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CREATING STRONG AUTHORIZERS FOR PUBLIC CHARTER SCHOOLS: *The Case Against Making Independent Bodies LEAs*

INTRODUCTION

Over the past several years many states have passed legislation to foster the growth of public charter schools within their public education systems. Key to the development of strong charter laws is the notion of “multiple authorizers” to approve charters. Typically this means that a state sanctions an entity other than the local school board to create and monitor charter schools. Currently there are 11 states that have such bodies, and they range from independent boards to university-based entities to mayors.

As states work to create legislation, the idea of designating independent authorizers like those noted above as a Local Education Agency (LEA) might sound promising but in practice is a very bad idea.

The designation “LEA” carries with it the ability to receive federal education dollars, a fact that is central to successfully funding these schools. But at the same time this designation includes the responsibility to oversee the activities funded by these dollars, and to assure compliance with all federal laws and regulations. This inherent accountability is a key issue in the decision of who to designate as an LEA.

This paper will address why this idea is proposed and why this designation is not positive for public policy and charter schools.

DESCRIPTIONS

An LEA designation carries with it the ability to receive federal education dollars, and with it, the responsibility to oversee the activities funded by these dollars, and to assure direct compliance with all federal laws and regulations.

With the initial passage of the Elementary and Secondary Education Act in the mid-1960, states were required to identify two types of legal entities within their educational structure. These two entities were the State Education Agency (SEA) and the Local Education Agencies (LEA).



The SEA is assigned the responsibility of receiving federal education dollars and passing the vast majority of those funds on to the LEA's. The SEA is responsible for providing guidance and support to the LEA's, and to assure compliance with federal laws and regulations. The SEA is typically the State Department of Education or, in a few states, the State Board of Education.

Designation of local school districts as the LEA is not proscribed by federal law, which provides flexibility to the state in making that designation. The LEA designation is typically assigned by state law to local school districts.

An LEA is designated with a set of specific accountabilities:

1. Receive federal education funds.
2. Assure delivery of acceptable services.
3. Assure inclusion of all qualified students in funded programs.
4. Provide training in compliance with federal laws and regulations.
5. Conduct audits of federally funded programs.
6. Report and respond to State and Federal Education Units.

The typical school district must perform these six major functions. There are special education units, assessment and testing units, offices devoted to financial accountability, auditors, compliance specialists and more. These six factors are the main reason why school districts have dozens of personnel that have no direct impact on instruction.

Conversely, the notion of a charter school authorizer—unlike a school district – is to bring into existence charter schools that meet the state's criteria and to monitor those schools for outcomes. The notion was that schools with less overhead and bureaucracy would be able to devote more time to instruction and thus have a greater impact on student achievement, as well as demonstrate how more power at the school level can impact qualitatively on student learning. That premise has been demonstrated to be true over and over again.

The non-school district authorizer (i.e. university, mayor, etc) is both an advocate as well as the point of accountability for conventional education offices. Existing offices in school districts and the state level function to administer federal and state laws and ensure compliance. These agencies are not advocates but purely regulators. By making an authorizer a regulator, policymakers would needlessly duplicate functions already performed by conventional government agencies, and by so doing, add both layers of administration as well as cost.

CHARTERS AS LEAS

There are 25 states where charter schools themselves may constitute individual LEAs. They are responsible for direct compliance with federal law. But typically, these schools arrange with conventional LEAs to support them. In addition, university based authorizers provide uniform services for the schools under their umbrella. In short, a charter as LEA fosters independence where an authorizer as LEA fosters bureaucracy.

STATE AUTHORIZERS AS LEAS

In the early stages of charter school growth, the selection of the Charter School Authority (Authority) as the LEA may appear to be the easiest option. Only a few schools are in place and academic programs are being developed. Audits are a year or more away. Even with the small number of staff at the Authority the task does not seem too great. The responsibilities that would be assigned to the Authority and its staff to complete include:

- Train each school on the appropriate use and management of the federally funded programs
- Assure that all funds are received and distributed consistent with federal guidelines and formulas
- Audit programs to assure delivery of acceptable with federal guidelines and standards.
- Audit programs to assure inclusion of all students, in the charters market who are qualified to be included in each funded program.
- Deliver training in compliance with federal laws and regulations.
- Respond to request for information and performance from both state and federal education agencies.

As a result of this newness, when only a few schools and new programs have been approved, the liability and workload may seem manageable. However, as the number of schools grows and programs expand this option provides the greatest potential liability to the state as the demands for accountability overwhelm the agency's staffing and resources. Any one of these responsibilities could be overwhelming as the number of schools expands. The combined impact of all responsibilities as the number of schools doubles or triples needs to be taken into consideration.

When a state charter authority is an LEA, there are additional disadvantages:

- Existing staffing is limited which restricts ability to share duties and responsibilities across a larger agency (e.g. school districts).
- Staff possesses limited expertise in federal funding requirements.
- Budget constraints limit ability to provide support services to schools.
- As the number of charter schools increases the stress on staffing will increase.
- A potential conflict as the Charter Authority potentially restricts approval of new schools in an attempt to limit its exposure and liability.
- Increased liability to the Charter School Authority.

Models for effective alternative authorizers already exist:

- Indianapolis Mayor Bart Peterson, the only mayor in the country with sponsorship authority, has had great success with his statutory sponsorship authority. The Mayor's office is not a designated LEA.
- Central Michigan University, the nation's largest university authorizer with 58 schools and not designated as an LEA, received top marks across 19 measures of effective oversight. The Michigan Department of Education has referred to CMU's sponsorship role as "the gold standard."
- The District of Columbia's Public Charter School Board operates separately from the Board of Education. This independence allows the PCSB to devote more attention to ensuring academic quality at its schools.

CONCLUSION

There are definite benefits to multiple, independent authorizers but requiring an alternative authorizer to function as an LEA may mitigate and even stifle these innovations. Lawmakers, and the state, may be far better served by creating linkages between existing oversight agencies to take advantages of existing staffing and expertise. It is important to consider the long-term impact of this designation in legislative action. Sound policy will assure that the system will be viable and capable of fulfilling its responsibilities as the number of charter schools increases.

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