency, the equivalent of an “F,” while the sixth is in Academic Watch, a “D.” (The rest of Imagine’s Ohio schools are too new to receive ratings.) These ratings are substantially worse, in most cases, than those of the traditional public schools nearest Imagine schools. The company’s record is so poor that it is not eligible to open new schools for the coming school year. White Hat does somewhat better, with seven of its 26 rated schools at a “C” level; the rest got Ds and Fs.

The similarities between the two companies continue.

Both Imagine and White Hat handpick their school boards after the companies have decided where to locate schools, according to our research on Imagine and news reports about White Hat. This goes against the idea of charter schools as a locally driven response to help improve schools.

Plaintiffs in the White Hat lawsuit say that they can’t get financial information from the company; the main finding of a 2006 study of White Hat by Policy Matters Ohio was a lack of transparency in its financial dealings.¹ Similarly, the former Imagine Groveport board members I’ve quoted above have said that frustration with a lack of transparency on finance issues was a primary reason for their resignations.

¹ Schiller, Zach. *Limited Accountability: Financial Reporting at White Hat Charter Schools*. Available online at www.policymattersohio.org/limited_accountability_2006.htm.

Both companies bind schools to them by maintaining ownership of equipment and supplies the schools need in order to function. This means that schools wanting to end the relationship either have to purchase from the companies the furniture they've been using, for example, or replace it all. White Hat requires schools to exercise their option to buy school buildings, while Imagine schools must find other facilities; both situations put a difficult burden on the boards in a transition period, especially if they've not been able to exercise control over their finances.

What I've described in my testimony are company practices that are currently allowed under Ohio law. While Ohio schools rely on legitimate sub-contractors for essential services, our research – like the lawsuit against White Hat – suggests that the participation of for-profit operators like Imagine and White Hat facilitates the wholesale transfer of public funds into private hands with little meaningful oversight. These kinds of for-profit charter operators should not be allowed to manage schools in Ohio.

The active disregard by these companies for the proper role of school governing boards is not only allowed by state law, it is encouraged, and that is one of the specific issues you are considering today.

In effect, Ohio Revised Code 3314.026 deprives the school governing authority – the board – of meaningful ownership and control of the school for which it is legally responsible. By allowing operators to challenge a board's efforts to end its relationship with the operator, Ohio law gives de facto ownership to the for-profit firms that are, technically, contractors or employees of the school boards.

This provision also highlights one of Ohio law's perverse incentives for charter school sponsors by granting them the power to decide if an operator like White Hat or Imagine can dissolve a school board that wants to end its relationship with one of the companies. As you are no doubt aware, sponsors can charge a school up to 3 percent of that school's state revenues for the oversight services they provide. Many sponsors collect additional fees from schools through contracts for, among other things, providing schools with treasurers and other financial services.

Given the hundreds of millions of taxpayer dollars that flow through the school board to these management companies – at least \$115 million over that past five years to Imagine for its 11 schools, and hundreds of millions more for White Hat's 30 schools – these fees collected by sponsors represent a steady stream of taxpayer funds that incentivize sponsors to side with the management company, which controls multiple schools, rather than an individual board.

As a result of our research on for-profit charter management companies, we recommend that the legislature:

- Eliminate ORC 3314.026, the provision in state law that allows operators to dissolve school boards;
- Bar for-profit charter school management companies from operating charter schools in Ohio;
- Require charter school operators to demonstrate a meaningful record of academic success before being allowed to open new Ohio schools or contract with existing ones;
- Address the independence and proper role of charter school boards to ensure that board members are empowered and held accountable as stewards of public trust and monies;
- Forbid charter school sponsors from conducting business with companies that have ties to schools monitored by the sponsor, as is the case with St. Aloysius Orphanage and Charter School Specialists in Ohio, and;
- Require that the operations of charter school sponsors and operators be completely transparent and subject to full disclosure.

For the full report on Imagine schools and related documents, go to
www.policymattersohio.org/ImagineSchools.htm

