

# ALABAMA CHARTER SCHOOLS

## PRINCIPLES FOR ENSURING EQUITY AND ACCESS

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### INTRODUCTION

Charter schools have been a part of America’s public education landscape for decades, but have only existed in Alabama since 2015. The original concept of charter schools—allowing experienced teachers to experiment with creative teaching styles and instructional strategies in small settings<sup>1</sup>—has, for the most part, been left behind. Instead, the nation’s growing charter school sector often functions as a separate system competing with traditional public schools for funding and other resources. While charter school expansion began slowly in Alabama amid confusion and controversy, it is gaining momentum.

Recent surveys have shown that many people across the country do not know what a charter school is or how it operates.<sup>2</sup> To improve public understanding about Alabama’s charter schools, this policy brief focuses on

relevant Alabama laws and is not intended to be a comprehensive national review of charter school issues. It also includes recommendations to ensure that all Alabama charter schools meet standards for equity, access, and accountability, including that any charter school authorized to open in Alabama:

- is locally controlled and accountable to the community;
- is high-quality;
- is inclusive of all students;
- is a net benefit to the school district; and
- is transparent.

### WHAT IS A CHARTER SCHOOL?

A charter school is a privately managed public school that is tuition free and receives public funds. A charter school must enter into a contract with a “charter authorizer,” who oversees the charter school through enforcement of the contract terms, which include academic goals, accountability standards, fiscal requirements, and mission of the charter school.

Aside from being the legal sponsor of the charter school, however, the charter authorizer has little, if any, control over the school’s day-to-day operations. The charter school is independently operated and controlled by a board whose members are appointed by the entity that opened it. The charter school’s board is not accountable to the public or the local school board of the district where the school is located. As a result, charter schools are generally exempt from many state laws and regulations placed on traditional public schools (e.g., teacher certification requirements), but are still required to comply with most federal laws. Also, charter schools are free to implement their own disciplinary policies, which have led to students being pushed out by strict practices in charter schools across the country.<sup>3</sup>

**A CHARTER SCHOOL MUST ENTER INTO A CONTRACT WITH A “CHARTER AUTHORIZER”**

#### CONTRACT TERMS

- Academic goals
- Accountability standards
- Fiscal requirements
- Mission of the charter school

Charter schools receive state and local funding based on student enrollment. As funding follows students from traditional public schools to charter schools, districts are left with fewer funds to cover certain fixed costs for core services and overhead, such as building maintenance and staff salaries.<sup>4</sup> Despite being governed and operated independently of the local school district, charter schools still typ-

ically receive local tax revenue for the students they enroll. Charter schools may also receive federal funding for special education services and free/reduced meals, and other federal grants, as well as private donations.

## ALABAMA'S CHARTER SCHOOL LAW

### Types of charter schools

The Alabama School Choice and Student Opportunity Act, which allowed public charter schools to operate in Alabama for the first time, was sponsored by state Sen. Del Marsh and signed into law in March 2015 by Gov. Robert Bentley.<sup>5</sup>

The law allows two types of charter schools to operate in the state: “start-up” and “conversion” charter schools. A start-up is a newly formed charter school,<sup>6</sup> and a conversion is an existing public school that transitions into a charter school.<sup>7</sup>

Both types of charter schools must meet certain requirements. They may utilize a particular theme or

concept—science, engineering, or the arts, for example—but they may not put barriers to admission in place, such as standards related to the school’s theme or concept.<sup>8</sup> Also, charter schools must be governed by an independent board; have autonomy over finance, curriculum, and personnel; admit students on the basis of parental choice; admit students by random selection if student applications exceed capacity; and operate in pursuit of defined objectives (e.g. college or career readiness).<sup>9</sup>

### Charter school application process

Any nonprofit—i.e., a group that has 501(c)(3) tax status or that has applied for 501(c)(3) status—may apply to open a charter school.<sup>10</sup> The applicant may then contract with an education service provider (ESP), which may be a for-profit entity, that implements the chosen curricular program.<sup>11</sup> The applicant may not be a private school.<sup>12</sup>

