



Maryland Charter School Task Force

Fall 2012

Convened by the Baltimore Community Foundation
In partnership with MarylandCAN

Senator Joan Carter Conway, Chairwoman

Facilitation and report provided by UPD Consulting





Table of Contents

1	Foreword	3
2	Executive Summary	5
3	Methodology	7
4	Maryland Charter School Law: Ten Years	9
5	Current Challenges	11
6	Policy Options from Other State Charter Laws	15
7	Recommendations	19
	Appendix A: Task Force Participants	23
	Appendix B: Interviews	25
	Appendix C: Additional and Dissenting Views	26





Foreword

As chair of the Maryland Charter School Task Force, it is my pleasure to present you with the enclosed report, which outlines ways that Maryland’s charter schools might be made more effective and accountable to the communities they serve.

While we celebrate Maryland’s distinction as the “#1 School System in America” for four years in a row, we also acknowledge that we have a long way to go toward ensuring that all Marylanders have access to a quality education. Maryland’s growing achievement gap between black and white students in my home district of Baltimore remains of great concern for me and my colleagues in the General Assembly.

As we explore ways to give every child a chance of success, we must study all of our public education options, including charter schools. In Baltimore, we are seeing progress among both charter schools and traditional schools.

However, Maryland’s 2003 charter school law, which was ranked near the bottom of states in a recent national survey, is in need of reform. This past summer, a diverse group of charter school operators, school system representatives, public officials, and others formed a task force to compile information, study best practices, and develop recommendations to the legislative and executive branches.

This report is the result of spirited conversations among dedicated professionals comprising a range of opinions about charter schools. While they may not have reached consensus on every point, their thoughtful participation in the Charter School Task Force represents a step forward in ensuring that all parents have the option to send their children to high-quality schools, whether traditional or charter.

I welcome your feedback to the enclosed findings and recommendations. I look forward to working with you to strengthen the state’s charter school law and improving public education options for all Maryland families.

—Senator Joan Carter Conway
Chair, Maryland Charter School Task Force





Executive Summary

In 2003, Maryland law created the state’s charter school program to provide innovative learning opportunities and creative educational approaches within the traditional public school system. Today—approximately 10 years after the law’s passage—Maryland hosts 52 charter schools in seven counties.

The Maryland Charter School Task Force convened in fall 2012 to bring stakeholders together to discuss the current charter school legislation and identify potential areas for improvement to enhance the quality of the state’s charter schools. Task Force members met as a group three times and several members participated in one-on-one interviews with the Task Force facilitators.

The Task Force discussions focused on two grouped policy areas: authorization and accountability, and funding and facilities. In addition, concerns about leadership and staffing were discussed during interviews but were not addressed during the facilitated group discussions. The Task Force identified several shared concerns:

- › **Inconsistent interpretation and implementation of law between and within districts;**
- › **Lack of an authorizer accountability system;**
- › **Ambiguity around charter autonomy, including lack of fidelity to granted waivers;**
- › **Inconsistent interpretation of per pupil allocation;**
- › **Unclear information on district-provided services;**
- › **Local requirement to purchase district services;**
- › **Lack of access to facilities resulting in diversion of per-pupil funds and, in some cases, applications rejected if a charter facility is not finalized at the time of application.**

This paper proposes four policy recommendations as potential solutions to these problems. The recommendations, which focus on increasing transparency regarding the relationship between Maryland’s charter school authorizers and operators, warrant further study and consideration by the Maryland General Assembly.

- › **Recommendation #1: Strengthen role of Maryland State Department of Education (MSDE) as the authorizer oversight entity by 1) requiring annual reports from the local authorizers; 2) requiring public quality control reports from MSDE on charter schools that include input from charter school boards, leadership, and teachers; and 3) strengthening MSDE’s role in appeals and dispute mediation.**



- > **Recommendation #2:** Require districts to report and publish—to MSDE and charter schools—the per-pupil allocation and fee-for-service amounts by a certain date but in advance of when charter schools have to finalize their annual budgets. If actual costs change during the year, districts will absorb the cost in the short term and make adjustments in the next year to recoup the amount; and if the actual costs are lower, the district will absorb that windfall and reduce the fees for those services in the next term.
- > **Recommendation #3:** Require charters to apply for waivers during charter application and renewal, and require that authorizers publish approved waivers in an annual report to MSDE. MSDE's authorizer oversight role will include settling disputes over waivers based on the official record of waivers as stated in the charter.
- > **Recommendation #4:** Require authorizers to include in their annual reports to MSDE and charter schools the amount and percentage of the total capital funding in their respective jurisdiction allocated to each school each year.

The purpose of this white paper is to illuminate key concerns and potential solutions that warrant further deliberation. The Task Force and this white paper should be considered a starting point for further discussion by the Maryland General Assembly.

