

CONNECTICUT: MODERNIZING STATE LAW IN FACE OF OPPOSITION

In Brief

Connecticut's charter sector has, for years, relied on the solid reputation of many great charter schools, with little concern that the state's rudimentary charter school law had been virtually untouched in 20 years. That changed in 2014 when significant problems were uncovered in one local network of charter schools. Without an existing law that codified quality authorizing practices, a plethora of policy proposals—some of which would have done more harm than good—were introduced in the State Legislature. After robust legislative debates, Connecticut law now includes many smart accountability provisions. The political battle surrounding those provisions, however, should serve as a warning of what can happen when statutory policy does not reflect the new demands of quality authorizing. The law helps ensure strong authorizing now and into the future.

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ABOUT THIS DOCUMENT

State Policy Analysis Case Studies were compiled from interviews with local stakeholders, including representatives from local advocacy and policy groups as well as local policymakers.¹ Information was also gathered through reviews of state statutes, media coverage, and national publications, and through interviews with NACSA staff. Summaries (“Case Studies in Brief”) were released as part of NACSA’s 2015 State Policy Analysis; this document provides additional detail.

STATE CONTEXT AND CHALLENGES

Connecticut is a state with a relatively small charter footprint. The Connecticut State Board of Education and its administrative arm—the Connecticut State Department of Education—is the sole authorizer of public charter schools in the state.ⁱⁱ

During the 2014-15 school year, 22 charter schools served more than 8,000 students.ⁱⁱⁱ Connecticut has been recognized as having many high-performing charter schools, including 11 campuses operated by the award-winning Achievement First network of public charter schools.^{iv}

Stakeholders interviewed agreed that Connecticut’s charter school law was outdated and not strong enough to weather controversy. In particular, it lacked smart charter school accountability provisions that would protect strong authorizing practices and extend quality oversight.

Interviewees agreed the law needed to be modernized. They indicated that because the law was outdated, charter opponents had room to advance anti-charter provisions, including a moratorium.

“The old law allowed opponents to put a bunch of terrible stuff in the modernization law under the guise of accountability...[I]t would have been better to have a strong law in place in the first place to defend rather than fighting off bad new ideas...”

“The [charter school] policy was woefully outdated. It had not been touched, for the most part, in over a decade or more, I think.”

“The law was weak, especially in comparison to surrounding states in the Northeast.”

Because there was no strong, quality-focused law, conversations emerged about what should be in the law, rather than how to better implement existing provisions.

“If we [Connecticut] had started with a stronger law, we would be having a different conversation...like how to better enforce what was already on the books and what things we had to do to better enforce policy to prevent bad stuff from happening or what small tweaks we might make...[rather than] wholesale changes that needed to be in policy in the first place.”

The perspective of a relatively weak public charter school law in general, and weak authorizing policy in particular, is consistent with other reports on Connecticut’s policy context.^v

FINDING POLICY SOLUTIONS

Impetus for Change

Participants noted that charter advocacy groups had pushed to modernize the charter school law for several years. Yet it was a highly public FBI probe investigating potential misappropriation of millions of dollars and fraud involving a local charter management organization^{vi} that provided the motivation for legislative reform. According to interviewees, that scandal raised significant questions in the minds of lawmakers and the public about the oversight, transparency, and accountability of the public charter school sector.

“ Both charter proponents and opponents saw these events as an opportunity for change— but given how old our law was, it became ‘open season’ on charters.”

“ There was tremendous pressure from both pro- and anti-charter camps to do something... We knew the charter law was inadequate and were going to do something, but we had to do a lot of listening to figure out the right course of action.”

Driven in part by heightened public attention in the wake of this scandal, Connecticut’s legislators chose to make significant changes to policies that impact transparency, accountability, and charter school regulation.

Key Elements of New Policy

Public Act No. 15-239 (originally introduced as Senate Bill 1096 and referred to by participants as 1096)^{vii} contained these provisions, which were noted as the most important authorizing and accountability elements:

- **Formal charter school contracts that must include academic and organizational goals used by the State Board to evaluate charter school performance**
- **Enhanced financial and organizational transparency measures**
- **The required use of performance frameworks**
- **The establishment and use of renewal standards tied to school performance**
- **Annual reporting on school performance**
- **A comprehensive set of new application requirements, including requiring the State Board to conduct due diligence regarding potential charter school operators**
- **A comprehensive set of new provisions that must be included in contracts for whole school management services**
- **A strengthened set of criminal background check requirements and conflict-of-interest policies**

Nearly every stakeholder interviewed noted two policy provisions in the original legislative proposals which they were either uncomfortable with or against:

1. **A moratorium for all new charter schools**
2. **Explicitly subjecting third-party charter management organizations (CMO) to Freedom Of Information Act (FOIA) provisions. CMO interactions with their schools are already subject to FOIA, so stakeholders were concerned this was duplicative, gratuitous, and overly burdensome. They expressed concern that this unfairly targeted CMOs, while other 501(c)(3) private not-for-profits were not subject to these provisions.**

While those provisions were in iterations of the legislation, they were not included in the final legislation signed into law by Governor Dannel P. Malloy in July 2015.

