

CHARTER SCHOOL GOVERNANCE

Paul T. Hill and Robin J. Lake
University of Washington

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The debate over whether charter schools offer different or more effective instruction will go on for some time, but there is no question that chartering is an innovation in public school governance. This is the case both for charter schools' external governance – their relationships with government agencies that determine whether they may admit students and receive public funds – and for their internal governance – who must be involved in making decisions about school policies and programs.

Most people are aware of charter schools' external governance arrangements. Unlike district-run public schools they are not subject to detailed direction from district wide central offices and school boards, and can hire staff, use time and money, and deliver instruction in ways that (presumably) fit the needs of their staff, parents, and students. Charter schools need designated public authorities to authorize their existence and transfer public funds for student tuition, but they are not subject to frequent changes in policy and can expect that, barring management disasters or terrible student performance, they can operate for set periods (3-5 years) with relatively little interference.

This external governance arrangement is the one stressed by school reformers who thought district and board oversight created inefficiencies and stifled innovation. They hoped to give charter schools greater freedom of action but also wanted to prevent charter schools from doing highly radical things and producing public outcry, by creating a moderating influence.

The rationale for charter schools' internal governance arrangements is much less clear. In all but a handful of states (Arizona, Colorado, Michigan, Virginia, and Wisconsin) charter schools must be governed by nonprofit boards. Though state laws do not mandate that such boards be constructed in a certain way, nonprofit boards in general

must be broadly representative of community groups and people potentially affected by the nonprofit's performance. All nonprofit boards also hire and fire staff – in the case of charter schools they can even fire the principals who founded the school and assembled the board in the first place. Though some boards have played constructive roles in the lives of their schools, many have become sources of instability and disruption.

As we will discuss below, charter school law drafters probably did not require these internal governance arrangements in order to make charter schools better providers of instruction. Framers of the laws understood that governance arrangements can prevent some bad outcomes, like abuse or neglect of some group, but they can't create organizational effectiveness. However, as it has turned out, the prescribed internal governance effects work against school effectiveness while doing little to prevent abuses or protect stakeholders.

Though some early supporters hoped charter schools would operate like private firms in a competitive market for students, the internal governance arrangements prescribed by state law limited school heads' freedom of action and created a good deal of internal friction by demanding too much of individuals who agree to sit on the boards, and also hamstringing school managers. The requirement that every charter school be governed by a nonprofit board has created internal stresses that take time, amplify conflicts that might otherwise be minor, and de-stabilize school leadership and program offerings.

In ways we will detail, charter schools' internal governance arrangements help take away the freedom of actions that their external governance arrangements are supposed to promote. In this paper we will argue that nobody had thought through charter schools' external and internal governance arrangements before they were enacted into law, and that they key parties have still not learned to play their roles well. In the conclusion we will suggest ways that external governance, essentially oversight by public authorities that approve and monitor charter schools, can be improved and internal governance can be simplified and made less a barrier to school performance.

What is Governance and why is it So Important?

Governance is the set of processes, customs, policies, laws and institutions by which an organization is controlled. It defines the relationships among the many players who have stakes in an organization's activities and outcomes. Formal governance arrangements therefore ensure representation of key stakeholders. Governance and leadership are different. The essence of leadership is influencing the behavior of others; governance constrains leadership.

Governance arrangements arise out of politics. Governance is not relevant when only one person's interests are at stake or a leader needs no one's support but her own in order to take action. We don't talk about governance of sole proprietorships or private companies, in which decision-making is not structured to constrain the owner or chief executive.

Governance becomes relevant when different and possibly opposed interests are at stake, or where a leader can act effectively only if others provide resources or cooperation. Even then formal governance arrangements are not always evident: a skillful leader can maintain support through consultation and carefully balanced action. But, when gifted leadership is not available, or cannot be assumed always to exist, specific arrangements for sharing power, reaching compromises, and voting are needed.

