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THE ISSUE IN BRIEF

Many states have been challenged to hold schools and authorizers accountable. By setting a minimum threshold for performance and for the default closure of failing schools, an authorizer can hold charter schools accountable for their performance and, when needed, efficiently close failing schools. A performance system based on best practices in charter school authorizing is rigorous and transparent and encourages success in the charter school sector.

NACSA RECOMMENDS

The National Association of Charter School Authorizers (NACSA) recommends that states:

- Establish minimum performance thresholds for charter schools;
- Ensure that most charter schools that fail to reach thresholds are closed automatically;
- Use appropriate mechanisms to achieve this goal: involve all stakeholders; keep the focus on improving quality; set high standards for school performance; identify possible unintended consequences; be explicit about key terms and closure timelines; and
- Give state education agencies or authorizers the discretion necessary to address unusual cases.

This background document explains how one state—Ohio—adopted such a threshold policy. See related policy briefs in this series, “[NACSA Policy Recommendation: Closing Failing Schools](#)” and “[NACSA Policy Recommendation: Standards of Renewal](#),” to understand key elements of similar state policies in other states. “NACSA Model Legislation” provides legislative language that policymakers can use to craft automatic closure legislation.

Case Study: Ohio

Overview

Ohio, like many states, has been challenged to hold schools and authorizers accountable. To meet this challenge, policymakers in Ohio worked with both traditional public school and charter advocates to pass legislation that established a minimum threshold for performance and default closure of failing charter schools.

How does the Ohio legislation work? With a couple of exceptions, after the first two years of a charter school’s operation, if the school is in *Academic Emergency* (Ohio’s lowest school report card ranking) for two of the past three years, it is closed automatically.

Since the legislation passed a few years ago, 21 charter schools have closed as a direct result of the closure law. While this may not sound like a large number of schools, Ohio has closed failing charter schools at almost three times the rate of the national average. The closure law has also

“How do you write a law to shut down the ones that aren’t any good and let the others flourish?”

—Jon Husted, former Speaker of the Ohio House of Representatives and author of charter legislation in Ohio

had an impact on authorizers—authorizers in the lowest 20 percent of all authorizers in the state, based on an annual composite performance index of their schools, are prohibited from authorizing any additional schools.

How the Legislation Came About—Key Levers for Change

Ohio’s minimum performance and automatic charter school closure legislation—now known as ORC (Ohio Revised Code) 3314.35—emerged primarily from two bills, one passed before the state tests and value-added measures were developed, and one after:

- House Bill (HB) 66, passed in 2005, required all charters not rated “excellent” or “effective” to administer nationally-normed fall and spring math and reading assessments. Schools not making expected gains on assessments faced automatic closure.
- HB 79, enacted in 2007, modified HB 66, replacing performance on nationally-normed tests with the requirement that charter schools be held accountable for performance on Ohio state tests. Expected gains were replaced with performance on the state’s value-added measures.

What led to the creation of ORC 3314.35? Perhaps the most significant driver was growing concern over the quality of charters.

Prior to the passage of HB 66, Ohio charter schools captured the national media spotlight. As Sam Dillon wrote in a *New York Times* article published on March 27, 2005, “Supporters of charter schools, while acknowledging that quality has been a disappointment so far, say the schools have given parents new educational choices. Critics of the movement say Dayton has become a playground for entrepreneurs who are proficient at obtaining government planning grants and marketing their schools through television campaigns but who are mediocre educators.”

Most importantly, Dillon’s article underscored concerns about quality, concerns increasingly shared by many educators in both the charter and traditional public school camps.

“Many assumed that the marketplace would simply shut down ineffective community schools, but even charter advocates could see that that wasn’t happening,” noted Susan Zelman, former Ohio State Superintendent of Schools. “You only get one shot at second grade.”

To address mounting concerns, a number of charter school advocates worked with traditional public school supporters to pass HB 66, to create a minimum performance threshold for charters.

