Use of charter schools rising, state laws changing: Enhanced oversight and accountability goal of recent measures

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Charter school enrollment is growing every year, and some states in the Midwest are a big part of this trend. This year, an estimated 135,000 Michigan students are attending a charter, while in Indiana, enrollment increased by more than 20 percent. In Ohio alone, data from the National Alliance for Public Charter Schools show, 369 charter schools are now in operation.

The movement began 22 years ago in Minnesota, when it became the first U.S. state to authorize these publicly funded schools (they receive a fixed per-pupil fee) that operate outside many of the rules governing traditional public schools.

Today, more than 2 million students are attending 6,000 charter schools across the country. Between 1999 and 2009, enrollment quadrupled.

The goal of state charter school laws (now in place in 42 states), Indiana Republican Rep. Bob Behning says, is to improve student learning across school districts and the entire state — by providing new options for students and parents while also promoting innovation in instruction.

"Charter schools can make traditional public schools look differently at how they provide services," says Behning, chair of the House Education Committee.

It is this idea of competition that appeals to lawmakers such as Michigan Republican Sen. Phil Pavlov.

“When you have a marketplace of education, that problem takes care of itself when you want to talk about quality,” Pavlov, the chair of Michigan’s Senate Education Committee, says.

Charter schools that rank best in student achievement will thrive, he adds, while the others have to improve or close.

Still, as enrollment has increased and reports of failing charter schools have surfaced, states have increasingly looked at how to improve oversight and accountability.

“We have had a very mixed picture in terms of charters, some very mediocre experiences and some good ones,” says Michigan Democratic Sen. Hoon-Yung Hopgood, minority vice chair of the Senate Education Committee.

“What we haven’t done is focus on the good schools — we need to find out why the best ones are succeeding.”

Ohio Republican Sen. Peggy Lehner compares the early years of charter schools in her state to the “wild, wild West.”
“Almost anyone could open a charter school with very little accountability,” says Lehner, chair of the Senate Education Committee.

But she believes her state is now on the right track, noting, for example, that the legislature has enacted “some of the toughest closure laws” in the country.

With states relying more and more on the charter-school model to drive education reform and improve student achievement, questions ranging from how to oversee and evaluate these schools to how they should be authorized and funded will remain priorities for policymakers.

This article explores how three of the leading charter-school states in the Midwest and nation — Indiana, Michigan and Ohio — are addressing some of these questions.

**In Indiana, more authorizers and larger role for state**

Two of the fundamental questions for all charter-school states are this: Who should have the authority to sponsor a school, and how many of these authorizers should there be?

A local school district is usually one such entity, but Todd Ziebarth of the National Alliance for Public Charter Schools notes that school boards are not always supportive of charter schools.

“[It is] important to ensure that charters have at least two paths for approval, the local school district plus another authorizer,” says Ziebarth, the alliance’s senior vice president for state advocacy and support.

Other authorizers may include universities, state education agencies, mayors or not-for-profit groups. Five states in the Midwest — Illinois, Indiana, Michigan, Minnesota and Ohio— provide a path for at least two different types of entities to authorize a charter school. (Wisconsin allows this only in Milwaukee.)

For several years, Indiana’s authorizers have included local school districts, state universities and the mayor of Indianapolis.

The state added two new entities under legislation passed in 2011 (HB 1002): private universities and The Indiana Charter School Board.

“The No. 1 reason to have multiple authorizers is that they each develop their own focus area and brand,” says Claire Fiddian-Green, executive director of the Indiana Charter School Board.

The more authorizers, she adds, the better chance of finding the right fit with a charter school operator or applicant.

The mission of Indiana’s new independent Charter School Board is to grow the state’s supply of high-performing public charter schools. (A Stanford University study of Indiana’s charter schools found that most were doing well, but that some of the newer schools were not performing up to standards.)

The board is a seven-member body, with appointments made by the governor, the state superintendent of education and the four legislative leaders. It will perform annual reviews and site visits of the schools it charters. Every five years, before renewal of the charter school, the board will employ a third-party evaluator to review the school’s operations.

Indiana’s addition of a statewide board as a charter school authorizer is part of a national trend, notes Greg Richmond, president of the National Association of Charter School Authorizers. Indiana and Illinois are among the 13 U.S. states that now have such independent charter school boards.

A second part of Indiana’s 2011 legislation, Rep. Behning says, was passed to improve oversight of Indiana’s existing charter schools.

“(Indiana) has both very high- and low-performing schools, which had not been scrutinized enough. ... The purpose of charter schools is to meet the needs of children, and they have to close if they don’t do that,” he adds.

Under the new law, the State Board of Education for the first time has the ability to oversee the authorizers themselves. For example, if a charter school has a “lowest-performance” designation for a certain number of years in a row, the State Board of Education can ask the charter authorizer to explain why it has not acted to revoke the charter.

If the state board is not satisfied with the response, it can take one of several actions: for example, shutting down the school, revoking its charter, or taking it away from the authorizer and putting it in the hands of the State Charter Board.

“The goal is to have rigor in authorizing charter schools,” Behning says.
Under a bill introduced this year (HB 1338), the state could take away the power to approve charters from authorizers whose schools are not performing well.

**Michigan: With enrollment already high, state removes charter-school cap**

Michigan has more students attending charter schools than any other state in the Midwest and the fifth-largest charter student population in the country (behind only California, Texas, Florida and Arizona).

It has more than 30 charter-school authorizers, many of which are universities, and that number has been growing by four to five per year.

As in Indiana, many of the questions raised about charter schools center on oversight and accountability.

