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### THE ISSUE IN BRIEF

State policymakers often consider higher education institutions (HEIs) as potential authorizing alternatives to local school districts (LEAs) or state education agencies (SEAs). Some of the nation's best authorizers are HEIs, but some state policies have unintentionally allowed low-quality HEI authorizers to enter and negatively impact a state's charter sector. While NACSA recommends that states adopt an independent chartering board (ICB) whenever possible, HEI authorizers can, under well-designed policies, become part of a state strategy for ensuring that charter schools have access to a high-quality authorizer statewide.

### NACSA RECOMMENDS

Policymakers and higher education leadership considering creating HEI authorizers in their state should

1. determine if there is a higher education institution willing to be a high-quality charter school authorizer;
2. have a rigorous process for identifying and selecting HEI authorizers that includes an authorizer application;
3. articulate practice requirements for the higher education authorizer;
4. build in oversight and accountability of the higher education authorizer;
5. ensure there is sufficient funding to execute authorizing functions.

## Overview: The HEI Authorizing Sector

The HEI authorizing sector varies significantly from state to state. Eleven states—Arizona, Florida, Indiana, Michigan, Minnesota, Missouri, New York, Ohio, Oklahoma, Utah, and Wisconsin—currently have active HEI authorizers. In seven additional states—Hawaii, Idaho, Louisiana, Nevada, Oregon, South Carolina, and Texas—HEIs have statutory authority to authorize charter schools but are not actively doing so.

Contrary to assumptions, most HEI authorizers oversee relatively few schools. In only five states—Indiana, Michigan, Minnesota, Missouri, and New York—do HEIs authorize a significant proportion of charter schools. Of the 46 HEI authorizers, 34 (74%) have fewer than 10 schools in their portfolio, and 17 of those HEIs have chartered only one school. Only two HEI authorizers—The State University of New York (SUNY) and the Center for Charter Schools at Central Michigan University (CMU)—authorize more than 50 schools.

SUNY and CMU often come to mind when conjuring images of HEI authorizers. However, HEI authorizers differ considerably in structure, size, and quality. Structurally, state laws differ in the types of HEIs that they permit to authorize schools. Of the 11 states with active HEI authorizers, all 11 allow public universities to serve as authorizers; only three allow private universities to serve as authorizers; and five allow community colleges to serve as authorizers. Several states also limit HEI authorizing to certain geographical areas or school models, such as lab schools. Others, such as Missouri and Oklahoma, restrict HEI authorizing to schools with accredited teacher education programs.

Although SUNY and CMU are regarded as examples of high-quality authorizing, the performance of other HEI authorizers is more mixed. Anecdotally, some smaller HEI authorizers have focused more on compliance than outcomes or have been reluctant to close poorly performing schools. Others have facilitated authorizer hopping by granting charters to schools after other authorizers revoked their charters.

## Why HEI authorizers? The value of higher education authorizers

Several features of HEIs may lead state policymakers to consider them as potential authorizers.

*Non-LEA, independent option for authorizing in a state:* Because of their education focus and credibility, HEIs can be an option for creating an independent or statewide authorizer when other approaches—such as independent chartering boards or state education agency authorizers—are not politically viable. HEI authorizers can be an important authorizing option in states where local districts are unwilling to authorize charter schools or lack capacity to do so effectively.

*Aligned mission:* Many HEIs already have education-related missions that are aligned with the goals of high-quality authorizing, such as increasing college attainment for underrepresented students or advancing an educated populace. In Minnesota, applicants to become charter authorizers, including HEIs, must describe how chartering schools helps the organization to carry out its mission.

*Leadership in public education and institutional legitimacy:* HEIs are often well-known, respected organizations whose “seal of approval” may help a charter school gain community support.

There are also potential pitfalls with HEI authorizers.

*Lack of willing higher education authorizers:* State efforts to create HEI authorizers often fail due to a lack of willing institutions. The Pennsylvania legislature recently considered legislation to expand authorizing authority to colleges and universities. This legislation ultimately failed, and during the policy debate, colleges and universities in the state expressed little interest in becoming authorizers. Penn State President Rodney Erickson remarked, “I would be reluctant to get involved with Penn State in terms of authorizing ... I do not think that our academic units are well equipped to oversee the day-to-day operations of a charter school. In addition, I would not want it to detract from our core business, and this work has the potential to become a distraction.” In addition, established interests within an HEI, such as departments with ties to the state’s traditional K-12 education system or leadership or faculty with ideological opposition, may also scuttle efforts to become an authorizer. Even in states such as Nevada that have successfully passed legislation to create HEI authorizers, many colleges and universities have shared Erickson’s view and have never chosen to become an authorizer.