It is clear enough why state legislatures created specific external governance arrangements for charter schools. Taxpayers, teachers, parents, students, and school neighbors all have different interests related to the operation of a charter school. By designating a public agency to authorize and oversee charter schools – school boards and depending on the state, special state boards, state institutions of higher education, or major nonprofits – legislatures ensured that someone would be available to hear complaints and balance claims. Whether the exact arrangements work as intended is an empirical question, but it is clear why they exist.

The warrant for specified internal governance arrangements is less clear. As schools that must attract families and maintain functioning teacher forces, charter schools already have strong incentives to take account of the needs of those constituencies. These marketplace incentives might not be enough to ensure that a school does not exclude disadvantaged children or create nuisances in their neighborhoods, but the interests affected have a great deal of access to school boards and other agencies responsible for external governance.

External Governance Requirements: Necessary But Underdeveloped

Though government agencies always had a role in chartering, as the parties that determined whether a group could run a school and had the power to close a school down for failure to keep the terms of its charter, no one thought very hard about how these agencies would operate. As Chester E. Finn has written, “In *Charter Schools in Action*, the 2000 book by Manno, Finn and Vanourek that was as careful a look at the charter world as any had taken at the time, “sponsors” accounted for no more than half a dozen paragraphs that matter of factly depicted them as the second party to the “contract” by which charter operators were able to launch their schools.”

The emphasis was on what schools might do with their assumed new freedoms, not how government would act to define and in some ways limit those freedoms. From the perspective of groups who wanted to run and promote charter schools, the governmental role was not their problem and they would prefer not to think about it. They assumed that the less government the better, especially since the vast majority of agencies designated to authorize charters were local school boards, exactly the entities that pro-charter people most distrusted and wanted to avoid.

On the other side, school board members generally opposed chartering and had little interest in authorizing schools that would be naturally independent, take away money formerly controlled by the school district, yet whose performance deficiencies and

parent-teacher blow-ups might still fall back into the school board's lap. School boards generally saw charter schools as something inflicted upon them by state legislators who were not their allies in the first place. Few had any interest in figuring out how to do chartering in ways that maximized the likelihood that charter schools would succeed.

A case in point is the elected DC Public School Board, which early this year concluded that charter oversight is just too hard, and asked to be relieved of all responsibility for approving charter school applications and monitoring performance. The DC board frankly admitted that it did not now how to tell the difference between a good charter school proposal and a bad one, or how to monitor performance of existing charters. They preferred to run a hierarchical structure of jobs and entitlements where hard judgments about performance simply did not need to be made. Other school boards have been more politic but have taken essentially the same position. Less than one in ten of the school districts with authority to charter schools have ever done so, and with the exception of a few districts that have embraced chartering (e.g. Los Angeles, New York, Philadelphia, Oakland, New Orleans, Chicago) the average district that has been willing to charter any schools has limited itself to one or two.

Why is chartering so hard for government? The answer is that it establishes a completely different relationship between a government agency and a school, and requires government to develop entirely new capacities. Until chartering came along all public schools were run by school districts that owned all the buildings, hired all the employees, made all the decisions about leadership, instructional methods, and materials, listened (or didn't listen) to families' aspirations and complaints.

Chartering is a whole new approach to providing public education, analogous to Japanese manufacturers' method of producing cars by relying on a group of highly qualified independent suppliers. Government organizations other than school boards have learned to work through third parties, but it is a tough and demanding task.

One thing that is clear from the experience of private firms and government agencies that get critical work done via contracts with third parties, is the need for substantial capacity within the authorizer organization.¹ Organizations using third parties to do essential work must know exactly what results they need, be able to tell the difference between a provider that's capable of delivering them and one that's not, be able to identify problems in provider performance early enough to intervene before bad results are inevitable, and work constantly to build or identify other suppliers to keep current ones under competitive pressure and replace them entirely in cases of low performance. Working through third parties requires clarity and diligent oversight, not abdication. Agencies and firms that accomplish critical work via contracts with independent parties need to know a great deal about the work their partners are to do, know how to monitor progress and identify needs for improvement, all without creating confusion about who is responsible for what.