According to Sen. Pavlov, accountability does indeed exist, as evidenced by the fact that charter authorizers in Michigan have closed down 61 schools, including 12 in 2012 alone.

“You don’t have traditional public schools shut down for poor performance in Michigan,” he notes. Pavlov was a strong supporter of 2011 legislation (SB 618) that lifted a cap on the number of university authorizers.

University authorizers have had oversight of some of Michigan’s best-performing charters, he says, yet they were statutorily limited on the number of schools they could charter. Prior to passage of the bill, the cap had been 150. It was raised to 300 last year, will increase to 500 by the end of 2014 and will then be completely abolished.

Policymakers in Michigan, meanwhile, are making data about charter schools more readily available. All charter school operators, including for-profit companies, must now divulge data about administrator and staff salaries, evaluation processes and other information.

Michigan also includes charter schools in its annual Top to Bottom School Ranking. Both charter and traditional public schools in the list’s bottom 5 percent get assigned to the state’s Educational Achievement Authority, a statewide school district that has the authority to bring in new staff and a new curriculum to a school building.

Sen. Hopgood says some charter schools in Michigan are doing good things, but he is skeptical about their overall impact on the state’s public education system.

“Theyir positive impacts on traditional public schools have been very, very limited,” he believes.

What they are doing to improve student performance, he says, often cannot be replicated by a traditional public school.

He gives the example of charters that offer small class sizes. Public schools don’t have the resources to reduce class sizes, and even charters, which can have foundation or other outside funding for several years, may not be able to maintain this structure over the long term. (A common criticism of charter schools, too, is that they not only take students away from traditional schools, but take state funding and resources as well.)

According to Ziebarth, charter schools on average get funding of 80 cents on the dollar compared to traditional public schools.

Pavlov says Michigan is one of the states with this type of funding difference.

“We don’t fund these high-performing charter schools at the same level as we do traditions,” he adds. “They don’t get capital funding and they don’t get the full per-pupil allotment.”

**Ohio: Lawmakers tighten laws governing charter schools**

At the start of this school year, Ohio was one of only four states in the country (Arizona, California and Florida are the others) that had more than 300 charter schools up and running.

“We have a very wide range of performance in charter schools,” Sen. Lehner says. “We have some absolutely outstanding charter schools in the state, and a whole host of them that are not doing very well.”

Early on in the development of charter schools in Ohio, Lehner explains, “almost anyone could open a charter school with very little accountability.”

According to Richmond, the result of this approach was a large number of charter school authorizers only overseeing a few schools and often not following model practices.
Joni Hoffman, director of the Office of Community Schools at the Ohio Department of Education, says the state has since adopted a number of reforms to improve the practices of charter school operators and their authorizers.

The department, for example, now has oversight responsibilities over the authorizers and will review all 69 of them before the end of the academic year.

Hoffman says that if a charter school has failing grades — a rating in the category of “academic emergency” in the state’s six-tier rating system — for two of the last three school years, it could be closed.

Since Ohio’s closure law first took effect in 2008-09, 20 charter schools have shut down, and two years ago, Ohio legislators passed a bill (HB 153) strengthening the law by decreasing the length of time it takes to close an underperforming charter school.

Also as part of HB 153, the legislature prohibited authorizers from sponsoring new schools if their existing schools were not performing well; the state Department of Education has thus far taken action on one authorizer under this law.

Prior to 2011, if an authorizer closed a school for poor performance, the number of schools it could manage was reduced by one. This created a disincentive to close schools, Hoffman says, and was eliminated under HB 153.

Another policy issue in Ohio has been a rise in the use of virtual charter schools, in which students complete coursework and classes online. There are now 25 “eSchools” in Ohio, with 7 percent of the state’s charter student population attending a virtual school.

More than seven years ago, the state instituted a moratorium on the opening of new virtual schools, but did not place a limit on the number of students who could enroll in them.

More recently, the state adopted new rules to better hold virtual schools accountable. Those rules are based on standards developed by the International Association for K-12 On-line Learning. The standards include guidelines for reviewing academic content, instructional design, student assessment, and the evaluation of and support for students and instructors.

With those standards in place, Ohio has lifted the moratorium on new virtual charter schools: Up to five can now be opened every year.

Some of Ohio’s other charter schools have very specific areas of specialization, with one of the most prominent being those that focus on dropout prevention and recovery.

Because they serve a student population more at risk of academic failure, these schools have been exempt from closure rules. But SB 316, passed in 2012, lifted this exemption.

The Ohio Department of Education is now working on a performance-measurement system for these dropout prevention and recovery schools — they will have their own report cards and will eventually be subject to closure criteria, based upon their performance.

Ohio Democratic Rep. Ronald Gerberry says there are good charter schools in the state, but that they are the exception and not the rule.

When charter schools were originally proposed in Ohio, he says, the state missed an opportunity to implement them as a pilot project — which would have allowed for a thorough review of whether they were actually working.

That thorough review did not happen, he says, and the result is that charter schools have become a permanent part of Ohio’s education landscape despite their lackluster performance.

Gerberry remains concerned that charter schools do not have to live by the same rules as traditional public schools, but he says some progress has been made. For example, he points to a requirement that fiscal officers in charter schools now meet the same licensing requirements as those serving in traditional public schools.

Another step, he says, would be to ensure that when a charter closes for poor academic performance, it is shut down for good — and doesn’t simply reopen with a change in a few board members and a new name and charter.

“We have seen this happen,” Gerberry says. “I saw this happen in my own hometown.”

Whether they are proponents or skeptics, lawmakers in Indiana, Michigan and Ohio appear to agree on at least one aspect of charter schools: They are here to stay, as are the decisions that legislatures will be asked to make about
oversight and accountability.