2

Methodology

The Maryland Charter School Task Force was convened by the Baltimore Community Foundation in partnership with MarylandCAN, and chaired by Senator Joan Carter Conway. Recognizing a need for outside, third-party facilitation, the Task Force sponsors commissioned UPD Consulting¹ to plan and lead Task Force meetings, conduct interviews with stakeholders, and draft this report.

This Task Force does not seek to take the place of a legislative task force, but rather offers a starting point for continued conversation. The stated goals of the Task Force are:

- › **To determine the positive and negative impacts of the current charter school legislation on both public charter schools and traditional public schools.**
- › **To determine the statewide needs of Maryland’s charter schools and how to effectively implement change.**
- › **To improve the current charter school legislation in ways that increase the likelihood that charter schools can better support the state’s long-term education needs.**

UPD Consulting conducted research of charter school law and practices within the state of Maryland and across the country by consulting the following sources:

- › **Coalition of Baltimore Public Charter Schools**
- › **Maryland Charter School Network**
- › **Maryland State Department of Education**
- › **MarylandCAN**
- › **National Alliance for Public Charter Schools**
- › **National Association of Charter School Authorizers**
- › **National Charter School Resource Center**
- › **National Conference of State Legislatures**
- › **National Resource Center on Charter School Finance & Governance**
- › **Public Impact**

The Task Force sponsors and facilitators identified three primary issues for discussion: authorization and accountability; funding and facilities; and leadership and staffing.

¹ UPD Consulting is a Baltimore-based national public sector management consulting company specializing in K-12 education reform implementation.

During three Task Force meetings, discussion centered on Maryland’s current context as well as policy options from other states. In order to uncover deeper insights and interests, the facilitators also conducted 45- to 60-minute interviews with Task Force members and several other identified stakeholders.

Given the complexity of the issues around authorization/accountability and funding and facilities, and the time needed to discuss the specific options proposed, the Task Force sacrificed its discussion of leadership and staffing. This was not a reflection of the perceived importance of that issue relative to the others. Rather, the Task Force decided that it made more sense to spend the time originally allocated to the third discussion on the first two focus areas in order to develop more meaningful recommendations.

Readers of this white paper should not interpret the proposed recommendations to be the final nor the only set of potential recommendations for Maryland. Rather, this paper illuminates key concerns and potential solutions that warrant further study and consideration by the General Assembly. The Task Force and this paper should be considered a starting point for further conversation and deliberation.





in the charter schools are eligible for those services), required that districts deduct two percent of per-pupil allocation for central administration expenses, and allowed the charter schools to negotiate for the provision of services (although services cannot be forced upon the charter schools).⁵

Task Force members recognize several strengths of the current law. The law provides wide flexibility of programming options and curriculum delivery. Locating charter schools within districts can boost charter school capacity during their early years. Some attribute the fact that Maryland's charter schools have largely avoided major problems with special education to district authorization and support. Task Force members expressed no interest in removing the requirement for teacher certification or upending collective bargaining. One Task Force member noted that there have been no funding "scandals" among charter operators that many other states have experienced. However, the National Alliance for Public Charter Schools ranks Maryland's charter law 41st out of 42 states with a charter law, and Task Force members identified several areas for improvement which are outlined in the following section. And several members expressed concern that weaknesses in Maryland's law—real or perceived—may be limiting the State's access to federal and private foundation funds provided for charter support.

Task Force members emphasized a need for clarity and transparency in the law, whether or not the law changes. One member cautioned, "Whatever changes are made, it is very appropriate to do as much as possible to make the changes very clearly understood at the front end and not run into the situation where there's too much ambiguity so that people reach different conclusions about what was intended, and we lose time and opportunity."

⁵ In the Court of Appeals of Maryland, September Term (2006). *Baltimore City Board of School Commissioners v. City Neighbors Charter School, et.al. and Board of Education of Prince George's County v. Lincoln Public Charter School, Inc.* <<http://mdcharternetwork.org/documents/PPPCsvCitySchoolBoard-CoA7-2007.pdf>>.

4

Current Challenges

The Task Force initially chose to focus on three topics of primary concern to charter school operators and advocates: authorization and accountability; funding and finances; and leadership and staffing. The Task Force determined that the challenges around authorization and accountability and funding and finances were substantial enough for such a short task force duration, so the leadership and staffing area was not discussed in depth during meetings, although it was discussed during individual interviews.

Authorization and Accountability

The first problem identified was the inconsistent interpretation and implementation of law between and within districts. Because state law delegates charter school policy making to the district level, charter school policy can deviate substantially between districts. Charter school policy can also vary depending on district leadership. For example, one charter school operator reported that the interpretation of transportation funding changed when a new chief financial officer came to the district.

