

HB 10-1412 Advisory Committee Report

In 2010, the Colorado General Assembly created the Charter School and Charter School Authorizer Standards Committee through House Bill 10-1412 (hereafter referred to in this report as the 1412 Committee). The 1412 Committee was directed to make recommendations to the State Board of Education and the House and Senate Education committees concerning standards for charter schools and charter school authorizers. Alex Medler, Chair, Stephanie Garcia, Vice Chair, Rod Schmidt, Bill Kurtz, Denise Mund, April Wilkin, Mike Nelson, Carol Meininger, Franceen Thompson, Al Loma, Kevin Smelker, Mark Hyatt, and Don Haddad were selected to serve on the committee (see Attachment A for appointing authority and affiliations).¹

The committee, which convened on September 29, 2010 and finalized its work on July 6, 2011, held nine meetings including three public hearings on management companies, online education and nondiscrimination laws. During the hearings and subsequent discussions, the committee heard testimony from charter authorizers, charter operators, students and parents. The Advisory Committee designated two subcommittees, one to address charter school authorizer standards and the other to consider charter school standards, as called for in the enacting legislation. Committee members worked on sections of the draft individually or in small groups and submitted their drafts to the entire committee for discussion during regular meetings. The final draft, presented to the State Board and General Assembly on August 1, 2011, is available on the Colorado Department of Education (CDE) website along with committee minutes and agendas.

The final report establishes standards for charter school application and renewal processes, performance contracts, oversight and evaluation, ethics (e.g., excess benefits, executive compensation, nepotism, and conflicts of interest), and meeting federal and state anti-discrimination laws. Additionally, the 1412 Committee decided at its first meeting to enter into discussions on topics that were beyond the scope required by legislation in order to determine if additional recommendations were warranted. As such, the report cites the topics that the 1412 Committee was able to gain consensus on and suggests additional recommendations for further consideration by the State Board and General Assembly.

¹ The 1412 Committee would like to recognize the Colorado League of Charter Schools (League) and the Colorado School Board Association (CASB) for providing staff and resource support that allowed the committee to do its work. Staff support was provided by Vinny Badolato and Jason Callegari from the League and Michelle Murphy from CASB.

The 1412 Committee urges charter schools and authorizers to adopt these standards and seek training for their implementation. The committee recommends the General Assembly and State Board of Education consider these standards as they work to improve charter school laws and regulations.

The following recommendations of the report are grouped into the following sections:

1. Charter school authorizer standards
2. Streamlined application process
3. Ethical issues
4. Nondiscrimination
5. Additional Topics and Recommendations

Advisory Committee Resources

The 1412 Committee was able to form a consensus around these standards in part because the pioneering work of enterprising school districts, the Colorado Department of Education (CDE), the Colorado League of Charter Schools (League) and the Charter School Institute (CSI), and the Charter School Support Initiative (CSSI) accomplished during and preceding the committee's tenure. The Colorado Association of School Boards (CASB) was a prominent partner in the work completed by this committee.

Standards have been a topic of discussion for reformed-minded Colorado school districts that meet five times a year to discuss best practices in charter authorizing.

The CDE, League, and CSI have been collaborating on multiple projects regarding charter school authorizer standards and resources. In December 2010, they completed a major update of the standard application to reflect provisions in the new Education Accountability Act and Financial Transparency Act. The collaboration also produced updated sample contract language, best practice examples, a detailed rubric for evaluating charter school applications and a checklist for opening a new charter school.

Reflecting an increase in the use of education service providers (ESP) by charter schools and applicants, the sample contract now includes ESP Agreement Guidelines and a board disclosure form. The ESP Agreement Guidelines lists issues that every charter school applicant should address with documentation regarding its ESP before it receives approval. The Board Disclosure Form identifies potential conflicts of

interest among board members and the ESP. The group also created online charter school board training modules to train charter school boards in best governing practices, and the startacoloradocharter.org website for potential charter school applicants.

The CSSI evaluation team of charter school experts reviews charter schools using the nine standards for school improvement rubric from CDE's Title I program plus two additional standards on governance and finance. During three day on-site review, the team observes classrooms, interviews staff, board members, the authorizer's charter liaison, parents and students, and reviews documents describing board policy and function, curriculum, assessment, personnel policies, training, finances. The school receives an extensive report of the team's findings. Several authorizers have incorporated the CSSI process into their five-year renewal charter school process. The CDE Schools of Choice Unit requires charter schools in the startup and implementation grant program to receive a CSSI visit in the third year of the grant. To date more than 50 schools have received a review.