External governance of charter schools hasn't been thought through this thoroughly, and few authorizers have invested more than a trivial amount in building staff expertise and oversight tools. Most school districts assign charter oversight to one or two individuals or to units that are already pressed to fulfill other responsibilities. A few school districts that have embraced chartering as one of the ways they provide schools – notably Chicago and Milwaukee – have created capable oversight units, as have several of non-school district agencies for which chartering is their whole mission have built substantial capacities. However, many authorizers still have little or no capacity. In Ohio, the recent addition of dozens of inexperienced nonprofits to the list of potential charter school authorizers has definitely lowered the average.

¹ For more complete development of the arguments made in this section see Destler, Kate, Stephen Page, Bryan Hassell, and Emily Hassell Improving Charter Authorizing, In Lake, Robin (ed) *Hopes Fears and Reality* 2006, Seattle, National Charter School Research Project 2006

Authorizers that take chartering seriously are learning through trial and error but they still have much less experience than other governmental and public and private sector entities. These include other public sector organizations that obtain key capacities through contracting (e.g. the U.S. Armed Services and the English public school system, which now provides the vast majority of its high schools via charter-like independent provider arrangements) and private companies that use third parties for many functions that traditional manufacturers performed internally. A study underway at the national Charter School Research project has already distilled several lessons for charter authorizers from more experienced organizations, including:

Contracting and oversight require very different capacities than management of vertically integrated organizations. The people overseeing important activities like schools must be knowledgeable about how they work and must have access to rich data including leading indicators like staff turnover that can foretell performance problems before they occur. This means that contracting agencies like school authorizers must have expert staff that are numerous enough to remain knowledgeable about all the providers they oversee, and good data. This requires investments in people and data that very few charter authorizers have made.

The best time to clarify expectations and screen out weak providers is before they are hired. Firms and agencies that get good performance from their contractors know what performance is reasonable to expect discourage applicants that can't or don't want to deliver on expectations. The reason for fine initial screens is straightforward: if a product or service is vital to the success of the authorizing organization, it cannot be entrusted to just anybody. When agencies and firms take a looser approach to source selection, hiring any provider whose proposal and capacities are remotely plausible the result is often disappointing performance and loss of legitimacy for the authorizer.

Arms-length relationships with providers are likely to have disappointing results. Authorizers need to communicate a lot about performance expectations, and must know the provider organizations well. They must not be afraid to point out problems or threaten

consequences, or to insist that changes be made when failure is imminent. Private firms in particular are comfortable helping a struggling provider but then replacing it if performance does not improve, or if a better provider becomes available.

Contract termination decisions are not made lightly or before alternatives are in hand. When good suppliers are scarce, authorizers must make tradeoffs – they need to reward performance and abandoned failed efforts, but they also need to make sure the job (in public education, providing schooling for all students) is done.

Authorizers must avoid being forced to choose between a bad provider and none at all. Authorizers need to offer favorable enough terms so that capable organizations will be willing to provide the service. A government or business that establishes an uninviting or hostile environment, one that subject providers to harsh treatment, regulatory roadblocks and political interference, will drive away good potential partners and might not be able to find enough good organizations to do the work needed. For private firms and government agencies that depend on independent providers, the stakes are high. If any part of the authorizing and oversight process is mishandled, the company might lose money, an agency might fail to attain its mission, and service recipients might be hurt. In such high stakes situation, authorizers need to make more than a reasonable effort: they need to get good outcomes. The people responsible for authorizing must either figure out how to do it better – and make an unshakeable case for more money, better staff, better data, or whatever else they lack – or find that someone else is put in charge of the function.