While virtually all Task Force members agree that there are substantial differences in how districts interpret and implement charter policy, some members noted that the law's vagueness can be beneficial. One authorizer commented that "the vagueness can be to our advantage because we can implement the law within the strategic plan of our local school district. It allows us room for interpretation and growth ... and to implement it within [our] own context." These individuals expressed concern that if the law were more prescriptive, authorizers would lose flexibility to appropriately manage their portfolio of schools.

A second problem identified is the lack of an authorizer accountability system. Current state law does not fully define a system for authorizer accountability. While authorizers must submit charter policy to the MSDE, the law does not require MSDE or any other entity to hold authorizers accountable for the performance of their charter portfolios, their financial practices, or fairness in the application, renewal, and revocation processes. The lack of authorizer accountability system is also seen as a cause of inconsistent policy interpretation and implementation.

As a result, charter operators note that several processes are unclear. The renewal processes are particularly worrisome for charter school operators and advocates. The application and renewal processes are not necessarily linked, meaning that operators sign a contract with no sense of the evaluation process or rubric. Advocates expressed concern that some districts do not have the will or capacity to prioritize charter oversight, especially those with only a

few charter schools. Authorizers acknowledge that having different processes is problematic, and over the past year MSDE has convened authorizers and launched a model process. However not all districts have adopted the recommended processes.

Not all members agreed that MSDE should play a stronger role in oversight. Charter school operators expressed concern that MSDE would add another layer of bureaucracy. Charter school authorizers expressed that MSDE had been a supportive, neutral convener in pulling authorizers together and creating a space to promote best practices, and that it was better for them to stay in this role rather than serve in a greater oversight capacity. And both charter school operators and local district officials expressed concerns about MSDE's capacity to serve in the oversight role without additional resources and an expressed commitment from the agency's leadership to serve that function.

A third problem identified is the lack of charter autonomy. State law does not automatically exempt charters from state or local policies. While most authorizers require that charters submit waivers during the time of application, charter operators report that many waivers are not honored in practice and that they are required to follow additional regulations as they are added by districts, sometimes even in the middle of a program year.

Charter school operators report that there are several negative implications of the current waiver policies. These concerns are reflected in the quotes that follow:

- **"We have a waiver that says we can hire our own people and that we won't be forced to take anyone, but it's not honored. Even with a waiver I still don't have that right."**
- **"I would like to get out of the National School Lunch program. We are focused on health and environment and we want to be our own food services authorizer. We don't want to bring in a vendor with high-calorie, high-fat foods. But getting out of that is a nightmare."**
- **"We would like a waiver from procurement policies. We rent this building and pay for everything. The school system has nothing to do with this building, and yet we still need to use their business services ordering system and providers. It makes no sense."**

However because charter schools are under the purview of districts, authorizers are understandably hesitant to grant flexibility to operators as they feel they will be accountable for their failure. One Task Force member (not an operator or authorizer) suggested that "some of the autonomy issues may be driven by authorizers or systems feeling like they have been stuck with responsibility and are hesitant about giving anyone else authority. They [authorizers] feel that they will be on the hook if something goes wrong—if something

[bad] happens—which is perfectly rational. That is solved if we align funding and authority so they feel like they are not held accountable for things they are not expected to control.”

Funding and Facilities

All parties acknowledge that both traditional district and charter schools share the problem of access to adequate funding and facilities. Authorizers, traditional school operators, charter advocates, and charter operators all acknowledge that there is a lack of clear information about district finances, and that getting a clear picture of administrative costs—as Baltimore City is currently attempting—requires a significant amount of time, effort and financial resources.

However, charter operators and advocates identify several issues that are unique to charters. One problem identified is inconsistent interpretation of per-pupil allocation, which many members believe is caused by different interpretations of the funding formula across districts. Charter schools can experience year-to-year funding fluctuations which makes it difficult to budget appropriately and to secure favorable financing for facilities.

Charter schools also report receiving unclear information regarding which district-provided services are included in the two percent charter administration fee, versus which services charters must purchase from the district. Additionally, costs for services may change mid-year which adversely impacts charter school budgets. One charter operator noted that,

- › **“We do not have visibility into what our two percent is paying for, and it changes so we cannot plan. Our authorizer does not have a list of services that we can purchase little things (like paper) and [big things like] transportation. For transportation, we were charged 100 percent when the system began. We found out later that they [the district] were only paying 60 percent for these services. The Coalition [of charter schools] fought to find out and we were refunded money. That was just one we found out about. Consistently we have issues with transparency.”**

Charter school authorizers and advocates also report that some schools are required by the districts to purchase certain services, which runs contrary to state charter policy.

Transparency emerged as a greater concern than equity. Most charter operators and advocates expressed that per-pupil allocation has improved over the years. Other Task Force members expressed continued disappointment with the 2006 State Board decision that provided charters with 98 percent of per-pupil funding. These members believe that students in traditional district schools are being underfunded at the cost of charter schools.