HOW THESE CHANGES MAKE A DIFFERENCE

Strong authorizing policy in state law is a critical protective element and can help advance a quality-focused charter school agenda. Participants believed that the law, as passed, would significantly improve the authorizing and charter school landscape in Connecticut.

They expressed a range of hopes for what the new policy will achieve.

“We hope 1096 will strengthen public trust...The stronger accountability and transparency requirements will help build more trust in the community.”

“It [new legislation] clarifies accountability measures so the public is getting all the [information] they deserve.”

“We are excited about the new performance framework requirements because the public will have a healthy understanding of what the State is measuring in terms of success...That will also help the renewal process and standards to be extremely clear, which will help the community and operators know what is expected.”

“It just makes things clear now so that opponents can't use the fact our law was outdated against us. Now we have strong accountability provisions and can talk about how they are being implemented rather than changing the law—and re-opening the door for potentially bad stuff again.”

“It codifies in state law what for the most part the State is already doing...But it makes it clearer and stronger which is good for everyone.”

“It creates clear lines of responsibility and understanding...It shows a strong commitment to accountability.”

“The more rigorous transparency requirements are key. That will help with things like performance expectations and management contracts...The annual reporting will also ensure clear lines of communication and feedback between the State DOE and charter schools.”

“The State is already taking good steps on the performance framework and accountability fronts...It will be great to let schools know what they are held accountable to and for.”

THE ROAD AHEAD: CONCERNS AND OPPORTUNITIES

Connecticut now turns to implementation of these new accountability policies, which stakeholders agree should include a smooth transition for existing charter schools.

As the law is still new, no data exists yet to gauge how the policy is working. Participants were asked, however, to provide their perspectives on potential implementation concerns.

“ We had a really tough fight trying to explain why certain provisions were not actually facets of strong and quality authorizing...[We] should continue to educate policymakers and authorizers on their respective roles, as well as what charter authorizing policies should be all about: balancing flexibility with accountability and transparency without compromising [school] quality.”

Initial Certificates of Approval

Participants indicated that one aspect of the legislation—requiring the dual approval of the General Assembly (in addition to the State Board of Education) before a new charter school approval is finalized—could politicize the approval process as well as cause problems in attracting and cultivating quality school operators. One stakeholder noted that this is unique to Connecticut: no other state has a legislature with the power to authorize and therefore able to control the creation of new schools and the growth of existing schools.

“ It [an initial certificate of approval] takes some steps back from where we were. It’s a bad thing, because it makes legislators the final authorizing agent and could make it unclear who the authorizer really is...and lead to people sidestepping the Department of Education.”

State Department of Education Capacity

Some participants expressed concerns about the capacity of the Connecticut Department of Education to implement some of their new responsibilities. Charter school authorizing requires a different mindset and set of professional skills than many traditional Department of Education activities; making that leap to productive implementation can be challenging. The State does, however, receive some benefit from its authorizing structure: it is easier for its single authorizer to coordinate and execute consistent, thoughtful implementation.

“ I worry a little bit about if the State has the right staffing and expertise to carry out some of their new responsibilities. They have some new monitoring and accountability things they have to do now, like implementing a good performance framework, and I hope they add staff and expertise so it’s done well.”

“ Consistency of implementation is really important. They [State Department of Education] will have to implement their existing and new requirements consistently, but in a way that still allows flexibility to accommodate different models. That may be hard to do.”

Accountability, Compliance, and Innovation

Some participants raised concerns about generating too many compliance provisions that may stifle innovation in the sector, a common concern when new accountability and compliance provisions are put in place.

“ Getting schools to comply with requirements isn’t the same as holding them accountable and creating a healthy charter sector. The implementation focus has to be on high-level quality and meaningful accountability, not just compliance. Hopefully not, but I worry about how the DOE is going to implement things so it doesn’t become a ton of compliance burdens on schools.”