These lessons constitute a revolution in thinking for school districts. At the same time that school boards like DC's are trying to lay down the burden of charter authorization, many others are recognizing that they must abandon traditional compliance-based modes of school oversight, and focus on school performance.² Some,

² Destler *et. al* discuss the special problems that school districts encounter as they charter schools and operate schools directly. These are particularly vexing unless, as Destler *et. al* and Finn and Hill propose, school districts adopt common performance standards and accountability options for all schools no matter who runs them.

e.g. Chicago, Philadelphia, Denver, New York, Oakland, and the state agency responsible for most schools in New Orleans, are openly characterizing themselves as portfolio managers, running some schools directly, and chartering others. No Child Left Behind is likely to drive more districts toward what British Prime Minister Tony Blair calls contingent provision, working with schools and school providers as long as they benefit children and no longer.

What might good performance oversight of charter schools look like? Finn and Hill³ acknowledge that there are inevitably some compliance-focused elements of oversight, argue that the most important functions are quality-, and promotion-focused oversight:

The contractual compliance functions are necessary but manifestly insufficient. A compliance-focused authorizer could overlook many opportunities to charter good schools while also allowing weak but obedient schools to obtain and keep charters. There are, moreover, examples of authorizers that take the compliance functions seriously but also promote quality schools. Central Michigan University not only demands that all charter schools file every report required by the state; it also gives schools the report formats and basic data they need to complete those documents. Taking compliance seriously does not prevent Central Michigan from promoting school quality and working proactively to find and promote promising charter providers

Some might claim that quality and the promotional functions with compliance. Yet the Chicago school district and the D.C. Charter Board offer proof that authorizing can be both ambitious and quality-focused. Both encourage promising applications via public information sessions and workshops, and both suggest ways whereby interesting applicants can gain capacities missing from their original proposals. Chicago even encourages competent charter operators to take on additional challenges—including opening more campuses. However, Chicago has also shown its willingness to close bad charter schools and withdraw a charter before a school opens if the school's finances or academic program seem near collapse. The independent D.C. chartering authority has been tougher on the schools it approves than the District's board of education, which has apparently granted charters to political cronies and allowed abusive situations to continue.

³ Finn, Chester E. and Paul T. Hill, Charter Authorizers, in Hill, Paul T., (ed.) *Charter Schools Against the Odds*, Stanford, Education Next Press, 2006

Constructive external governance of charter schools is complex and it costs money. The fact that many state laws provide no funding for charter school authorizers shows how little thought was put into the external governance function.

There is now serious work underway on how to rationalize and strengthen external governance, motivated in no small part by charter school operators who have learned that an inattentive authorizer can turn unpredictable and punitive. The National Association of Charter School Authorizers (NACSA) has developed a set of “principles and standards for quality charter school authorizing” (see <http://www.charterauthorizers.org/files/nacsa/BECSA/Quality.pdf>) and is working to assemble examples of thoughtful problem solving. Via conferences and publications, NACSA is also trying to convince school district leaders and other sponsors both that good charter authorizing is not rocket science and that it can pay off.⁴ The national Charter School Research project is also assembling ideas from other sectors that might suggest what capacities authorizers need, how they can be developed and what they will cost.

The Conclusion of this paper will make additional suggestions about policy changes that can strengthen the external governance of charter schools.

Internal Governance Requirements: Burdensome and Not Necessary

The introduction points out that it is not clear why legislatures have chosen to specify charter schools’ internal governance arrangements. Three explanations for the requirement that every charter school have a nonprofit board are possible: 1) Some legislators who opposed charter legislation but could not block it inserted these