The second problem identified is facilities—again, a problem shared by both charter schools and traditional schools. While most schools are in need of significant capital investments, charter schools do not receive any capital funds above and beyond their per-pupil allocation. If a charter school locates in a non-district facility, it must use a portion of its per-pupil allocation for capital investments. Additionally, the short duration of charter contracts—often four or five years—makes financing facility costs more expensive. With many commercial facility financing methods, lease and loan terms are often stretched between 20 and 30 years. But with charters, which only have a four- or five-year contract, it is virtually impossible for them to arrange such terms.

While some charter schools are located in public buildings, particularly in Baltimore City, the arrangements are often inconsistent. One authorizer noted that there was often a “squeaky wheel” policy for who would get access to district buildings. Furthermore, many suburban and rural districts often lack available space, and even in urban areas available buildings often require prohibitively expensive rehabilitation costs.

Lack of facilities funding has severe implications for charter schools. Charter schools must divert money to capital funds and consequently have fewer dollars to spend on instructional costs. New charter schools have difficulty starting up for lack of space, and established charter schools have difficulty expanding as enrollment grows. In some counties, Task Force members report that applicants are sometimes rejected if schools do not have a facility at the time of application, which creates a sort of a “Catch-22:” it’s exceedingly more difficult to obtain a facility without an approved charter. One Task Force member noted that “charter schools and financial institutions [lenders] find themselves in the position of taking a political or financial risk when they should be taking a performance risk.”

Other Task Force members noted that the law does not require capital investments in charter schools because districts are put in a difficult position if a charter school were to close. Districts do not want to be required to invest capital where they could not ultimately control performance.

Task Force members were at a loss to find a good solution because state and local facilities funding is tight generally. Some members expressed concern that charter schools should not receive over and above what traditional schools receive. Others opposed the idea that districts should be “on the hook” for charter school loans if they close or default on a loan.

5

Policy Options from Other State Charter Laws

The Task Force reviewed charter laws from other states considered leaders in charter policy. The following policy options were considered and discussed as potential options for Maryland.

Authorization and Accountability

Policy Option #1: Allow non-LEA entities to apply to become an authorizing body. Several states allow multiple entities to serve as authorizers:

- › Seven states and Washington, DC, have a special-purpose state chartering board;
- › Two states allow mayors or the city council to authorize charters;
- › 11 states provide for public postsecondary institutions to serve as authorizers;
- › Two states allow private postsecondary institutions as authorizers; and
- › Two states allow non-profit organizations⁶ to authorize charters.

Research by the National Alliance for Public Charter Schools indicates that all types of authorizers can be successful in authorizing and overseeing quality charter schools if they have the clear desire to become an authorizer; sufficient political insulation to make data-driven decisions around authorization and renewal; and the ability to create adequate infrastructure.⁷

There are several potential advantages to allowing multiple authorizers. Multiple authorizers provide more options for applicants seeking to open a public charter school. Multiple authorizers can also raise the bar for charter schools by promoting professional practices and collaboration across the state. For local districts that may not have adequate staffing and relevant expertise to devote to quality authorizing, multiple authorizers can relieve them of the pressure to manage a portfolio of schools.⁸

However, multiple authorizers may require additional state-level oversight, regulation and guidance. And most non-district authorizers have not in the past been accountable for school performance. Non-LEA authorizers may not be able to provide the support that new charter schools currently receive around special education, transportation, and other services.

⁶ National Alliance for Public Charter Schools. "A New Model Law For Supporting The Growth Of High-Quality Public Charter Schools." 2009.

⁷ Ibid.

⁸ Ibid.

Policy Option #2: Designate authorizer oversight body and require submission of annual reports and give oversight body the authority to sanction authorizers, including removal of authorizer right to approve schools. Authorizer oversight bodies in other states include the state board of education, the state department of education, a special legislative body, the governor's office, or a university. Reports required summarize the agency's authorizing activities as well as the performance of its portfolio of schools.