The authorizer discussions, CDE/League/CSI templates and modules, and the CSSI standards and indicators and related documents factored into the 1412 Committee's recommendations and are referred to herein as "CDE's Model Materials." Links to access CDE's Model Materials are found in the reference section of this report.

Recommendations

RECOMMENDATION 1: Charter School Authorizer Standards

The State Board of Education should adopt by reference the NACSA Principles and Standards of Quality Charter School Authorizing in its charter school regulations and consider these Principles and Standards during charter school appeals and exclusive chartering authority decisions. Appropriate adaptation will be necessary in some cases to reflect Colorado's unique characteristics.

The National Association of Charter School Authorizer's (NACSA's) Principles and Standards of Quality Charter School Authorizing reflect a national consensus on best practices in charter school authorizing. By adopting these standards, the State Board and charter authorizers will ensure that charter school applicants receive a thorough and fair review.

The State Board and authorizers will, however, need to adapt these principles and standards to Colorado's unique geographic and demographic context. Colorado has a large number of districts that serve small numbers of students, including

geographically isolated districts with far-flung schools, as well as districts with few central resources serving communities with a single school.

For example, certain elements of the NACSA standards regarding Agency Commitment and Capacity and the Advanced Standards may not be appropriate or feasible in smaller school districts or those districts that do not have an existing charter school presence.

Since not all authorizers have the specialized expertise and experience to implement the standards, the state will need to enhance its technical assistance, training, and materials in the areas of authorizing procedures, improved relationships, performance contracting; finance, policy development, and the appropriate choice and delivery of additional services to charter schools.

RECOMMENDATION 2: Application Process for Charter Schools

A streamlined application process clarifies existing statutory requirements and limits the significant costs incurred by authorizers when reviewing applications, especially incomplete applications. The General Assembly should expand the list of elements required in a charter school application in state law to include the additional elements² contained in the *Standard Application, Checklist, and Review Rubric*.

The State Board should consider the quality of authorizer practices, including evidence of the adoption and application of CDE Model materials and NACSA's Principles and Standards, during appeal cases.

Authorizers and charter schools should use the *Standard Application, Checklist, and Review Rubric*. Authorizers are only required to review timely and complete applications as defined by CDE's model guidelines. Districts should identify the process and timeline through which an application is deemed complete. Authorizers should have the authority to contract with another qualified entity to perform certain aspects of the authorizer's authorizing and oversight functions. (District, CSI, BOCES).

RECOMMENDATION 3: Ethical Issues

Ethical and transparent governance is not only a best practice, it is the law. Charter school board members are subject to existing state laws defining ethical standards

² Additional elements include: A. Executive Summary, K. Parent and Community Involvement, N. Facilities, O. Waivers, P. Student Discipline, Expulsion or Suspension, Q. Serving Students with Special Needs and S. School Management Companies.

and conflicts of interest for public officials. Charter school boards should be required to adopt conflict of interest policies similar to those adopted by district boards of education. Such policies should address issues identified as problematic by the legislature and the State Board of Education such as nepotism and excessive compensation. Authorizers should be diligent in reviewing ESP contracts to ensure that they are ethical and transparent. Such due diligence protects the taxpayer and the integrity of charter schools.

The State Board of Education should adopt the following guidelines in regard to ethical rules governing charter schools:

CONFLICT OF INTEREST, NEPOTISM and EXCESSIVE COMPENSATION:

- Charter schools shall adopt conflict of interest policies which comply with federal and state laws applicable to public officials.
- Charter school compensation shall comply with excessive executive compensation requirements under federal law or applicable industry standards.
- Charter schools shall ensure that all board members and senior administrators receive training on these issues. Authorizers shall review such policies and compliance therewith as part of their oversight and contract renewal process.
- When a charter school board contracts with a third party Education Service Provider for the general day-to-day operation of a school, such contracts and any amendments to such contracts shall be subject to review by the authorizer. Authorizers' oversight of such contract(s) shall comply with the applicable NACSA standards and shall be subject to approval by the authorizer during the charter application process.

RECOMMENDATION 4: Nondiscrimination

Charter schools are subject to all federal and state laws regarding nondiscrimination. Districts, authorizers, and charter schools should be educated on these laws and ensure their boards and leadership stay current on all relevant provisions.

The State Board of Education should consider the following provisions regarding nondiscrimination in charter schools in the implementation and or revision of existing guidelines.

