

## Issue Brief

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# Authorizing Matters

## GOOD to GOVERN: Evaluating the Capacity of Charter School Founding Boards

Much of the ultimate success of a charter school hinges on the board's ability to govern effectively. In fact, it can be argued that no other single factor is more important to the health and sustainability of a charter school than its board.

It is the board that selects, supports, and terminates when necessary, the school leader. It is the board that ensures that the school is operationally and financially viable. It is the board that partners with the school leader to define academic excellence and then holds the bar high insisting that the school delivers.

An authorizer's success in creating quality public schools hinges upon knowing who you are giving the charter to, making sure that they are prepared to govern effectively, and ultimately holding them accountable for the performance of the school. Therefore, successful authorizing must place a great deal of stock in vetting, probing, and orienting the founding board.

This Issue Brief identifies some of the key characteristics and qualities of effective charter school founding boards and offers concrete suggestions about how the charter school authorizing process can set boards up for success from the very beginning. Boards that get it right from the outset are likely to deliver on the academic promises outlined in their charters. Boards that start out on the wrong foot are almost certain not to deliver the academic excellence their students deserve.

It should be noted that authorizers use a variety of terms to refer to the group that is submitting a charter application. Many applications, for example, ask about the "founding group" which is generally comprised of potential board members, school leaders, teachers and/or other interested individuals. This Issue Brief focuses on the "founding board"<sup>1</sup> rather than a founding group. As the charter will be awarded to the board of the school not the founding group, it is essential to spend considerable time understanding who specifically will be holding the charter and is accountable to the authorizer.

When evaluating the effectiveness of a charter school founding board it's helpful to examine the board from four different core competencies:

1. **Preparation:** Does the board have a clear sense of how it will conduct proper oversight of the academic program and maintain the fiscal health of the organization?
2. **Capacity and Composition:** Does the board have the skills and expertise to govern?
3. **Structure:** Is the proposed governance structure in line with best practice?
4. **Clarity:** Is there clear delineation of the authority and duties of the board, school leader, parents, teachers, and contractor, such as an education service provider (ESP) or a charter management organization (CMO)?

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### Preparation

#### Governing for What Matters Most

Many charter school boards spend too much of their energy worrying about governance mechanics, such as the size of the board, the number of committees and the use of Robert's Rules of Order, rather than focusing on governing for what really matters—the academic success of their students and the sustainability of the organization. The mechanics are essential—you need this scaffolding to create the structures and team to effectively govern—but they are in themselves not the end game. The end game is creating a school that delivers academic excellence.

To evaluate whether founding boards are prepared to govern for what matters, authorizers should consider if the founding board:

- demonstrates a passionate, unwavering belief in the school's mission and understands the implications of choosing this mission;
- understands their charter, knows what they are promising to deliver and has clear and consistent ways to measure success;
- has a clear sense of academic excellence and understands their role in pushing the organization to achieving this;
- has a plan to conduct effective oversight of the academic program; and
- has a plan to oversee the financial health of the school.

#### Passionate unwavering belief in the school's mission.

Without buying into the school's mission, a board will not be successful. It is easy for a board member to pay lip service to an ambitious mission, but the charter application process should test whether the full board really grasps the mission. Does the board fully understand the implications for teaching and learning? Does it understand the mission's

similarity with other successful schools or its differences? Does it understand the non-negotiables that this mission requires?

#### Full board understanding of the key charter promises.

Too often the charter is the vision of one lead founder and the rest of the board understands only the broadest brush strokes. *Every* board member needs to understand the charter promises, the methods proposed to deliver the promises, and have a clear sense of how these promises will be measured. The charter application process should test to see if the full board has a clear grasp of what they have promised to deliver.

**Shared definition of academic excellence.** Most charter boards have never had a discussion about academic excellence. An effective charter school board needs to have a shared vision of what educational success will mean for their school. They need to understand what levels of academic achievement are attainable, and should have contextual knowledge—knowing how their aspirations compare to the achievement levels of the best schools in their city and state.

**A clear plan to conduct oversight of the academic program.** Defining clear parameters around the oversight of the academic program is really the heart of the matter. An effective charter school board does *not*, however, need to be comprised primarily of educators; it should have a few people with broad educational management experience, but needs to primarily have members with the non-education related skills that the school staff may never have. Although most of the board members probably will be non-educators, they need to fully understand the academic plan and partner with the school leader to develop a clear and consistent way to measure academic goals.