States have implemented authorizer accountability systems in a variety of ways. Minnesota law designates the state commissioner as the oversight authority and requires each authorizer to submit information for each school they seek to charter, including details on operations, student performance expectations, and the process for providing oversight and making decisions on renewal or revocation of the school's charter. Minnesota also requires the state commissioner to review each authorizer's performance at least every five years and allows the state commissioner to apply corrective actions as needed. As part of that review, the law requires the state department of education to comment on each authorizer's evaluation process for providing formal written evaluation of their schools' performance before renewal of a charter contract. Minnesota does not require a periodic formal evaluation of the overall state program, but the state legislature can commission such a report as needed.⁹

Illinois law takes a different approach. Illinois law designates the state board of education as the oversight authority. Every odd-numbered year, all authorizers submit a report to the state board that includes the authorizer's strategic vision for chartering; the academic and financial performance of all operating charter schools; the status of the authorizer's charter school portfolio; and the authorizing functions provided to the charter schools including annual audited financial statements. Every even-numbered year, the state board of education issues a report to the General Assembly and the Governor summarizing the authorizer reports and information that compares charter school performance with traditional schools and reviews the regulations and policies from which charter schools are exempted. Based on this information, the state board of education has the power to remove the power to authorize from any authorizer in the state, and to revoke the charters of chronically low-performing charter schools approved by that authorizer.¹⁰

⁹ The National Alliance for Public Charter Schools. "Measuring Up to the Model: A Tool for Comparing State Charter School Laws." < <http://www.publiccharters.org/law/ViewState.aspx?state=MN>>.

¹⁰ The National Alliance for Public Charter Schools. "Measuring Up to the Model: A Tool for Comparing State Charter School Laws." < <http://www.publiccharters.org/law/ViewState.aspx?state=IL>>.

Policy Option #3: Automatic Exemption from state and/or district policies and regulations.

Currently 24 states grant automatic waivers from many state laws and sixteen (16) states require that charter schools apply to their local school boards or state boards of education for waivers of state and local laws, rules, and regulations. Many states offer automatic exemption except for teacher certification and licensure.

Funding and Facilities

Policy Option #1: Increased access to existing space. Some states provide increased access to existing state facilities programs and the right of first refusal for district facilities and land.

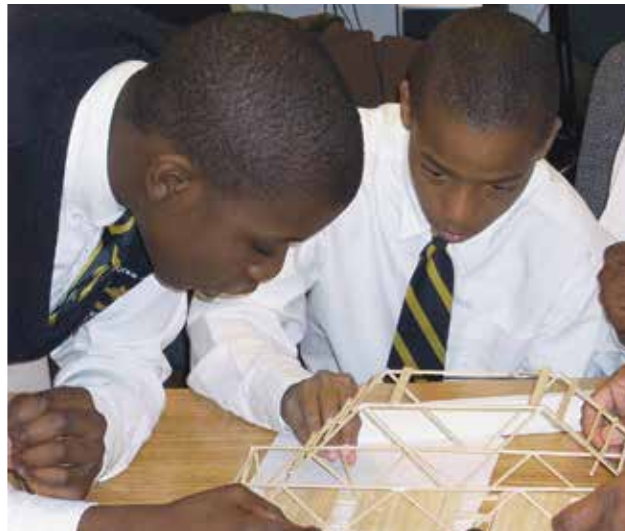
Indiana law outlines a detailed process for granting charters access to existing space. Each local school board must inform the state department of education whenever a school building that was previously used for classroom instruction is closed, unused, or unoccupied. The school district that owns the school building must lease the school building to the charter school for \$1 per year for as long as the charter school uses the school building for classroom instruction.¹¹

Maryland passed a bill in 2011 that requires the counties to offer charter schools the right of first refusal to public buildings; however, anecdotes from charter advocates indicate that school boards may not adhere to this policy which may indicate a need for either further education or oversight.

Policy Option #2: Increased access to state revenue streams. Some states allow for a per-pupil facilities allowance, increased access to tax-exempt bonding authority, or provide access to a credit enhancement fund.

Colorado law provides for these mechanisms. Colorado provides limited credit enhancement for eligible, highly rated bond transactions for charter schools by using the state's moral obligation to back up to \$400 million in debt. Colorado law also provides that the Educational and Cultural Facility Authority (ECFA) may issue bonds on behalf of charter schools, and provides a per-pupil charter facilities funding program, although the amount is not based on average district per-pupil capital costs.

¹¹ The National Alliance for Public Charter Schools. "Measuring Up to the Model: A Tool for Comparing State Charter School Laws." < <http://www.publiccharters.org/law/ViewState.aspx?state=IN>>.



Some aspects of this option are recognized as difficult to orchestrate in Maryland. For example, facilities funding is not currently allocated on a per-pupil basis, so it would be difficult to have a separate policy for charter school students.

Policy Option #3: Additional revenue streams. Some states set aside funding specifically for charter facilities via a grant program or a loan program backed by the full faith and credit of the state.

Washington, DC, is considered a leader in providing additional state revenue for charter facilities. Through the City Build Charter School Initiative, many grants have been allocated for facilities and expansion projects. The Direct Loan Fund for Charter School Improvement provides flexible loan capital (capped at \$2 million per school) for the construction, purchase, renovation and maintenance of charter school facilities.

This option is generally recognized as the most difficult for Maryland because it requires additional state funding which is likely a nonstarter in the current economic climate.