- The school must provide access and the authorizer must develop systems to ensure that services are delivered to students with disabilities as required by federal and state law.
- The school must provide access to and appropriately serve other special populations of students, including English language learners, homeless students, and gifted students, and collaborate with the authorizer to deliver appropriate services as required by federal and state law.
- Charter schools and charter school authorizers shall not engage in or adopt discriminatory recruiting, marketing, or enrollment policies or practices. Charter schools and authorizers shall strive for transparent and honest communication.
- The school shall not establish undue barriers to application, such as mandated testing prior to acceptance, that have the effect of excluding students based on socioeconomic, family, or language background, prior academic performance, special education status, or parental involvement.
- Charter schools must admit students through a publicly verifiable selection process that is either random in nature or first-come-first-served.

Each charter school and its authorizer shall adopt enrollment practices that ensure that enrollment decisions are non-discriminatory and consistent with the best interests of the student applicant. Such practices shall include a pre-enrollment admissions process that is in compliance with federal and state statutes, by which the charter school, in consultation with its authorizer, determines whether the charter school is an appropriate placement for students with special needs, including but not limited to students with disabilities, English language learners, students with disciplinary history, and students who may pose a threat to the safety of themselves or other students.

- The pre-admission enrollment process shall comply with all applicable state and federal laws, and shall require, at a minimum: (i) a pre-enrollment admissions determination; (ii) prompt, collaborative, and individualized decisions in accordance with state and federal law; (iii) prompt record sharing; and, (iv) fair and transparent decisions. The school will annually review its discipline and enrollment records to ensure that its policies have been equitably applied to all students.
- Charter schools should provide evidence of annual training on nondiscrimination laws to employees and or board members.

ADDITIONAL TOPICS AND RECOMMENDATIONS

Charter Terms Longer than Five Years

Some schools in Colorado have or desire charter contracts that are longer than the five-year term recommended by NACSA. In the event that charter school authorizers and charter schools enter into contracts that are longer than five years, all such schools should be subject to a formal review that is similar in scope and rigor to the review that a school undergoes at the end of its charter term once every five years.

School Finance and Grant Competitions

Charter schools and charter school authorizer decisions regarding the allocation of resources, including staffing, grant monies, bond revenues and mill levy overrides shall be fair and transparent. The committee recognizes the new opportunities included in HB 11-1089 and SB 10-161.

Charter school authorizers should encourage charter schools to pursue grant opportunities available to them, including opportunities to collaboratively pursue grant funding with the authorizer. The authorizer's decisions regarding a charter school's ability to participate in a grant opportunity shall be fair and transparent and based upon the needs of each of the schools as applied to the purposes and requirements of the grant.

Transportation

Charter schools shall be relieved of any statutory and/or regulatory requirements regarding permission from districts of residence to transport students residing in other school districts.

Education Service Providers (ESPs)

The following clarifications are intended to complement NACSA standards and apply in addition to recommendations addressing ESPs already included in the NACSA Principles and Standards.

1. Parties to a Charter Contract. Amend the Charter Schools Act to state that only a nonprofit entity can contract with a charter school authorizer. This includes nonprofit charter management organizations that may contract for multiple schools. Currently the law does not stipulate who can be party to the contract, leaving it open for for-profit entities to contract directly with an authorizer.

2. Replication Readiness. Charter schools should have to prove themselves before they replicate and open another school. In order to replicate, a charter school should receive an Accreditation ranking in the top two tiers of the School Performance Framework (SPF) or demonstrate comparable evidence, which may include evidence of performance from other states. This provision should not prohibit the replication of multiple schools after demonstrating student academic achievement.
3. Training and Resources. Charter school authorizers and charter school steering committees that are considering contracting with an ESP require additional technical assistance and other support to improve practices. Additional training and resources should be developed and made available and widely distributed to potential charter school authorizers and developing charter school applicants.

Online Education

1. Online Definition. The definition of “online program³” should be amended to advance and encourage the use of new technologies in support of student learning. The portion of the definition, “from a teacher to a student...via the Internet” should be amended in order to permit other methods of program delivery.
2. Online Educator Preparation. Institutes of higher education, when preparing educators for the 21st century, should include methods and training for online education as well as other current and future best teaching and learning practices.
3. CSAP Administration. The importance of an online student to take the CSAP in a familiar environment should be considered and procedures modified to minimize the burden and expense placed on families required to commute for their student’s CSAP testing, while ensuring a secure testing environment and reliable test administration.
4. Blended Learning. The focus should be on the student when deciding what type of educational model is best suited for the individual student. In order to accomplish this, different funding models should be considered that would allow for education in a blend of online or brick and mortar settings or schools for all or a portion of the courses or programs.
5. Counting/Funding Online Students. The requirements for determining accuracy in demonstrating student attendance should be revised to ensure appropriate requirements of residency, log in/log off for the students, course completion defined for middle and high school models, including with shared or blended

³ C.R.S. § 22-30.7-102(9)

models and student/teacher contact time issues and then State Board rule amended. The need for equity, consistency, and accuracy across the educational system includes the online option.

