

# NACSA CASE STUDY

## Building Systems to Evaluate and Sanction Failing Authorizers

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### THE ISSUE IN BRIEF

Authorizers need to be held to high standards of performance and accountability to ensure they are appropriately overseeing their schools. By following national best practices in charter school authorizing, a state can create and implement an accountability system for its authorizers, leading to better oversight of the charter school sector.

### NACSA RECOMMENDS

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

- Build an accountability system for authorizers;
- Include mechanisms for evaluating and sanctioning failing authorizers;
- Define administrative powers and acknowledge the need for clear timelines;
- Use stakeholder input;
- Align policy with national best practices; and
- Define what happens when schools and authorizers are closed.

A related policy brief in this series, "[NACSA Policy Recommendation: Endorse and Apply Authorizer Standards](#)," outlines key elements of similar state policies in other states.

## Case Study: Minnesota

### Overview

As the first state in the nation to pass charter school legislation, Minnesota has often navigated uncharted territory. In 2009, after concerns were raised about charter quality and authorizer accountability, the Minnesota legislature passed legislation that clarified authorizers' responsibilities and gave the Minnesota Department of Education (MDE) the power to evaluate and sanction failing authorizers.

How does the law work? In brief, the legislation requires that all authorizers (both existing and prospective) apply to and be approved by the MDE. Authorizers must also submit to review by MDE every five years, and MDE has the authority to shut down authorizers that do not meet requirements.

Since the law was implemented in 2009, the number of authorizers in Minnesota has declined from a high of almost 60 before the law was passed to 27 currently. Authorizers were granted additional resources to do their jobs more effectively—they can now charge higher administrative fees—and in turn, they are held to a much higher accountability standard.



Before the law was passed, “many authorizers were more like partners, helping their schools, but not really providing oversight as public entities.”

—Cindy Murphy,  
Charter Center Director,  
Minnesota Department  
of Education

## How the Legislation Came About—Key Levers for Change

Prior to passage of the law, charter school oversight responsibilities were shared by “sponsors” (now known as authorizers) and the Minnesota Department of Education (MDE). While a dual oversight structure is not problematic in and of itself, in Minnesota’s case, a lack of clear responsibility, combined with negative publicity about the performance of some charters, led the Office of the Legislative Auditor to undertake a systematic evaluation of charter schools.

The Legislative Auditor’s Charter School Evaluation Report, published in June 2008, recommended increased oversight for authorizers. Written by a highly respected public entity, the report helped galvanize support for change from both sides of the aisle. A number of charter school advocates worked with traditional public school supporters to help pass the legislation in 2009.

To ensure that authorizers had the resources they needed to provide increased oversight, supporters of the legislation included a provision that established a uniform fee structure (with new percentage caps phased in over time) that enabled authorizers to charge significantly higher fees to support their work. This boost helped to assuage charter advocates’ concerns about increased regulation and oversight by the state.

## How the Minnesota Law Works

First, the legislation clarified the roles of MDE and authorizers: **MDE is no longer an authorizer.** Now interested **entities must apply and be approved by MDE to serve as authorizers.** To be approved, authorizers must meet several criteria, which are detailed in Minnesota Statute 124D.10 and in the MDE application process.

Minimally, following the *NACSA Principles & Standards for Quality Charter School Authorizing*, the legislation requires the office of the Commissioner of the MDE to review each authorizer’s:

- capacity and infrastructure
- application criteria and process
- contracting process
- ongoing oversight and evaluation processes
- renewal criteria and processes.

To ensure that *all* authorizers are prepared to carry out their responsibilities, the legislation also requires that all existing authorizers—as well as prospective authorizers—apply to and be approved by the MDE.

Second, **authorizers must also submit to a systematic evaluation and review by MDE every five years.** The review process—which officially commences with the first series of reviews in 2013—empowers MDE to assess authorizers’ performance, specify what needs to be corrected, apply corrective action, and if the Commissioner deems appropriate, terminate the contract between an authorizer and the charter school board of directors the authorizer chartered.

The law also empowers MDE to act at any time to take “corrective action against an authorizer, including terminating an authorizer’s ability to charter a school for:

- (a) failing to demonstrate the criteria under paragraph (c) under which the commissioner approved the authorizer;
- (b) violating a term of the chartering contract between the authorizer and the charter school board of directors;
- (c) unsatisfactory performance as an approved authorizer; or
- (d) any good cause shown that provides the commissioner a legally sufficient reason to take corrective action against an authorizer.”