*Misconceptions about the role of an authorizer:* HEI authorizers may be vulnerable to misconceptions about their role as an authorizer and the financial impact on their organization. These risks are not limited to HEI authorizers but are amplified because of their separation from the traditional public K-12 education bureaucracy. Some HEI-based authorizers do not fully understand their authorizer role as distinct from other education-related functions and, as a result, become too involved in the day-to-day management of schools, particularly those that are struggling. An HEI authorizer may believe it is their job to “save” a school, but an authorizer’s job is to oversee, not run, a school. Trine University in Indiana intervened to renew the charter of a school that Ball State University had already revoked, because according to Trine University leaders, they believed their institution’s experience preparing teachers equipped them to turn around low-performing charter schools. The faculty of HEIs may also be

focused on teacher preparation, research, or the promotion of certain educational philosophies, limiting their ability to focus on quality authorizing. HEI authorizers can address some of these concerns by establishing independent charter offices separate from the school of education.

*Financial concerns:* HEI authorizers may also believe authorizing can be a source of revenue for the institution, whether through authorizer fees or through supplementary service contracts. As discussed later in this brief, any fee designed to cover authorizer expenses should be set to cover only the actual expense of authorizing; it should not generate a profit for the authorizer. In addition, separate service contracts should be transparent and executed completely separately from any agreements to charter a school.

*Too many authorizers:* It is important that states have at least one high-quality authorizer operating in addition to any district authorizers—but having too many authorizers can lead to significant problems. Historically, in several states the legislation that enabled the creation of HEI authorizers placed few limits on the number of HEI authorizers created. Where having one or two HEI authorizers may benefit the state, having too many authorizers can lead to wide variations in authorizing standards and poor achievement results for charter schools. A profusion of authorizers also creates opportunities for weak applicants or charter schools facing closure to “shop and hop” among multiple authorizers until they find a lax authorizer willing to accept them. Additionally, when many authorizers oversee only one or two schools, research suggests these small authorizers often lack capacity to carry out their work effectively.

*Limited public oversight structures:* Once HEIs become authorizers, there is often limited oversight, accountability, or opportunity for public input on their authorizing, due in part to the independent governance structures of many HEIs. Tensions between HEI independence and the need for authorizers to be accountable can be difficult to navigate. Appropriate oversight mechanisms must both preserve appropriate authorizer independence while ensuring HEI authorizers fulfill their obligations to the public for the public schools they oversee.

*These pitfalls can be mitigated with smart policy design which can help a state establish a high-quality HEI authorization mechanism in states where an ICB or SEA is not viable.*

## Key Factors in Developing HEI Authorizers: Conditions for Successful Authorizing

### 1. Determine if there is a higher education institution willing to be a high-quality charter school authorizer.

Seven of the 18 states that allow HEI authorizers have no active HEI authorizers—meaning that no institution is willing to be an authorizer, to date. Policymakers should ensure there are willing HEI partners before pursuing legislation, as otherwise the policy will fail to achieve its intended goal of creating a statewide, alternative authorizer.

### 2. Have a rigorous process for identifying and selecting HEI authorizers that includes an authorizer application.

States seeking to create HEI authorizers should define which types of HEIs are eligible to be authorizers: Public colleges and universities only? Private institutions? Community colleges? These decisions affect both the quantity and quality of HEI authorizers. The identification should be restrictive enough to avoid too many authorizers yet should be flexible enough to find a willing HEI partner.

States should require HEIs that wish to become authorizers to apply to the state education agency or state board of education for approval. The approval process for authorizers should be a rigorous one, creating a quality check and ensuring that prospective HEI authorizers understand their role and have capacity to be quality authorizers. Requiring HEIs to apply proactively to become authorizers also ensures that HEI authorizers have a real commitment to, understanding of, and desire for the role. In Indiana, which does not require authorizers to undergo an application and approval process, several HEIs have become authorizers in order to grant charters to low-performing schools that other authorizers were attempting to close. This would not have been possible if the state had a rigorous authorizer approval process in place.

Before approving an HEI authorizer, a state should require evidence that the highest level leadership of the HEI—such as the university chancellor or president—supports the authorizing work. Relatively few states currently have such application requirements for HEI authorizers.

Minnesota is one of the few states that has an authorizer application process in place. In addition to requiring potential authorizers to demonstrate how charter authorizing helps them fulfill their missions, it also requires them to meet certain capacity requirements (including descriptions of personnel and their qualifications) and describe their application process, charter contracts, and guidelines for oversight and charter renewal/termination. The state commissioner of education reviews authorizer performance on a five-year cycle and can terminate contracts between the authorizer and its charters if authorizer performance does not meet stated expectations.