Waivers

1. Charter School Waivers. Portions of the education code that do not pertain to charter schools should be noted in State Board rule. Charter schools would not need to request waiver of these provisions. The current list of waivers automatically granted to charter schools, upon request, should be expanded in State Board rule. Further, charter school authorizers should also be required to note in policy which district policies do not apply to charter schools or may be automatically waived upon request.

Charter School Accountability

1. Charter School Academic Performance. The primary reason for renewing or revoking a school's charter shall be increases in student academic performance.
2. Charter School Renewal. Renewal decisions should be made in alignment with the Education Accountability Act⁴. Schools performing in the top two tiers should have a streamlined process.
3. Charter Schools on Turnaround Status. Charter schools performing in the Turnaround category of state Accreditation should undergo greater accountability for their existence. The default position should be that the charter school on Turnaround status closes. A charter school performing in the Turnaround category for two, or more, consecutive years should be required to justify its existence by the charter school authorizer presenting a plan to the State Board of Education explaining why the charter school should continue operating. This plan should be reviewed annually by the State Board.
4. Alternative Education Campus (AEC) Performance. Ensure that AEC performance is measured by an Alternative Education Framework designed for these school's missions. AEC's should be evaluated through realistic academic growth models with focused educational and social outcomes. Standards for the evaluation of AEC's should indicate significant student growth that is preparing students for success in their chosen endeavors after they leave the AEC as well as other positive social outcomes.

⁴ C.R.S. § 22-11-101 et seq.

Reference and Resources

Alternative Growth Goals for Students Attending Alternative Education Campuses (Technical Report) (May 2010):

http://charterschoolquality.org/media/1177/AlternativeGrowthGoals_TechReport.pdf

A Framework for Operational Quality: A Report From the National Consensus Panel on Charter School Operational Quality (2009):

<http://charterschoolquality.org/media/1187/FrameworkForOperationalQuality.pdf>

Building Charter School Quality in Colorado (January 2011):

http://charterschoolquality.org/media/1178/BCSQ_BuildingQualityColorado.pdf

Charter School Governing Board Training Modules: <http://www.boardtrainingmodules.org/>

Charter School Support Initiative Handbook 2007-2008:

http://www.cde.state.co.us/cdechart/download/CSSI_Handbook_Final.pdf

Charter School Support Initiative: Standard 10 - Strong Board Governance:

http://www.cde.state.co.us/cdechart/download/CSSI_10.pdf

Charter School Support Initiative: Standard 11 - Sounds Fiscal Management:

<http://www.cde.state.co.us/cdechart/download/FinanceRubricCCaddition.pdf>

Colorado Charter School: Standard Application, Checklist and Review Rubric (January 2011):

http://charterschoolquality.org/media/1185/BCSQ_StandardApplication.pdf

Colorado Charter School: A Resource for Developing Charter School Contracts (January 2011):

http://charterschoolquality.org/media/1183/BCSQ_ResourceForContracts.pdf

Colorado Charter School: Sample Contract Language and Attachments (January 2011):

http://charterschoolquality.org/media/1184/BCSQ_SampleContractLanguage.pdf

Colorado Charter School: Sample Renewal Framework (January 2011):

http://charterschoolquality.org/media/1182/BCSQ_RenewalFramework.pdf

Colorado Charter School: Sample Closure Framework (January 2011):

http://charterschoolquality.org/media/1181/BCSQ_ClosureFramework.pdf

National Association of Charter School Authorizers, *Principles and Standards for Quality Charter School Authorizing*, 2010 Edition:

http://www.qualitycharters.org/images/stories/publications/Principles_and_Standards_2010.pdf

Starting a Charter School in Colorado: <http://startacoloradocharter.org/>

Appendix A: HB 1412 Committee Members

Appointed by	Name	Position
Speaker	Rod Schmidt	BOCES member
Speaker	Bill Kurtz	Charter school founder or board member
Speaker	Carol Meininger	Charter school business manager
Senate President	Stephanie Garcia	Local board member with exclusive chartering authority
Senate President	April Wilkin	Charter school teacher
Senate President	Alex Medler	NACSA representative
House Minority Leader	Franceen Thompson	Parent of a public school student who is also on the school DAC
House Minority Leader	Mike Nelson	Parent of a district or CSI charter school student
Senate Minority Leader	Al Loma	Local board member that shares chartering authority with CSI
Senate Minority Leader	Kevin Smelker	District administrator with financial expertise from a district with a charter school
Governor	Mark Hyatt	CSI representative
Governor	Don Haddad	District administrator with expertise authorizing charters
State Board	Denise Mund	CDE staff member