A charter school application must contain specific information according to the guidelines provided in the charter school law.<sup>13</sup> These “essential elements of the proposed school plan” include evidence of com-

munity support, a description of the academic program, staff recruitment plans, a plan for identifying and serving students with disabilities, and a facilities plan.<sup>14</sup> If the charter school chooses to use an ESP for delivering its curriculum, the application must detail evidence of the ESP’s success educating similar student populations, a history of academic achievement and education management, and components of its contract with the charter school.<sup>15</sup>

### Charter school authorization process

Only a local school board or the Alabama Public Charter School Commission may authorize a charter school.<sup>16</sup> The commission is an independent state body, consisting of 11 appointed members, and its mission “is to authorize high quality public charter schools.”<sup>17</sup> Ten members are appointed to two-year terms, and one member from the local school district where a charter is being considered is appointed to a rotating position. Each member is required to demonstrate an understanding of and commitment to charter schools.

Charter authorization can occur in different ways, depending on the type of charter school and whether

the local school board has applied to the Alabama State Department of Education (ALSDE) as a charter authorizer and been approved to do so (a process called “registering”). Charter authorizer applications include such information as the school board’s strategic vision for charter schools, its commitment to national charter school authorizing standards, and its performance framework for charter schools.<sup>18</sup>

When reviewing a charter school application, the authorizer (a school board or the commission) must follow certain steps, including<sup>19</sup> evaluating the written application, conducting an in-person interview, holding a public forum for local residents to provide

input, basing decisions only on demonstrated competence and documented evidence, and maintaining transparency.<sup>20</sup> If the authorizer is the commission, it must also receive “significant and objective” evidence that the local community wants the charter school before its approval—a standard which is vaguely defined.<sup>21</sup> Within 30 days of taking action to approve or deny a charter application, the authorizer reports its decision to ALSDE.<sup>22</sup>

If a local school board has registered as a charter authorizer, the school board will make the initial

### **After a charter school is approved**

Once a charter school has been approved, the authorizer and the charter’s governing board have 60 days to enter into a contract.<sup>23</sup> The contract must include the academic and operational performance expectations and measures as well as each party’s rights and duties.<sup>24</sup> The initial term of the charter is granted for five years (the first day of the contract is the school’s first day of operation).<sup>25</sup>

The authorizer is then responsible for monitoring the performance and legal compliance of the charter

decision on all charter school applications. If the local school board denies an initial application, applicants may appeal that decision to the commission. Local school board decisions to approve a charter school, however, cannot be appealed by the public. If the local school board has not registered as a charter authorizer, applicants for start-up charter schools can go directly to the commission. Conversion charter schools, however, can only be approved by the local school board, not the commission.

school.<sup>26</sup> It is also responsible for determining whether the charter’s contract warrants renewal, non-renewal or revocation.<sup>27</sup> Within 60 days after the end of each school fiscal year, the authorizer must submit to the ALSDE a publicly accessible report that summarizes its progress toward its vision for chartering and the performance of the charters it oversees.<sup>28</sup>

## RECOMMENDATIONS

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Ensuring that charter schools in Alabama meet standards of equity, access, and accountability requires both improving the state law that allows for charter schools in the state, as well as improving the implementation and oversight of that law. This policy brief focuses on the former, offering recommendations to make Alabama’s underlying charter school law more effective.

### **REQUIRE LOCAL CONTROL OF CHARTER SCHOOLS**

Charter schools should be authorized by local school boards with elected members accountable to the students, parents, and communities they serve—not appointed state officials.

To achieve such goals, Alabama should amend its charter law to require local school boards to authorize any charter schools operating in their district. In reviewing charter school proposals, the local school board authorizers should be required to hold at least one public hearing to solicit community input. Currently, this public hearing only takes place if a local school board’s decision is appealed. If charter schools can be authorized by a state commission, their funding should be limited to state tax dollars.

In Alabama, it is required that at least 20 percent of a charter school’s governing board include parents of students who attend or have attended the public charter school for at least one academic year, or parents who intend to have their students attend the public charter school. This is an important step in local accountability of charter schools, but this representation should be increased. What’s more, other governing board members should be representative of the community and required to reside within the local school district.

### **ENSURE CHARTER SCHOOLS ARE A NET BENEFIT**

Charter schools should provide a net benefit to local school districts to justify their use of tax dollars. They should not compete for resources with the local school districts, but should encourage the sharing of best practices between the charter school and the local school district. Alabama should additionally require that local school districts and charter schools within those districts have a plan for collaboration.