Policy Option #4: Require districts to consider charter school facilities needs when requesting state funding.

Colorado law provides for this option. Colorado requires school districts to invite charter schools to discuss their capital construction needs before the district submits a bond request or floats a bond for facilities funding. Districts are not required, however, to include charter schools as part of their requests or bonds.¹²

This option is generally considered plausible for Maryland. Many charter operators express concern that districts do not take charter school needs into account when they request major facilities improvements from the state. Authorizers and other stakeholders indicate a willingness to include charters in this request, although again indicate that facilities funding is tight and many traditional districts schools have been waiting for many years for repairs.

¹² The National Alliance for Public Charter Schools. "Measuring Up to the Model: A Tool for Comparing State Charter School Laws." < <http://www.publiccharters.org/law/ViewState.aspx?state=CO>>.

6

Recommendations

The following four policy recommendations are offered as potential areas for consideration as the Maryland General Assembly discusses strengthening the state’s charter law. While not particularly far-reaching, these policy options have support from the majority of the stakeholders.

These recommendations contain a common theme: a focus on increased transparency and data. Some stakeholders indicated that while anecdotes about potential problems with the current law are illustrative, these anecdotes may not represent the broader context of charter implementation across the state. Better visibility into the processes, financials, and relationships between the state’s authorizers and operators provides a good starting place for any conversations about how to strengthen the charter law.

RECOMMENDATION #1: Strengthen role of Maryland State Department of Education (MSDE) as the authorizer oversight entity.

This policy option would:

- 1. Require annual reports from the local authorizers;**
- 2. Require quality control reports from MSDE on charter schools that include input from charter school boards, leadership, and teachers; and**
- 3. Strengthen MSDE’s role in appeals and dispute mediation.**

This policy option seeks to address the concern that charter law and policy may be inconsistently interpreted and implemented within and between districts.

This option recommends that MSDE serve as the mediator or the resolver of disputes in the case of a conflict on the application process. If a charter is denied and the entity believes that the local jurisdiction has not applied the process in a fair and equitable way, MSDE would be the deciding body. While the onus should be placed on the charter-seeking entity to make the case that the local jurisdiction was in error, authorizers would have an added incentive to have clear rules and regulations.

The policy option does not prescribe for the districts how they should interpret and apply the per-pupil allocation formula. Instead it suggests that MSDE would assume a more significant role in resolving budget disputes regarding the per-pupil formula prior to the close of the budget process. For example, if a charter brings an issue to MSDE in a timely manner that it has not been able to resolve with the district, MSDE would be required

to conduct an administrative process of some sort and issue a decision—also in a timely manner—that is binding on both parties.

Nor does this policy option suggest adding another authorizer. While there are members of the Task Force that would like the State to explore multiple authorizers, there was a general consensus that without a more robust authorizer oversight process, adding authorizers might actually increase the disparity issues and could negatively impact the quality of charter schools.

This policy option does not address the concern that districts may require charters to purchase services.

RECOMMENDATION #2: Require districts to publish—to MSDE and charter schools—the per-pupil allocation and fee-for-service amounts by a certain date, before charter schools have to finalize their budgets.

This policy option seeks to address the concern that the per-pupil allocation and cost of district services can be unclear and change mid-year, disrupting charter school budgets.

If actual costs increase during the year, the district will absorb the cost in the short term and makes adjustment to the pricing in the next school year. Adjustments can be set to recoup the amount the district had to absorb. If actual costs are less, the district would absorb that windfall and make adjustment to the pricing in the next year by reducing the fees in the next term.

This policy option assumes that school districts are better positioned than individual charter schools to weather the short-term fluctuations in prices for required services. There is some risk to the districts inherent in this policy option. For example, if prices for a particular service rise unexpectedly during the school year and the district holds off on adjusting the fees it charges charters for that service, the charters could decide in the ensuing year not to purchase the service because the cost is perceived to be “too high,” in which case the district would not be able to recoup the expended cost in the next year. The Task Force did not attempt to develop a method to mitigate this risk, but generally the “big ticket” items that have caused problems in the past have been for services that charters have only purchased from the districts, such as special education and transportation.

RECOMMENDATION #3: Require charters to apply for waivers during charter application and renewal, and require that authorizers publish approved waivers in an annual report to MSDE.

MSDE’s authorizer oversight role will include settling disputes over waivers based on the official record of waivers as stated in the charter. This policy option seeks to address the concern that waivers granted to charter schools are not always honored by districts.

This policy option suggests that the charter application itself becomes the source of record during disputes. If the local board later creates a new rule or regulation, it would not apply to the charter until the charter term expires. At that point, the charter could request a waiver to the new policy through the renewal process.

Inserting MSDE in a stronger dispute resolution role will require more due diligence on the front end from both charters and districts. Charters must lay out in their application the specific policies they are requesting waivers from, and that request—referenced in the charter application or renewal request—becomes the controlling document during the dispute resolution.