⁴ A sampling of recent NACSA publications includes: *Principles and Standards for Quality Charter School Authorizing*; *A Reference Guide to Special Education Law for Charter School Authorizers*; *Charter School Accountability Action Guide*; *Charter School Accountability: A Guide to Issues and Options for Charter Authorizers*; *Charter Schools and the Education of Students with Disabilities*; *Charting a Clear Course: A Resource Guide for Building Successful Partnerships Between Charter Schools & School Management Organizations*; *Guidelines for Ensuring the Quality of a National Design-Based Assistance Provider*; and *Measuring Up: How Chicago’s Charter Schools Make Their Missions Count*.

requirements in order to impose costs on charter schools and reduce their chances of success; 2) The requirement was designed to keep for-profit firms away from charter schools; or 3) legislators were actually trying to buttress the external governance arrangements, which they were not sure would work as intended, by building broad public interest representation within charter schools themselves.

The three explanations might each have a share of the truth. The first, that the nonprofit board requirements were inserted by opponents in order to burden charter schools, is consistent with charter schools' experience. The nonprofit boards and "one school one board" provisions in most states required creation of many new boards, often in communities where few adults have the expertise or the free time necessary for board membership. The sheer number of people required to fill charter boards is larger than the number of people who have direct experience in maintaining board-management relationships in productive institutions. Charter boards must therefore include people who do not understand the limitations of board members or the need for clear delegation to management. As we shall see below, these requirements have indeed handicapped charter schools and caused some to fail.

The second explanation is obvious enough from the statements of state legislators, some of whom claimed that for-profits would divert funds away from instruction and thereby cheat children, and others who feared that for-profits would bring in private investment capital and could therefore compete unfairly with regular public schools and charters run by for-profits. Contradictory though these rationales are, they combined to create strong voting blocs against for-profit participation.

In many states, however, for-profits have exploited a loophole by becoming contractors to nonprofit boards – essentially working as management companies hired by a community board that holds a charter. Heads of for-profit organizations claim that this two-step agreement is inefficient and subjects them to arbitrary constraints and the vicissitudes of life with an inexperienced board.⁵ But there is little evidence either that

⁵ See, for example, comments by for-profit school operators in Rainey, Lydia and James Harvey, *High Quality Charter Schools at Scale in Big Cities*, Seattle, National Charter School Research Project 2006

for-profits have provided inferior services in the schools they run,⁶ or have used their access to investment capital to run other schools out of business.⁷⁸ As it has worked out, the nonprofit board requirement neither excludes for profits nor protects any of the harms expected to result from for-profit management -- for the simple reason that those harms are not evident in practice.

The third explanation looks ingenious. It imitates the higher education practice of delegating the state's responsibility for overseeing private institutions to boards of regents including alumni and other distinguished citizens.⁹ These boards, it was argued, could stand in for government oversight because they represent the best elements of the community plus people who care deeply about the children served. Board members will be deeply engaged with the school and can therefore make much richer judgments about school performance than can district or state capitol bureaucrats who only look at test scores.

However, what made sense for the small number of well established private higher education institutions did not work so well for large numbers of new public schools in the same community. In retrospect the differences between higher education and K-12 boards should have been obvious:

Service on college and university boards is prestigious and can attract people with significant talent, experience, and money to give. Charters school boards are much more obscure and cannot reliably attract the most experienced people.

⁶ But some nonprofits apparently do use money in novel ways; See Hannaway, Jane, and Nancy Sharkey, Does Profit Status Make a Difference: Resource Allocation in EMO-Run and Traditional Public Schools, *Journal of Education Finance* 30(1): 27-49, Summer 2004

⁷ Strong critics of for-profit management accuse firms of making many decisions for financial advantage but conclude that they do not offer more effective or attractive services. See Molnar, Alex, Calculating the Benefits and Costs of For-Profit Public Education, *Education Policy Analysis Archives* v. 9 no. 15 2001

⁸ Edison schools official John Chubb has, however, shown that access to investment capital has made for-profit schools more likely to replicate promising models and expand the numbers of students served. See Chubb, John, Should Charter Schools be a Cottage Industry? in Hill, Paul T. (ed). *Charter Schools Against the Odds*, Stanford CA, Education Next Press 2006.