3. *Articulate practice requirements for the higher education authorizer.*

A successful HEI authorizer depends on the foundation of a strong authorizer law that reinforces strong, on-the-ground implementation. The best chance for success occurs when the two work together and ensure the HEI has carefully considered key facets of implementation before becoming an authorizer. An authorizer application helps ensure that this forethought and planning has taken place. There are several crucial practice requirements:

- *Define a mission:* States should require HEI authorizers to adopt a clear mission and standards for their role as authorizers. Defining a mission enables an HEI to clearly articulate its role, goals, and responsibilities as an authorizer. Although an HEI may want to become an authorizer because of a desire to give back to its community, its mission as an authorizer should focus on creating and monitoring a portfolio of high-quality charter schools.
- *Adopt authorizer standards:* States should adopt national standards for charter school authorizing. Indiana's charter school law states, "All approved charter authorizers shall adopt standards of quality charter school authorizing, as defined by a nationally recognized organization in charter school authorizing."
- *Create a single-purpose office:* Once HEIs are approved to authorize schools, they will need to establish a dedicated "home" for authorizing work within their organization and, if necessary, clarify who within the university has final decision-making authority. Where the HEI decides to situate the authorizing role can have implications for quality. Locating the authorizer within the school of education, as discussed previously, may reduce independence or lead to excessive engagement with day-to-day school operations.
- *Enable high-stakes decisions with clear systems and well-defined authority:* Both state policymakers and HEI authorizers must be thoughtful about where to situate ultimate responsibility for HEI authorizing decisions, as well as the types of systems and communication mechanisms that authorizers put in place to support decision makers in making high-stakes decisions based on school performance. Clear contracts, charter renewal criteria, and strong performance management frameworks can facilitate evidence-based, consistent decision making, regardless of who holds ultimate decision-making authority.

4. *Build in oversight and accountability of higher education authorizers.*

Strong authorizer accountability policies can address many potential concerns about HEI authorizers. When creating HEI authorizers, states should explicitly address HEI authorizer quality and accountability, as their independent nature makes it difficult to develop accountability structures after the fact. Authorizer quality is reflected by both the quality of their authorizing practices and the quality of the charter schools in the authorizer's portfolio. This generally starts with the identification of a charter school authorizer oversight entity, which, when assigned, is often the state education agency or another state level agency. These authorizer oversight entities monitor the performance of HEI and other authorizers, issue regular reports on authorizer performance, and, when necessary, sanction authorizers that fail to provide adequate oversight for the schools they authorize. Monitoring entities should require regular reporting from their authorizers and enforce standards for renewal and closure. As an added incentive, a state's overarching policies related to authorizer quality and accountability usually affect the quality of both HEI authorizers and other authorizers in the state.

For example, in Indiana, the State Board will now require authorizers, including HEIs, to appear at hearings if they renew or fail to close charter schools that fail to meet minimum performance standards. Following the hearing, the Board may transfer the authorization of the charter school to another authorizer, order the closure

of the school, and/or order the reduction of any administrative fees collected from the school in question. If the Board transfers authorization or closes at least 25 percent of the schools chartered by one authorizer, it may suspend that authorizer's authority to charter new schools. It was necessary for Indiana's legislators to put these accountability measures in place, as it was experiencing multiple cases of authorizer shopping, whereby the lowest performing schools avoided closure by finding another willing authorizer.

5. *Ensure there is sufficient funding to execute authorizing functions.*

University authorizers are funded in a variety of ways, including through state budget appropriations for public HEIs, budget allocations within the larger college or university budget, or fees collected from their portfolio of charter schools. Each method has benefits and drawbacks.

Budget allocations and appropriations give authorizers a set level of funding to work within but can be unreliable and vulnerable to change. For example, between 2010 and 2015, the New York State legislature cut funding for the Charter School Institute at SUNY, which is funded from a line item appropriation, from \$1 million to \$707,000. Authorizers that receive funds through their larger institution's budget could also be vulnerable in the event of a change in institutional goals or an economic downturn that reduces the university's endowment revenues.

Authorizers that receive funding based on the number of schools approved or students served benefit from a more stable source of funding. Minnesota and Michigan, for example, allow HEI authorizers to collect an authorizing fee from the schools they oversee. This provides the authorizers with a sustainable source of funding and can make the role appealing to potential authorizers, but can also create perverse incentives for authorizers to renew low-performing schools or to open too many schools in order to maximize authorizing revenues. This is not unique to higher education authorizers, but is a particular concern given the traditional differences in oversight and public accountability between HEIs and other types of governmental authorizers that are subject to additional checks and balances.

These issues could be addressed by putting additional financial transparency mechanisms in place for the HEI authorizers and/or allowing the state to establish a sliding scale for authorizer fees. The sliding scale would provide that the percentage of a school's revenues an authorizer may collect declines as the authorizer's portfolio of schools grows, thus decreasing the financial incentive to retain failing schools. All of these financial vulnerabilities underscore the importance of ensuring high-level leadership buys in to the authorizing mission before an HEI takes an authorizing role.

## Conclusion

Higher education authorizers provide one option for states wishing to create a statewide authorizing option when an independent chartering board is not feasible. Lessons from existing, successful, high-quality HEI authorizers can be applied at the policy and implementation level to create the best foundation for success.

For more information on higher education authorizers and authorizing practices, visit the National Association of Charter School Authorizers: [www.qualitycharters.org](http://www.qualitycharters.org).