Charter school boards can be far more effective if they harness the diverse skills and experiences of their board members to create an Academic Excellence Committee of the board. An Academic Excellence Committee, which serves in a similar function to that of a Finance Committee, focuses on analyzing academic outcomes, drills down into the details and distills the data for the full board to digest—helping the full board evaluate the school's “bottom line”—student performance.

**A clear plan to conduct financial oversight.** The primary reason why charter schools fail is financial mismanagement. Generally, this is not due to malfeasance but to the lack of financial sophistication on the board. It is vital that more than one member of the board has strong financial skills. In addition, it is vital that the financially-savvy members ensure that the rest of the board comprehends the annual budget and monthly financial reporting and is aware of the short and long-term financial projections as well as their implications for the health of the school.

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## Capacity and Composition

Very often the initial composition of the founding board that is pulled together for the charter application process is flawed. More often than not these initial boards lack a level of objectivity by being close personal friends and colleagues of the lead founder, are comprised of members who were placed on the board to “lend their names and credibility,” generally are not prepared to carry out the hard work of governing a start-up charter school, are unclear about the time commitment this will require, and/or lack the right mix of skill sets and tangible ties to the community.

### To evaluate the composition/capacity of the founding board, authorizers should consider:

- Does the board have a diversity of perspective and experience to truly represent the public’s interest?
- Is there a level of objectivity on the board or are the members close personal friends or relatives? Are there obvious conflicts of interests that need to be addressed?
- Do the members have the skills, time, and experience to do the job? Does the board have the financial capacity to run a multi-million dollar enterprise? Does the board have the skills to properly conduct oversight of the academic program?

**Diversity.** The board should bring as much diversity of perspectives and opinions as possible to truly represent the public interest. The board should be diverse in the broadest sense of the term, including ethnicity, gender, age, geography, and socio-economic background. Are there enough board members with connections to the community they are planning to serve? Do they truly understand the community? Are they receiving appropriate/authentic community input?

The amount of time it takes to be an effective charter school board member is often underestimated.

**Level of objectivity.** When launching a new endeavor, entrepreneurs generally turn to their closest friends and smartest allies. This bears out in the founding of charter schools. Typically a few committed people sit around the kitchen table and “dream the dream.” By the time an application has been submitted for chartering, the group should have already demonstrated an ability to go beyond a tight-knit group and recruit people from the broader community to be involved in this effort. The board recruitment and expansion efforts should be increasingly professional, and there should be clear evidence that this is a trend that will continue.

It is essential that authorizers point out both direct and inherent conflicts of interest. Many charter school boards

have inherent conflicts in their board composition. These might escape the legal interpretation of “conflict” but certainly will lead to potential problems later. The most common examples include a husband/wife pair of board chair and school leader; husband/wife pairs on the board, siblings on the board, and so on. If the board’s responsibility is to replace an ineffective school leader who is hampering student achievement, and the board chair is the school leader’s spouse, the students are likely to be ill-served, even though in many states this arrangement is within the laws and most ethics rulings.

**Skills, expertise and time.** The board should be comprised of individuals who are recruited to bring particular skills to the board. There should be strong financial management, academic oversight, human resources, fundraising, real estate and legal expertise on the founding board. In addition, at least one-third of the board should have prior governance experience. In the key areas where charter school boards typically fail—financial management and academic oversight—there should be some demonstrated “bench strength” or at least a plan to recruit additional members with these skills.

The amount of time it takes to be an effective charter school board member is often underestimated. Typically a charter school board member needs to be able to devote eight to ten hours a month to the school when it is up and running and even more during the founding phase. Authorizers should ask probing questions about founding board members’ availability. For example, how many of the founding board members plan to transition to the governing board upon chartering? Will the whole board turn over? Do the board members fully grasp the time commitment this endeavor will require and are they prepared to deliver? Conversely, has the founding group set up a sustainable time commitment for board members or are they asking for something that simply can not be sustained?

## Structure

Authorizers should pay careful attention to the board’s structure, which is generally articulated in the charter school bylaws. Bylaws provide the basic parameters or general guidelines for how the board operates. Although authorizers do not need to dictate specific requirements, they should identify key structures that lead to effective governance and require that these be included in the bylaws (see page 4, *Key Elements of Quality Bylaws*). The bylaws should not be relegated to an inconsequential appendix that will get the applicant’s attention at the last minute, but should be featured more prominently in the application. The authorizer should probe that the group truly understands them and their implications and that they aren’t just a standard form copied from another organization.