Alabama should require local school board authorizers to consider the fiscal impact on the district before approving a charter school. Local school board authorizers should also consider whether a proposed charter school will expand—rather than duplicate or supplant—opportunities for the district’s students. Detailed criteria should be developed and enforced to ensure that only needed charter schools are authorized. Further, charter schools should be prohibited by law from being run by for-profit companies.

### **PROMOTE HIGH-QUALITY CHARTER SCHOOLS**

Charter schools must be high-quality and should only be authorized when they demonstrate a commitment to using evidence-based practices, legitimately innovative instructional strategies, and ensuring positive student outcomes.<sup>29</sup> Charter schools should be required to employ certified teachers and personnel or publicly acknowledge when they are not employing certified educators as otherwise mandated by state law for traditional public schools.

Alabama’s charter school law requires ALSDE to monitor the authorizer school boards—a provision lacking in many other state codes—and allows the department to revoke charter authorizing status in certain instances. ALSDE may review an authorizer’s performance if certain circumstances occur, including a series of well-founded complaints or persistently unsatisfactory performance of the portfolio of schools it approves.

The law, however, should require regular review of all authorizers. ALSDE’s oversight of the charter school commission should be strengthened and clarified to prevent approval of undeserving applicants. The law should also require that authorizers review charter school agreements, including leasing agreements or contracts with education management organizations. The law should provide standards for evaluating these agreements. It should also provide for a meaningful grievance procedure for the public to report and challenge issues with charter schools and, potentially, the charter approval process. What’s more, the law should require training of the governing boards of charter schools, including financial management training.

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## **ENSURE INCLUSIVITY WITHIN CHARTER SCHOOLS**

While charter schools across the country are public schools held to federal and state nondiscrimination requirements, research has shown that barriers may exist for the selection and attrition of students to charter schools.

Alabama law specifically prohibits public charter schools from discriminating “against any person on the basis of race, creed, color, sex, disability, or national origin or any other category that would be unlawful if done by a non-charter public school.” Alabama’s law requires that charter school proposals include the school’s plan for identifying and successfully serving students with disabilities, students who are English language learners and students who are academically behind.

The state law also requires a description of co-curricular or extracurricular programs and how they will be funded and delivered, which helps ensure that students and their families will not carry these costs. Finally, it requires that the school detail its student discipline policies, including for special education students.

However, Alabama law should require that local school board authorizers maintain consistent oversight to ensure that no policies or practices exclude or push out certain students. It should require annual review of disaggregated data on student discipline, attrition and academic outcomes. Additionally, it should require that proposals to local school board authorizers include all application and admissions requirements. Alabama should also set specific requirements for charter school discipline policies to safeguard against discriminatory practices. And, students and their families must also be able to review the school’s policies before enrolling.

Charter schools that consistently lack diversity and do not represent their communities—in terms of race, national origin, sex, English learner status, and disability status—must trigger a review. Discrimination is not innovative, and all interested students must be given equal access to a high-quality charter school.

## **ENCOURAGE A TRANSPARENT APPLICATION AND APPROVAL PROCESS**

Charter schools should have a transparent application and approval process.<sup>30</sup> Alabama law does not require online posting of all charter school applications and agreements. Information about the application and approval process should be available to the public, allowing them to review performance data, make informed decisions, offer feedback, and hold charter school operators and other officials accountable for how they spend tax dollars. Such benefits should be enough to encourage such a requirement by state law. Measurable standards should be established to ensure the existence of legitimate and substantial community support for the charter school to be authorized.

Charter school governing board member affiliations should also be published. Governing board members should be required to identify and report any potential conflicts of interest—including with potential management companies or other vendors. Any contracts between the school and education management organizations—or for other management—should be required by law to be posted online in a timely manner.

It is worth noting that the state subjects charter school governing boards to the Alabama Open Meetings Act and public records laws. Charter school governing board meetings, however, shouldn’t simply be open to the public but accessible to the public. Such meetings should be publicized in advance and held in locations and at times where families can easily participate. The state should also require meeting agendas and minutes to be posted on the charter school’s website. What’s more, Alabama Public Charter School Commission meetings must be truly accessible and open to the public.