⁹ On the history of this idea in higher education see Zumeta, William, Accountability and the Private Sector: State and Federal Perspectives, in Burke, Joseph, *Achieving Accountability in Higher Education: Balancing Public, Academic, and Market Demands*, Los Angeles, Jossey-Bass 2004

Existing colleges and universities have long traditions valued by faculty and alumni. Charter schools were new and largely undefined and nonprofit boards were forced to grapple with basic mission and values questions that, for higher education institutions, were answered by history and tradition.

Battling factions within a higher education institution are normally held in check by alumni, the president, and major donors. Charter boards, however, were designed to represent opposing stakeholders in ongoing battles over teacher entitlements vs. student needs and preference for handicapped, gifted, and “regular” students.

Whatever the motive for the nonprofit boards requirement, anyone familiar with the literature on nonprofit boards could have predicted the results.¹⁰ Board members are difficult to recruit and have trouble finding time to do all that the role implies. Few have experience as board members or understand the distinction between the roles of boards and management. Charter boards make it more difficult (though not impossible) for managers to take extreme unilateral actions, but they do not cause charter schools to be effective, equitable, inefficient, or stable.

Some charter schools have reached accommodations between board and management and have slowly developed board expertise. However, many other charter boards have suffered from unstable memberships and had trouble establishing boundaries between board and management.¹¹ Board melt-downs have de-stabilized many charter schools, and leadership and staff turnover due in part to conflicts with the board have been a major reason for charter school failure. Boards with little financial or legal expertise have allowed improper funding and spending.

Turbulent board-management relations can also disrupt charter schools and even cause them to fail. Since non-profit board members are often people with only short-term interests in the school, they have powerful incentives to spend all their money on salaries

¹⁰ See, for example, Ryan, William P., Richard P. Chait, and Barbara E. Taylor, *Problem Boards or Board Problem?*, The Nonprofit Quarterly Volume 10; Issue 2 Summer 2003

¹¹ According to an early national survey of charter schools, 27% of new charter schools and 17% of existing ones were disrupted by internal conflicts that could be related to governance. See National Study of Charter Schools Second Year Report, 1998, U.S Department of Education Office of Educational Research and improvement, p. 104.

and current services, and little incentive to generate surpluses that can be reinvested in technology of process improvements. Boards heavy with current parents can be a particular problem, due to their greater interest in their own children than in the school as a whole, and because rapid turnover caused by graduation leads to frequent changes in board direction.¹²

The most vivid reports about board problems emerged early in the life of the charter school movement, but in early 2006 a report on increasing the number of high-quality charter schools again cited nonprofit boards as a major problem, saying “Some nonprofit boards are agenda driven and wind up trying to micromanage the schools...Many have weak governing boards; they have little capacity to oversee the school ...Most, even the nonprofits established by profit-making vendors, have trouble distinguishing between the oversight function of a board and running the school.”¹³ Charter school heads interviewed for the study said that inexperienced board members are still a big problem, “It’s hard to work with people who’ve never managed anything more than a home budget.” (P.11) School heads also noted that board capacities often don’t change even if the school’s needs evolve: “The qualities that make for a good start-up board aren’t necessarily the qualities the board needs as the school grows.”

For a governance mechanism that nominally represents stakeholders and provides a forum for arbitrage of interests, charter school boards have not worked particularly well. Activist parents with extreme points of view tend to be over-represented on boards (as they are in PTA and other boards in public education), and school leaders often deal with parents one by one as clients and customers, rather than via the board. Because charter schools are new they cannot benefit from the historical perspective and commitment to the institution that alumni board members of private schools often provide.

¹² Op. cit. pp. 99-100.

¹³ Rainey, Lydia and James Harvey, *High Quality Charter Schools at Scale in Big Cities*, Seattle, National Charter School Research Project 2006, p. 10.