Authorizers should consider:

- Is the board large enough to support effective governance and an effective committee structure?
- Are there term limits in place to help guard against “founder’s syndrome?”
- Are key officer positions in place?

**Board Size.** Most founding boards are too small. Arguably a board comprised of five to seven people is too small to provide effective governance. For example, with a five person board, a quorum would be only three members. This is not a credible number of people to make decisions about how to spend millions of taxpayers’ dollars.

The most effective charter school boards have nine to eleven members by the time the school opens and eventually a board of eleven to fifteen at the end of the school’s first year. This is the right size to bring public credibility, the right mix of skills, and enough people to have functioning committees capable of accomplishing significant work in between meetings. It is a natural tendency to want to start with a small, tightly-knit and tightly-controlled group. But there is so much work to do in the early years; smaller boards simply are generally not as effective in doing the initial heavy lifting that’s required.

At the application phase, a founding board of a minimum of five, but ideally of seven to nine members is appropriate, the majority of whom should be planning to transition to the governing board and remain for several years. It is important to probe about how many people are planning to transition to the governing board upon chartering and how long individuals intend to serve on the board. Authorizers want to make sure that the people being screened during the application phase are truly going to be the ones governing the school during the first few years.

Committee work is the heart and soul of any effective board. Committees are where a group of experts can really delve deeper into key issues and bring their findings back to the full board. The bylaws should spell out which committees the board plans to have. Most charter school boards can’t function without an Academic Excellence Committee, a Finance Committee and a Governance Committee (which deals with nominating new board members, and the general health of the board—new board member orientation, board member training and education).

**Term Limits.** Charter schools, like all start-up organizations, have the potential to be plagued with “founder’s syndrome” issues. Founder’s syndrome occurs when the visionary behind the school’s existence stays too long,

### KEY ELEMENTS OF QUALITY BY-LAWS

By-laws should address the following elements that provide the scaffolding for effective governance:

#### TRUSTEES

- Number of trustees
- Qualifications
- Selection process
- Procedures for filling vacancies
- Guidelines for trustee removal and resignation
- Term limits for trustees
- General powers
- Fees and compensation

#### OFFICERS

- Number and titles of officers
- Officer selection process
- Job description for officers
- Procedures for filling vacancies
- Term limits for officers

#### MEETINGS

- Location and number of meetings to be held each year
- Policy on special meetings
- Compliance with open meeting laws
- Quorum and voting rules

#### STAFF

- Who reports to the board?
- Is the school leader ex-officio, voting or non-voting board member?

#### COMMITTEES

- Number and purpose of board committees
- Job description for each committee
- Procedure for creating a committee or task force

#### MISCELLANEOUS

- Beginning and end dates for the fiscal year
- Rules of order
- Amendments
- Consistency of bylaws with governance processes described in the charter and with federal or state laws and regulations

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tries to control matters beyond his or her expertise, and/or doesn't allow the school to be shaped and molded by the community it is intended to serve. Envisioning a school and creating an inspiring, well-written charter application are often different skills than those needed to implement the vision. Certain skills and entrepreneurial spirit are necessary to get a charter school off the ground. Many people with these skills are not the same people needed to sustain the organization.

To avoid founder's syndrome, it is essential that the bylaws contain term limits. These will protect against a small group holding too close control of the organization for too long. Optimal term limits for a charter school board are two three-year terms. The bylaws should spell out that the first group of trustees will have staggered terms so that the original group won't all rotate off at the same time.

**Officers.** The bylaws should call for officers, particularly Chair, Vice Chair, Treasurer, and Secretary. Officers ensure an additional level of accountability by having key individuals responsible to the group for specific tasks and functions. In addition, officers help to ensure that the board does not become overly dependent on the school leader. The authorizer should expect that individuals have been identified and are prepared to step into these roles immediately and that the founding board has written job descriptions detailing the roles and responsibilities of each of these positions.

Authorizers should ask for and expect a clarification of roles from the very beginning, explicitly asking about the founding board. This is the entity that will ultimately answer to the authorizer.

## Clarity of Roles and Responsibilities

Confusion regarding the distinction between governance and management is a key element that plagues all types of boards—nonprofit, corporate, and certainly charter school boards. Many charter applications inadvertently create confusion before the charter is even granted by asking about the “founding group”—which can be comprised of lead teachers, potential board members, parents, etc. Authorizers should ask for and expect a clarification of roles from the very beginning, explicitly asking about the founding *board*. This is the entity that will ultimately answer to the authorizer.