After the first law passed in 2005, supporters quickly realized that the state’s original version left considerable room for interpretation. As Terry Ryan, the Fordham Institute’s Ohio Vice President for Policy explained, “Though the term ‘nationally-normed test’ seemed to make sense, the legislation didn’t specify what it meant. How would different test results be compared? And what constituted ‘expected gains?’”

Once state tests and value-added measures were developed, however, legislators passed HB 79. The new law ensured that from 2008 forward, charters would be closed automatically if students did not meet minimum performance thresholds on state math and reading tests, or in some cases, demonstrate adequate growth on value-added measures.

“The closure legislation has closed some low-performing schools, and it has definitely gotten everyone more focused on quality issues.”

—Joni Hoffman,
Director, Ohio Office
of Community Schools

How the Ohio Automatic Closure Law Works

As it stands now, charter schools are given two years to get “up and running.” After the first two years of operation:

- Schools serving grades K-3 and those serving grades 10-12 are closed if they are in *Academic Emergency* (the worst of Ohio’s Report Card ratings for schools) for two of the past three years.
- Schools serving grades 4-8 (but no grade above 9) are closed if they are in *Academic Emergency* for two of the past three years AND demonstrate less than one standard year of academic growth in reading or math for two of the past three years—the state’s value-added threshold.

According to the law, a school is required “to permanently close at the end of the school year during which the school first becomes subject to this law as a result of meeting the established criteria.” Moreover, “the governing authority of a school closed for poor performance under the value-added system will not be allowed to enter into a contract with any other sponsor.”

Ohio’s school grading system (ranging from *Excellent with Distinction*, the highest rating, to *Academic Emergency*, the lowest rating) is fairly robust. It includes multiple measures of accountability: indicators connected to state tests; a performance index, which assesses all students’ performance on state tests; Adequate Yearly Progress (AYP); and value-added data at the middle school level. Currently, Ohio is developing growth measures for other grade levels as well. The validity of the grading system adds credibility to the closure criteria. Implementing an automatic closure process in a state where the state accountability system has low credibility is likely to be problematic.

There are exceptions to the law, however. Schools with approved dropout recovery waivers are exempted, as are schools serving a majority of students with disabilities. It should be noted, though, that the dropout recovery exception is set to expire in March of 2013. If the legislature does not act—and there is legislation in process at the time of this writing (see Ohio HB 555)—dropout recovery schools will be held to the same standards as other schools covered by the legislation.

The Impact of the Law

Since the automatic closure law went into effect in 2008:

- 68 charter schools have closed, 21 as a direct result of the legislation, and it appears that at least some of the other schools that closed may have experienced additional pressure from authorizers to meet quality standards connected to the closure law (see chart below). Additionally, more schools will almost certainly close this year once Ohio’s accountability data are finalized for the 2011-2012 school year.
- In 2009-10, Ohio’s charter closure rate was five percent, and in 2010-11, it was 3.2 percent. To put these numbers in perspective, in 2009-10 the average closure rate across the country was only 1.9 percent, and in 2010-11, it was only 1.2 percent.
- Nationally, only Ohio and the District of Columbia have closed three percent or more of charter schools for each of the last four years.

According to educators and policymakers in Ohio, more than simply closing failing schools, the automatic closure law has led to improved accountability for charters. As Terry Ryan put it, in the charter community, “the conversation has changed from one primarily focused on how to open schools, to one focused more on accountability issues.”

“We have more of a focus on quality now. Charters are focused on improving performance and can demonstrate that.”

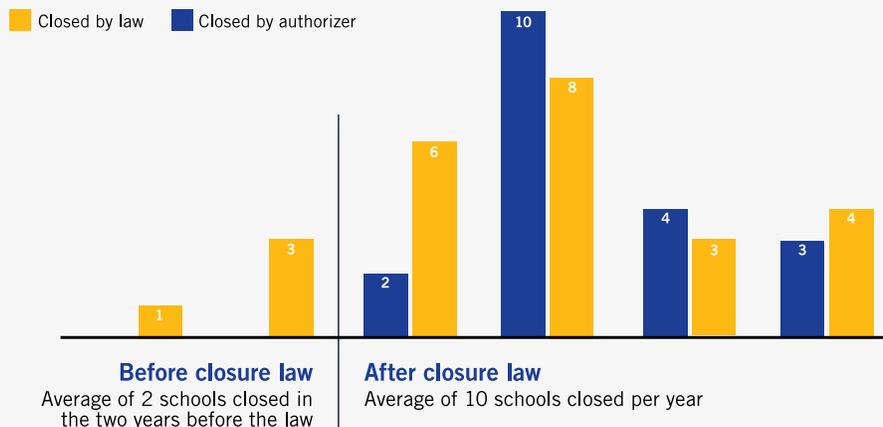
—Bill Sims, President of the Ohio Alliance for Public Charter Schools