Similarly, teachers make their own individual deals with management. Teachers unions are also trying to recruit charter schoolteachers, arguing that collective bargaining asserts teacher interests more powerfully than governing board membership can.¹⁴

If school-level governing boards do not provide useful forums for setting strategy and working out differences, what purpose do they serve? Some schools have assembled boards that include experts in legal, finance, personnel, real estate, and public relations issues. These resemble the boards of private companies, and are often able to help rather than impede management. However, such expert boards are rare and there is nothing in the state laws requiring school-level boards to require them.

Some school managers can get help from their boards and some boards can help tide schools over staff transitions. But these desirable results are far from normal. It is hard to argue that the internal governance arrangements imposed by law help or protect anyone.

As we will suggest in the conclusion, it makes sense to permit schools to create such boards, but not to require them. It is necessary for a charter school to be a legal person that can enter a contract with its authorizer, manage funds, and employ staff. However, in other sectors this legal person can take many forms – a sole proprietorship, partnership, affiliate of another organization, or a board-governed corporation.

We fear that the internal governance arrangements imposed on charter schools have prevented what they were supposed to cause, i.e. responsible management and attention to all stakeholders, while preventing desirable innovation and adaptation to the needs of students.

Governance looks like a blind alley for charter schools. Charter school leadership – entrepreneurial initiative, planning ahead, unification of budgetary and service

¹⁴ For a review of teacher union relationships with charter schools see Hill, Paul, Lydia Rainey, and Andrew Rotherham *The Future of Charter Schools and Teachers Unions: Proceedings of a Symposium*, Seattle, National Charter School Research Project & the Progressive Policy Institute 2006

strategies, on the spot problem solving and coordinating the efforts of diverse professionals – is extremely demanding. Scholars are just starting to ask what it takes to lead a charter school and how enough people with the requisite skills and motivation can be found for the thousands of new charter schools likely to open in the next few years. It is clear that people trained to run conventional public lack many of the requisite skills and often have attitudes that would render them ineffective as charter school leaders.¹⁵ Compared to working further on how to improve charter school governance, it makes much more sense to focus on leadership requirements and supply issues, including clarifying how existing public school leaders might be rehabilitated and what training and experience are required to enable people from social services and business to lead charter schools.

Conclusion

It is hard to see what purpose is served by requiring all charter schools to create formal internal governance structures dominated by nonprofit boards. Under the best circumstances nonprofit boards can stabilize schools and free up school leaders to focus on instruction by supporting them on business and marketing. However, the best circumstances are rare; nonprofit boards are more likely to de-stabilize schools and burden school heads.

Legislatures might also have hoped that nonprofit boards would serve as proxies for public oversight, representing key constituencies within and outside the school and helping the school avoid problems and scandals. Boards have met those expectations in some cases, but they have also become sources of problems that legislatures hoped they would help schools avoid, such as mismanagement of funds, school instability, and failure to keep promises to parents and students. Nonprofit boards do not help to make charter schools more accountable to the public. As we will argue below, the only way to accomplish that aim is to strengthen the external governance arrangements by which designated government agencies approve and oversee charter schools.

¹⁵ Portin, Bradley, DeArmond, Michael et. al, *Making Sense Of Leading Schools: A National Study Of The Principalsip*. Center on Reinventing Public Education, University of Washington, Seattle. (2002).

Though it is appropriate for state law to allow nonprofit boards to hold charters, there is no reason for states to mandate them in every case. If charters could be held by sole proprietors, partnerships, for-profit corporations and by organizations that run multiple charter schools, many schools could be run more efficiently. As John Chubb has suggested, for-profits in particular could help make the charter sector more competitive, and could attract private investment that could fuel innovation.¹⁶

If internal governance cannot substitute for weak external governance, how then should legislatures strengthen the institutions that are supposed to authorize and oversee charter schools? We think four lines of actions are necessary:

- Investments in authorizer capacity
- Reliable public funding for authorizers.
- Competition among authorizers
- Performance accountability for authorizers.