Authorizers should consider:

- Is there clarity around the role of the full board and that of individual trustees?
- Is the school leader's role clearly defined vis-à-vis governance?
- What will the role (if any) of parents, teachers and students be in governance?
- If the board is contracting with an education service provider (ESP) or charter management organization (CMO) is there a clear delineation of their responsibilities compared to that of the governing board?

**Board Roles and Responsibilities.** The application process should be designed to assess whether the full board understands its roles and responsibilities and whether there are clear performance expectations for individual trustees. The charter application should include a job description for the full board that spells out its role as well as written performance expectations for the individual trustees.

**School Leader's Role.** In addition, the charter application should spell out the board's intended relationship with the school leader. It is best to have only one person report to the board. There are a few exceptional charter schools with co-directors or multiple reports to the board. If this is being proposed, the division of roles and responsibilities should seem logical. In general, the authorizer should be asking: Is there a clear delineation of roles and responsibilities between the board and the school leader? Does the group understand the distinctions between governance and management? Do they have a qualified school leader or a plan to identify one? Is there an indication that the board will be able to build a strong partnership with the school leader—to support and evaluate them effectively? Having a school leader who has the time and ability to create effective governance will be a critical component to the school's success. A school leader is the board's primary information source and it is essential that there is a strong partnership between the school leader and the board built on mutual respect and trust from the very beginning.

**Parents, Teachers, and Student Voices.** What will the role of parents, teachers and students be in governance? If the bylaws spell out the inclusion of parent, teacher, or student representatives on the board, does the structure seem to plausibly lead to effective governance? Does it seem particularly unwieldy? If the group is choosing a non-traditional structure, is this in sync with their charter?

Parent, teacher, and student voices are essential to running an effective school. However, having one or two seats on the board occupied by them usually does not lead to greater representation. In actuality, the board may have a false sense of security that they are hearing from their constituents when in fact, they are hearing from one or two particularly motivated individuals who may be far from representational of the group.

Certain charter laws require this kind of representation. If that is the case, ensure that the bylaws clarify how the governance/management lines will not be blurred.

**Relationship with an ESP/CMO.** If the board is delegating responsibilities to an ESP or CMO, then they should be able to clearly define the parameters of this relationship. Have they clearly delineated the roles and responsibilities of the board as compared to the ESP/CMO? Are they prepared to conduct effective oversight of the ESP/CMO and have tools and measures in place to evaluate this group's performance on a regular basis? Are they delegating too much authority to the ESP/CMO?<sup>2</sup>

The charter application should send a signal that the board is central to the success of the charter school.

## Pushing for Effective Governance through Quality Authorizing

Having defined the four key competency areas that are essential to a charter school founding board, let's shift to how an authorizer can reinforce these essential elements through the charter granting process. The most important thing an authorizer can do is make sure that the entire charter application process emphasizes the importance of strong governance and ensures that only groups with the capacity to provide effective governance are approved.

**Emphasize the importance of the board and strong governance in the written application.** The charter application should send a signal that the board is central to the success of the charter school. Is the percentage of questions about the board and the governance of the school proportional to their importance? Does the application include enough questions about the board to get a sense of who will be holding the charter and how equipped they are to govern? Does the application state that a strong board is essential to a strong school?

**Don't muddy the governance-management waters. Know and be clear about who is being granted the charter.** As mentioned above, charter applications inadvertently create confusion before the charter is even granted by asking about the "founding group"—which can be comprised of lead teachers, potential board members, parents, etc. Charter applications should ask for and expect a clarification of roles from the very beginning. The application should ask about the founding board which will ultimately answer to the authorizer. Authorizers should not communicate solely with the future school

leader, but rather, important documents should be sent to the entire board or, at a minimum, the board chair as well as the school leader. The board will ultimately hold the charter and will be accountable to the authorizer, not the school leader—make sure written communication sends this message.

## Vet and scrutinize the potential founding board—as a group and the qualifications of each individual.

A good employer would never consider hiring someone without reviewing their resume to understand their skills and past experiences, meeting them in person to see if they really have the competency and demeanor to do the job, and checking their references. The same should hold true of board members of a charter school who authorizers are "hiring" to oversee a new school. Authorizers must build in substantial due diligence to the charter application process to probe both the qualifications and functioning of the full board as well as the competency and past experiences of individual founding board members.