The Impact of Clear Performance Expectations in Law

FIGURE 2

Ohio Charter School Closures

Since Ohio's default-closure law took effect, it has shut down nearly as many low-performing charter schools as have authorizers on their own.



Additionally, the law appears to have given charter schools more credibility with traditional education advocates and created more space for traditional and charter school leaders to work together. The Ohio Alliance for Public Charter Schools, for example, is now working in partnership with Cleveland Public Schools and Columbus City Schools, and Sims sees this work as a direct outgrowth of the focus on quality and accountability resulting from the automatic closure law.

There are some potential downsides to the closure law, however. Both traditional and charter advocates note concerns that the performance bar may still be too low, that it may focus too much attention on meeting the minimum threshold, and not enough attention on continuing to improve performance. And the exceptions are problematic as well. While it may not make sense to hold dropout recovery schools and schools for students with disabilities to the same standards as other charters, that does not mean that they should not be held to any academic standards.

Considerations for Policymakers in Other States

What can policymakers in other states learn from Ohio's experience with the automatic closure law?

- Involve all stakeholders and keep the focus on improving quality.** Though the automatic closure law did not please everyone—some charter advocates were opposed to the regulation while some in the traditional public school community (and some charter advocates as well) believed that the law did not go far enough—both traditional public school supporters and charter advocates worked to pass the legislation. The legislation helped assuage concerns on both sides, and it helped shift the debate to a focus on accountability.
- Aim high, identify possible unintended consequences,** e.g. a focus on meeting minimum standards at the cost of continuing to improve performance. While setting a minimum bar may close the worst performers, it may also get in the way of authorizers who have higher standards and try to close schools not meeting those standards. Policymakers in other states

“If we want charter schools to be accepted and be part of the public school community, we may need to make some compromises around regulations to get there.”

—Bill Sims, President of the Ohio Alliance for Public Charter Schools

should look for ways to ensure that the performance threshold is high enough, that there are incentives for charters to demonstrate growth and continual improvement, and that authorizers are not penalized for having even higher performance standards.

- **Create exceptions where they make sense.** In Ohio, policymakers recognized that they needed to create some exceptions for Alternative Education Campuses (AECs)—in this case, dropout recovery schools and schools for students with disabilities. But states may want to go further to 1) define what constitutes an AEC; 2) identify how blended (and in some cases, fully-virtual) learning models fit into these definitions; and 3) identify at what point schools (or settings or programs) should be closed for academic reasons. Policymakers might try study groups, for example, to define clear standards and valid progress measures for AECs.
- **Pay attention to details, clearly define terms, and think about timing.** In Ohio’s case, when the initial legislation passed, there was work to be done around the terms “nationally-normed tests” and “expected gains.” These terms had not yet been defined. Additionally, the timing of school closure remains problematic—the timing of the release of test results (in September) means that failing schools can continue to operate for the rest of the school year. Though this gives families time to find other schools, it may be problematic if schools become focused on closure issues at the expense of educating students.

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This is one in a series of policy briefs, part of a multi-pronged campaign designed to provide one million more children the chance to attend a great school that will prepare them for success throughout their lives.

By engaging authorizers, policymakers and a broad nationwide coalition to close failing charter schools and open many more good ones, the *One Million Lives* campaign is working to get one million more children into 3,000 high-performing schools over the next five years.

To learn more, visit www.qualitycharters.org/one-million-lives.