This policy option also includes the requirement that authorizers must make all required policies and regulations clear and easily accessible. While most local district rules and regulations are public documents and therefore accessible to charters and potential charter operators, it is suggested that MSDE, as part of its oversight role, might create a central web-based location for all LEA policies and require the districts to keep their policies up-to-date on that site.

This policy option does not propose an automatic waiver from state and/or district policies and regulations.

RECOMMENDATION #4: Require authorizers to include in their annual reports to MSDE and charter schools the amount and percentage of capital funding going to each school each year.

This policy option seeks to address the concern that districts may not be adequately advocating for charter facilities to the state. The goal of this policy option is to ensure transparency on how funds are spent for all schools. Charter operators and advocates could use the published information to advocate on their own behalf at the local board and administrative levels. All capital funding is public, but this policy option would require that the information to be compiled in one location.

The policy option does not directly address the concern of charter operators and advocates that charter schools must use their per-pupil allocation to pay for facilities. The policy option does not impact the concern expressed by authorizers that adding more charter buildings does not increase facilities funding to the district and adds more demand for the same pool of facilities resources.



Appendix A: Task Force Participants

Invited Task Force Members

David Beard, Advocates for Children and Youth
Carol Beck, Supporting Public Schools of Choice
Sen. Joan Carter Conway, Maryland General Assembly
Maureen Colburn, Baltimore Leadership School for Young Women
Pat Crain, Anne Arundel County Public Schools*
Ricarda Easton, Baltimore Coalition of Charter Schools
Marietta English, Baltimore Teachers Union
Angela Funya, Chesapeake Public Charter School
Kevin Griffin Moreno, Baltimore Community Foundation
Del. Sheila Hixon, Chair, Ways & Means Committee, Maryland House of Delegates*
Danista Hunte, Baltimore Community Foundation
Jay Hutchins, Greater Baltimore Committee
Del. Jolene Ivey, Maryland House of Delegates
Sean Johnson, Maryland State Education Association*
Dr. Lillian Lowery, Maryland State Department of Education*
Hilda L. Ortiz, Maryland State Department of Education
John Ratliff, Office of the Governor*
Carl D. Roberts, Public School Superintendents Association of Maryland
Stephanie Simms, Maryland Charter School Network
Carl Smith, Maryland Association of Boards of Education*
June Streckfus, Maryland Business Roundtable for Education*
Curtis Valentine, MarylandCAN
John Woolums, Maryland Association of Boards of Education
Kimberly Worthington, Maryland Charter School Network

*Invited, but did not attend.



Non-member Participants

Lynn Albizo, Esq., Public Policy Consultant

Douglass Austin, UPD Consulting (Facilitator)

Ashlie Bagwell, Alexander & Cleaver

Margie Donohue, MarylandCAN

Daphne Charles, MarylandCAN

Sara Fidler, Policy Analysis, Maryland General Assembly

Janice Flynn, UPD Consulting (Facilitator)

Ben Karaduman, Chesapeake Lighthouse Foundation

Spears Lancaster, Chesapeake Science Point

Brian Shepter, Harris Jones & Malone



Appendix B: Interviews

David Beard, Education Policy Director, Advocates for Children and Youth

Carol Beck, Director, Supporting Public Schools of Choice

Maureen Colburn, Executive Director, Baltimore Leadership School for Young Women

Pat Crain, Senior Manager of Charter Schools, Anne Arundel County Public Schools

William DuBois, Saul Ewing LLP

Ricarda Easton, President, Roots and Branches School

Angela Funya, Education Director, Chesapeake Public Charter School

Del. Jolene Ivey, Maryland General Assembly

Kathy Lane, Director of Alternative Education, Anne Arundel County Public Schools

Alison Perkins-Cohen, Executive Director of New Initiatives, Baltimore City Public Schools

Sen. Paul Pinsky, Maryland General Assembly

Carl Smith, Executive Director, Maryland Association of Boards of Education

John Woolums, Director of Governmental Relations, Maryland Association of Boards of Education

Kimberly Worthington, Executive Director, Maryland Charter School Network



Appendix C: Additional and Dissenting Views

We recognize that the recommendations proposed in this white paper do not fully express the opinions of all Task Force members and external stakeholders. To some stakeholders, these recommendations are unnecessary; to others, they are not sufficiently bold. This section attempts to summarize areas of dissent from both sides, and includes dissenting options from Task Force members.

While virtually all Task Force members stated that they support revisiting the law and modifying it where appropriate, several individuals were more skeptical about the extent of the changes necessary. In particular, stakeholders expressed concern that additional reporting requirements would unnecessarily burden local authorizers and MSDE. Stakeholders also noted that in order for the recommendations to fulfill their intended outcome of improving Maryland charter schools, MSDE must have the will and the capacity to play a stronger oversight role. MSDE declined to participate in the final Task Force meetings; therefore we were unable to address these concerns with the department.