## ENDNOTES

1 Available at [https://www.washingtonpost.com/opinions/charter-schools-are-leading-to-an-unhealthy-divide-in-american-education/2018/06/22/73430df8-7016-11e8-afd5-778aca903bbe\\_story.html?utm\\_term=.b67ae2f975e6](https://www.washingtonpost.com/opinions/charter-schools-are-leading-to-an-unhealthy-divide-in-american-education/2018/06/22/73430df8-7016-11e8-afd5-778aca903bbe_story.html?utm_term=.b67ae2f975e6) (last visited July 15, 2019).

2 Available at [http://blogs.edweek.org/edweek/charterschoice/2014/08/many\\_americans\\_dont\\_understand\\_charter\\_schools\\_but\\_favor\\_them\\_anyway.html](http://blogs.edweek.org/edweek/charterschoice/2014/08/many_americans_dont_understand_charter_schools_but_favor_them_anyway.html) (last visited July 15, 2019); see also <https://www.npr.org/sections/ed/2017/03/01/511446388/just-what-is-a-charter-school-anyway> (last visited July 15, 2019).

3 Available at [https://nepc.colorado.edu/sites/default/files/reviews/TTR%20Torres-Golann%20No%20Excuses\\_1.pdf](https://nepc.colorado.edu/sites/default/files/reviews/TTR%20Torres-Golann%20No%20Excuses_1.pdf) (last visited Mar. 5, 2019). “No excuses” discipline policies, which use harsh discipline measures to enforce order, can promote high rates exclusionary discipline. Id.

4 Available at [http://www.inthepublicinterest.org/wp-content/uploads/ITPL-Breaking\\_Point\\_May2018FINAL.pdf](http://www.inthepublicinterest.org/wp-content/uploads/ITPL-Breaking_Point_May2018FINAL.pdf) (last visited Mar. 5, 2019).

5 See 2015-3, Leg. Reg. Sess. (Ala. 2015) available at <https://www.alsde.edu/ofc/cs/Laws/Act%202015-3.pdf>.

6 Ala. Code § 16-6F-4(17); Ala. Code § 16-6F-9(a). A reference to an LEA is a reference to a local school district.

7 Ala. Code § 16-6F-4(7).

8 Ala. Code § 16-6F-5(a).

9 Ala. Code § 16-6F-4(16).

10 Ala. Code § 16-6F-4(9).

11 Id.

12 Ala. Code § 16-6F-2(c).

13 Ala. Code § 16-6F-7.

14 Ala. Code § 16-6F-7(a)(8). The importance of a plan to identify and serve students with disabilities cannot be understated, as charter schools in other states have been found to select students perceived as easier to educate and are less likely

to serve students with disabilities or behavioral issues. See [http://www.columbia.edu/~psb2101/BergmanMcFarlin\\_school\\_choice.pdf](http://www.columbia.edu/~psb2101/BergmanMcFarlin_school_choice.pdf); see also <https://www.crpe.org/sites/default/files/crpe-special-education-in-charter-schools-what-learned-what-we-still-need-to-know.pdf>.

15 Ala. Code § 16-6F-7(a)(10).

16 Ala. Code § 16-6F-6(a)(1). “No governmental entity or other entity, other than an entity expressly granted chartering authority as set forth in this section, may assume any authorizing function or duty in any form.” Id.

17 Ala. Code § 16-6F-6(c).

18 Ala. Code § 16-6F-6(d)(1)-(7).

19 Ala. Code § 16-6F-7(b)(1)-(2). In following these steps, an authorizer must “employ procedures, practices, and criteria consistent with nationally recognized principles and standards for quality charter authorizing.” Id.

20 Id.

21 Id.

22 Ala. Code § 16-6F-7(b)(7).

23 Ala. Code § 16-6F-7(e).

24 Id.

25 Ala. Code § 16-6F-7(d).

26 Ala. Code § 16-6F-6(p).

27 Id.

28 Ala. Code § 16-6F-6(g).

29 Ala. Code § 16-6F-6(c)(2). “The mission of the commission is to authorize high quality public charter schools.”

Id.

30 Ala. Code § 16-6F-7(b)(2)(c). The commission as a charter authorizer must “[f]ollow charter-granting policies and practices that are transparent.” Id.

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