“ We need a sector where innovation is at the forefront. We want to make sure there are high levels of accountability but also still allowing for new ways to reach students and communities and share effective practices...Connecticut can’t become a rigid sector[, one] without innovation.”

A couple of participants also noted that legislation strengthening school autonomy remains a top priority.

“ Right now Connecticut is backwards in terms of autonomy. Charters have to do everything districts are required to do unless they ask for a waiver from the State Board. It should be the other way around, like in many other states.”

Other Concerns

While not specifically prompted, participants expressed some other potential concerns with the legislation and legislative elements that were not included in the final bill, such as charter school funding reform.

Participants raised significant concerns about how Connecticut charter schools are funded, a continuing policy challenge. Participants involved in the legislative process made it clear that they wanted charter school funding reform to be part of the legislation, but ultimately, funding changes were not included.

“ Connecticut is still one of two states, I think, where charter schools are funded from a separate line item in the state budget. That creates enormous unpredictability for everyone.”

“ This funding arrangement keeps charters a very political issue as it [the appropriation] can get cut in the legislative session anytime they open—or re-open—the budget.”

“ We are concerned that funding equity wasn’t included. Since we are still a line item in the budget and not funded like other public schools there is no predictability on the number of new schools we will have from budget cycle to budget cycle.”

“ Our per-pupil amount hasn’t increased in a bunch of years...That’s not good for great schools already here to expand and operators who want to come to Connecticut.”

LESSONS LEARNED

This Connecticut case study serves as a powerful example of why authorizing policy reform matters.

State law that doesn't define what quality authorizing is provides no protection for authorizers and the charter sector from negative influences. Absent strong authorizing and accountability policies in statute, opponents can point to what is not in the law—and provide their own remedies—rather than asking questions about how the law is being implemented and what changes in practice can improve charter school oversight.

Connecticut was fortunate that a charter school scandal did not result in legislation that would have further stymied the growth of quality charter schools in the state. As noted by key stakeholders, while the outcome of their recent charter policy changes were quite strong, if such policies had been in place prior to the impetus for change, a very different set of dynamics would have emerged.

Strong authorizing policy in state law may be a critical protective element, and can help advance a quality-focused charter school agenda.

CASE STUDY INFORMATION SOURCES

- Interviews with local Connecticut stakeholders, including representatives from local advocacy and policy groups as well as local policymakers^{viii}
- Document reviews of Connecticut statutes
- Media reviews
- Reviews of national publications that included Connecticut
- Interviews with members of the National Association of Charter School Authorizers' Policy and Advocacy Division, who participated in the legislative process^{ix}

Participant interviews were conducted over the telephone; each interview lasted approximately 30-45 minutes. A semi-structured interview protocol was used, querying factors such as what precipitated the policy, policy goals, key policy elements, and implementation successes and challenges. Participants were emailed interview questions in advance.

Data from those interviews was analyzed thematically. All data was synthesized to create a summary of the recent charter school policy changes in the state.

ⁱNACSA was unable to interview any staff from the Connecticut State Board or Department of Education for this case study.

ⁱⁱ<http://www.sde.ct.gov/sde/cwp/view.asp?a=2681&q=335076>

Note: The Connecticut State Board of Education authorizes all but one local charter school, which has a dual authorization process: first the local board, then the State Board (which remains the final authorizer for all charters, state or local). See Conn. Gen. Stat. 10-66bb(e):

https://www.cga.ct.gov/current/pub/chap_164.htm#sec_10-66bb

ⁱⁱⁱ2014-15 data courtesy of the National Alliance for Public Charter Schools

^{iv}<http://www.achievementfirst.org/schools/connecticut-schools/>

^vIn 2014, the National Alliance for Public Charter Schools rated Connecticut's charter school law as one of the worst in the country (http://www.publiccharters.org/wp-content/uploads/2015/01/model_law_2015.pdf) and NACSA ranked Connecticut's authorizing policy as the worst among states with few authorizers (<http://www.qualitycharters.org/wp-content/uploads/2015/08/State-Policy-Analysis.pdf>).

^{vi}<http://www.courant.com/news/connecticut/hc-charter-school-0723-20140722-story.html>

^{vii}Full text of Public Act No. 15-239 (Senate Bill 1096 as signed by the governor) can be found at <https://legiscan.com/CT/text/SB01096/2015>

^{viii}NACSA was unable to interview any staff from the Connecticut State Board or Department of Education for this case study.

^{ix}NACSA's Policy and Advocacy Division did not author any of the quotations in this summary.