Authorizer capacity. Foundation-funded charter school associations and research projects are trying to help authorizers understand the decisions they must make and get access to information that can support those decisions. This process will continue for some time, though ongoing work by NACSA and the National Charter School Research Center is producing results. Soon a professional consensus will emerge about the skills and information sources an authorizer needs. It is also increasingly clear that effective authorizer organizations cannot be hidden deep in school district bureaucracies, or assigned tasks unrelated to authorizing. If school districts want charter authorizing done well they must invest in chartering offices and give them direct access to the superintendent and school board.

Public Funding. Capable authorizers need money. They certainly need experienced and well-paid leaders who both understand schools and know the difference between operating a school directly and overseeing an independently run school on the

¹⁶ Chubb, John, Should Charter Schools be a Cottage Industry? in Hill, Paul T. (ed). *Charter Schools Against the Odds*, Stanford CA, Education Next Press 2006.

basis of a contract. They also need enough staff to conduct thorough reviews of new school applications, stay in close contact with existing charter schools, intervene in schools that are experiencing trouble, run open and responsible charter termination processes, and maintain portfolios of school providers who might replace a failed school provider. These functions entail significant salary, equipment, and facilities costs; government agencies that can't or won't pay them will not get competent authorizing. As Finn and Hill have suggested:

[S]tates need to fund charter authorizers as they do school districts, providing a fixed minimum amount for an authorizer that oversees even one school (e.g. the equivalent of one senior staff member and a clerk plus a small facilities allowance) with additional amounts for every school overseen. NACSA will develop models for authorizer operations that can be the basis for funding. None of these is likely to cost less than \$150 thousand for the smallest authorizer and \$20,000 for each additional school overseen. This seems a hefty sum, but consider that under these assumptions, the New York City public schools central office would have a budget of about \$22 million – a far cry from the hundreds of millions its activities cost today.

Competition among authorizers. Given school districts' reluctance to charter schools and (with some important exceptions) their reluctance to build capable authorizers, it makes sense for state legislatures to give them some positive incentives in the form of competition. States could create multiple authorizers to operate in the same school district (as in Milwaukee and, under federal legislation, the District of Columbia). Alternatively, states could make statewide alternative authorizers like state colleges and universities, many of which also compete on the margins with school districts, more effective competitors simply by removing the caps on the numbers of schools they may authorize. Then, an alternative authorizer could compete with a district and in time might oversee more schools than the district. Districts, too, would face a need to become good authorizers or risk going out of business altogether.

Lifting caps can allow special purpose authorizers to become larger and more capable. This measure alone will not create responsible authorizing. It could allow authorizers to

develop large enough portfolios of schools, and to receive enough income from state fees, to make serious investments in oversight capacity.

Accountability for authorizers. Whether school districts and other authorizers fulfill their responsibilities matters to families, children, people who work in charter schools and people who want alternatives to their existing public schools. It should also matter to the authorizers themselves. States could create standards for authorizers, including requirements for fair assessment of proposals, diligent oversight, effective intervention into struggling schools, and aggressive action to give families alternatives to low performing schools, whether district-run or charter. States could disband or create competitors for any authorizer that proves unwilling to charter any schools, or that neglects its oversight responsibilities. This could be done if all authorizers, including local school boards, were placed under revocable, results-based accountability contracts (and public transparency).¹ In effect, authorizers will also work under performance-contingent charters.

These suggestions will not solve all the problems of charter schools, but they will reduce the burdens of internal governance that charter schools must bear, and focus external governance on one issue only, school performance.

¹ The first paper to address the issue of oversight and performance incentives for authorizers has just been published. See Robin J. Lake, *Holding Charter School Authorizers Accountable* (Seattle: National Charter School Research Project, 2006).