Some charter school operators expressed frustration with the limited reach of the proposed recommendations. As one operator commented, “These recommendations are so minimal. They don’t seem significant to me. It’s not something I feel like I can get excited about.” While operators agreed that increased transparency would be helpful, they expressed frustration that the recommendations did not include automatic waivers from district policies and did not more fully address the pain points of staffing constraints and facilities.

Others expressed logistical concerns about MSDE’s capacity to take on a more significant role in authorizer oversight. One charter advocate said, “MSDE was already providing a lot of this information in reports they were doing under the charter school grant program. They had the money to do that, but because we lost the [federal] grant, it’s [now] an office of one. I don’t know if they have the capacity to do that now.”

Another concern was expressed about the publishing of facilities funding by school. In many districts, particularly the large urban districts, the number of schools receiving little or no capital funds in a given year might be quite high. Thus, publishing an annual list of capital spending could be anxiety producing. Said one charter advocate, “I don’t want schools pitted against each other when there are schools that have been waiting for [facilities funding] for decades.” And one authorizer thought publicizing facilities spending is a bad idea, “because of the unintended consequence of sending the wrong message to folks that we’re not spending a dime on their schools.”



While the Task Force focused primarily on authorizer oversight as a necessary first step before any meaningful conversation about alternate authorizers, several people expressed strong opinions against consideration of multiple authorizers. As one authorizer put it, “I think the single authorizer is a real advantage. [We are] not just responsible for charter schools, but we look at the entire portfolio of schools.... We try very hard not to close a school unless we have a better option—charters are a vital part of that. If we are looking at seats across the city it’s really helpful to have knowledge of what’s happening in all types of schools.... To be able to review applications and know what’s coming is critical to that portfolio approach. I get that some LEAs don’t see charter schools as an asset. To fix that problem you need to revisit the appeals structure in the bill—how do you make the appeal process more meaningful? If a school system is systematically denying all charters, you should look at the appeals process. The notion of having a separate authorizer and making it difficult to have coordination, that’s a real challenge.”

Some interviewees expressed concerns about the costs involved in detailing the true costs of services provided by the districts. “MSDE being another layer isn’t going to make known what isn’t known, it’s just going to require more meetings.” And one authorizer noted that the cost of completing a detailed cost analysis on an annual basis could be very high.

There was concern expressed about the different treatment of charter schools relative to traditional schools which would be exacerbated by the recommendation to exempt charters from new policies until the end of their charter term. As one authorizer put it, “What if you have one charter school and all the other schools are subject to a rerouting of school buses. [Those] kids have to walk more and parents are mad. Or with class size—if the whole system has to go to [a bigger class size] and the charter ... is held harmless from class

size increases affecting the rest of the system. To do anything that would further entrench [charters] in the hold harmless way would be met by opposition by school board members.”

On the other side of this argument, many argued for more autonomy for charters in order to allow greater innovation and experimentation. Said one charter advocate, “I think there should be an automatic waiver from local but not state requirements.” And a charter operator offered another suggestion: “Charters should be exempt from all policies and laws unless they are health and safety related.”

Although the Task Force did not make recommendations regarding staffing, the topic was of great concern in many of the one-on-one interviews. There were many anecdotes that highlighted a high level of frustration among charter operators. One operator said, “We want to hire teachers that fit our needs. This year we were given a pool of teachers to choose from. Generally those are people who weren’t working out in other schools. We never could get resumes or information about these people so we could do some due diligence. We were able to finagle our way out of hiring some teachers, but we were forced to take paraprofessionals that we did not know.... They basically forced us to take someone on maternity leave and [some]one who is legally blind.”

While some interviewees want full exemption from collective bargaining agreements, one charter advocate offered this: “I would revisit whether there should be alternative bargaining units or subunits for charters and staff at charter schools. You could have employees at a given charter school be members in the same union that they are already a member of, but allow them as a subunit to determine whether they would consent to modifications of the general bargain agreement to purposes of their subunit.”

It should also be noted that there was some concern expressed about the authority and mandate of this Task Force. One participant noted that a full-fledged legislative task force typically taps into staff research and analytical resources that were unavailable for this endeavor. “[Financing] is where much more specific information would be helpful.... This is where a legislative task force is useful, so that we can have access to budget and policy analysts. It becomes more difficult with ad hoc and advocate-led process. This is complicated stuff particularly on the financing piece. That type of fiscal analysis is probably called for to give folks objective scenarios. We don’t know anything specific about any one of the 50 plus charters.”

This report is available online at www.bcf.org/charter.