- **Ask for statements of interest**, not just resumes. Authorizers need to determine not just whether the board members have the skills that are needed, but to understand their motivations for getting involved. A statement of interest can shed important light on the qualifications of individual trustees. An excellent example of how to do this can be found as part of the State University of New York (SUNY) application which asks for a *Request for Information from Prospective Charter School Board Members* (see [www.newyorkcharters.org/howto/appkit.html](http://www.newyorkcharters.org/howto/appkit.html)).
- **Interview the entire board.** Insist on meeting the entire group and the school leader if one has been identified. A charter applicant can look great on paper but their competency really cannot be judged until it can be seen in action. The interview can serve as a critical test whether everyone understands the charter, and can function effectively as a team (see page 7, *Possible Governance Related Interview Questions*).

**Create an expectation that boards need to learn how to be effective.** Ask questions in the charter application and during the in-person interviews to determine how the board will learn to be an effective board. What training are they planning to undergo? Will they have a board retreat or attend any outside? Will they hire a governance consultant to work with them? Ideally authorizers will familiarize themselves with local service providers (a charter school resource center or association, a local nonprofit board training organization, or a university) so that they can make recommendations about possible resources to assist the boards in receiving training.

## Conclusion

A strong, competent founding board that is prepared to govern effectively as soon as a charter is awarded is essential to creating an exceptional charter school.

An authorizer's success hinges upon knowing who is being given the charter, making sure that the board is prepared to govern effectively, and ultimately holding them accountable for the performance of the school. Therefore, successful authorizing must place a great deal of stock in vetting, probing, and orienting the founding board.

An effective charter application process should test both through the written application and interview process

with the full founding board to determine that the founding board:

- Is prepared to govern for what really matters;
- Has the skills and expertise to govern;
- Has the structures in place to support effective governance; and
- Demonstrates clarity of roles & responsibilities between all the major constituencies.

An application process that truly probes for all four of these competencies will assure the authorizer that the group is well-equipped to govern and will send a strong message that effective governance is essential for a charter school's success.

### POSSIBLE GOVERNANCE-RELATED INTERVIEW QUESTIONS:

#### PREPARATION

1. Describe the school's mission and purpose.
2. What are the most important things the board will do in the upcoming year?
3. What role does the board have in financial oversight?
4. Do you have a finance committee? What is their role in relation to the full board?
5. What are the organizational priorities for the upcoming year? What are the board's priorities?
6. How will the board monitor academic achievement? What internal and external assessments will you use?
7. How will you know if the school is an academic success?
8. How will the organization use data to make decisions and improve results?
9. What tools and measures will you use to monitor organizational performance?
10. What are the organization's key planning year challenges and how are you planning to address them?

#### CAPACITY AND COMPOSITION

1. Are there skill sets that you are missing on the board and how do you plan to fill them?
2. What are your board expansion plans between now and the opening of the school?
3. How do you plan to find and screen board members?

#### STRUCTURE

1. What are the term limits for board members? How did you arrive at this length?
2. What officers will you have? How will you go about appointing the first officers?
3. What committees will you have? What will their roles and responsibilities be?
4. What work will be done as a group, as committees, as individuals?

#### CLARITY

1. What are the roles and responsibilities of the board?
2. How does the board make decisions?
3. Could you describe a difficult decision that the board has had to make and how you came to a conclusion?
4. What were the major policy decisions that the board made during the founding phase?
5. What do you think will be the major policy decisions that you will make next year?
6. Has the board received any board training?
7. What will you do in the planning year to learn to be a strong board?
8. What is your process for hiring the school leader?
9. How will you ensure that the person you hire is the right step for the organization?
10. What is your process for evaluating the school leader?

ENDNOTES

- <sup>1</sup> Typically the Founding Board is a founding board from the date that it holds the first organizing meeting through the time that the charter is granted. Shortly after the charter is granted, the Founding Board adopts by-laws and elects officers, making it a true, legal governing Board of Trustees.
- <sup>2</sup> NACSA has developed several resources on this topic, refer to **Resource Toolkit for Working with Education Service Providers** and Issue Brief No. 12 “Steadying the Three-Legged Stool: Authorizers, Charter Schools, and Education Service Providers” available at [www.qualitycharters.org](http://www.qualitycharters.org)

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