“To improve charter school oversight, we recommend that the Legislature clarify the roles of MDE and sponsors. Specifically, we recommend that the Legislature give MDE the authority to develop and implement minimum standards for sponsors. We also recommend that the Legislature give MDE the authority to directly approve sponsors and give sponsors increased authority to directly approve charter schools.”

—*Charter Schools Evaluation Report*, Office of the Legislative Auditor, June 2008

Third, **the law also allows for the creation of single-purpose authorizers**—entities whose sole purpose is to authorize and oversee charter schools. The goal here was to enable the creation of organizations that would focus exclusively on providing oversight to charter schools.

Finally, to help authorizers meet more stringent requirements, **the legislation also includes a provision that creates a uniform fee structure and increases the fee formula for authorizing**. Phased in over time, and still relatively modest by national standards, the amount authorizers are able to charge increased substantially and is set to rise a small amount each year, from FY2010—FY 2013.

## Impact

Perhaps the most visible impact of the legislation is that **there are now far fewer charter authorizers in Minnesota**. According to the Minnesota Department of Education’s Charter Center, since the legislation was passed in 2009:

- 25 former authorizers chose not to apply
- 46 (existing and prospective authorizers) applied; of those, 28 were approved and 18 were not approved
- Since the last round of approvals in September 2011, one approved authorizer—Anoka Technical College—has withdrawn its application to serve as an authorizer.

There are now a total of 27 approved authorizers, from a high of 57 prior to the passage of the legislation.

Former authorizers chose not to apply for several reasons. Some did not have the staff capacity or expertise required by the new standards. Others simply decided that they did not want to be in the authorizing business anymore—for example, 16 of the 25 who chose not to apply were school districts.

**Those authorizers who chose to apply and were successful received additional resources to carry out their new responsibilities.** For some authorizers, this made a big difference in terms of what they were able to do. As one authorizer noted, “Prior to the increase, we could not even cover staff time, much less travel and oversight. Once the law went into effect, we were able to add staff and improve our support and oversight capacity.”

**The legislation also clarified and strengthened authorizers’ responsibilities.** Before the law was passed, virtually any eligible organization (MDE, a non-profit organization, a school district, or a higher education institution) could serve as an authorizer. There were no clear expectations for accountability, evaluation, or performance. Moreover, there was confusion about the role of MDE vis-à-vis other authorizers. Those roles are much clearer now.

**There is also more of a focus on quality**—for both authorizers and charters. Though the first reviews will begin next year, the application process itself has shifted authorizers’ roles, ensuring that they meet much higher review and oversight standards. The legislation also requires that authorizers participate in regular training.

Finally, as a result of the winnowing process, **the now smaller authorizer community works together more**. As Al Fan, executive director of Charter School Partners notes, there is “more coordination and collaboration among authorizers.”

“We are not there to be hand-holders, but to provide oversight. Many of the authorizers who didn’t want to play that role exited after the legislation passed.”

—Molly McGraw, authorizer,  
University of St. Thomas

## Considerations for Policymakers in Other States

The Minnesota legislation and its impact contain several lessons for policymakers and advocates in other states.

- **Administration matters.** Though the legislature defined issues that MDE must address in developing application criteria for authorizers, it left the timing and administration of the application process up to MDE to define. Some in Minnesota are critical of how the application process unfolded. According to critics, it took much longer to develop the initial application than stakeholders expected, and the initial application was released hastily—not giving authorizers much time to prepare.
- **Stakeholder input is also critical.** Though both charter advocates and traditional public school supporters worked together to draft the legislation, it appears that the initial application was developed without much stakeholder input. This left some stakeholders feeling frustrated and disconnected from the process. It may have also politicized the process unnecessarily.
- **Align legislation with national best practices.** As Cindy Murphy puts it, “Don’t reinvent the wheel.” Policymakers can look to the Minnesota example as well as the *NACSA Principles & Standards for Quality Charter School Authorizing* to develop approval processes and quality standards.
- **It is important to define what happens to schools whose authorizers are closed.** The Minnesota legislation is unclear about what happens to schools whose authorizers are sanctioned or closed. The assumption is that by closing low-quality authorizers, low-quality schools will close as well, and the law does specify that “the commissioner may assist the charter school [whose authorizer is closed] in acquiring a new authorizer.” Policymakers in other states, however, might be more explicit about what happens to schools whose authorizers are closed. Policymakers could articulate a default course of action, for example, so that schools, students, and families know what to expect. Without this default, state departments may be reluctant to close larger authorizers.

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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](http://www.qualitycharters.org/one-million-lives).