

APPENDIX



Written Testimony provided by Amanda Fenton, representing the National Association of
Charter School Authorizers

Testimony submitted to the Senate Education Committee

RE: Senate bill 2319

Hearing Date: October 16, 2014

Thank you for having me today. My name is Amanda Fenton and I am the Director of State and Federal Policy for the National Association of Charter School Authorizers.

Our President and CEO Greg Richmond regrets that he cannot be here today in person to participate in this hearing.

On his behalf, I would like to read a prepared statement in support of the authorizing provisions of S 2319. I am also happy to answer any questions the Committee may have about this bill, charter school and authorizing policy in other states, or best practices in charter school authorizing.

NACSA is a non-profit organization devoted to improving the practices and policies of charter school authorizing. While we have charter school in our name, we are not pro-chartering for chartering sake. Providing all children with a strong public education is our ultimate goal, and NACSA focuses on fostering a quality charter school sector as a means to that goal. We believe that the purpose of charter schools is to provide children with a better education, and authorizing is the tool we use to achieve that goal.

Authorizers are the gatekeepers and the police of the charter movement. They ensure that only schools likely to be successful get a charter. They monitor operating schools to look after the rights of students and the public and taxpayer resources. And they make the hard choices to close a school if it is failing. NACSA provides authorizers with tools, resources, and support to fulfill their roll. Within the education community we are best known for our Principles & Standards for High Quality Charter School Authorizing, the industry standards for quality authorizing.

We are here to offer our support for S 2319.

S 2319 would significantly revise the New Jersey Charter School Law for the first time since the law's original passage in 1995. It adds new statutory criteria to the charter school application process, codifies a strong performance contract that has additional means of accountability, sets statewide standards for authorizing practices, and creates a second viable authorizer.



Most of the questions that we've received about S 2319 can be grouped into three main categories, which I'd like to address in my comments. I would be happy to explain these issues in more detail if you have questions.

Number 1: Why does New Jersey need to reform the law when the New Jersey Department of Education is doing much of this already in practice?

Number 2: Why does New Jersey need a second authorizer?; and

Number 3: Are there any provisions of S 2319 that may need amendments?

First, on the need to put these provisions in statute.

NACSA supports S 2319 precisely because it places many of the Department's existing charter school accountability practices into statute.

For the last several years NACSA worked with the Department through a federal grant to develop several modern performance management practices. The Department worked diligently and, with assistance from this grant, developed performance frameworks, charter contracts, and a charter approval process that all inform national models for authorizing practice.

S 2319 ensures these practices remain in use by authorizers in New Jersey regardless of the personnel in the Department of Education or the identity of the Commissioner. This includes such strong practices as disseminating annual reports on school performance, following national best practices in reviewing charter school applications, and conducting a rigorous renewal process. Codifying practices in statute also gives authorizers a firmer legal ground to stand on when they need to enforce high standards and deny a charter petition or hold charter schools accountable for their performance.

Second, on the creation of an additional authorizer.

NACSA supports the creation of the Charter School Authorizing Board because a second authorizer provides a check on authorizer actions. It gives charter schools a reprieve if they have legitimately been subject to unfair authorizer action. It prevents a single leadership change from undoing all the practices that have made the New Jersey charter sector strong. A new leader could come in to any authorizing shop- whether that is the state or another entity- and succumb to bureaucratic overreach or backslide towards lax rigor. These risks are greatly reduced when there are two independent authorizers.

The addition of an authorizer- especially in a place like New Jersey where a strong authorizer already exists- must be done carefully in policy to ensure the second authorizer does not erode



quality. S 2319 takes this necessary care. It codifies a variety of high quality practices for all authorizers, as I discussed previously, and creates an authorizer accountability system for that additional Charter School Authorizing Board. These policies combined create and enforce a universal high standard for authorizer practices.

If the State were to create an additional authorizer, the approach employed by S 2319 is the best way to do so.

Third, regarding any possible amendments.

NACSA respectfully recommends that the author reconsider language in S 2319 that would subject charter schools to the same state accountability requirements as traditional public schools. This is the insertion of the two words “and accountability” on page 15, line 26.

We believe the language is well intentioned, but in reality it would erode charter school accountability by making it harder to close a failing charter school.

Failing charter schools should be closed- they should not enter turnaround efforts or other intervention efforts. The charter contract allows them to be closed quickly and fairly by their authorizer.

In contrast, the state accountability system may actually delay closure by subjecting charters to intervention efforts. Failing charter schools should be closed- they should not be subject to lengthy turnaround efforts.

Existing New Jersey law has strong charter school accountability through its contracts and its testing system. These would be further augmented by the other additions to the charter school contract included in other sections of S 2319. New Jersey law should maintain the primacy of the charter school contract as the overriding method of charter school accountability. We respectfully recommend that these two words “and accountability” in S 2319 be removed.

S 2319 can make long lasting, best-practice based improvements to New Jersey’s charter school law. It improves each of the three accountability levers- approval, oversight, and closure- that authorizers use to foster a high performing charter school sector.

I think it is safe to say that New Jersey does not often revisit its charter school law. When this opportunity arises, we want to have a strong, positive impact that can last for the next 19 years. S 2319 does just that.

Thank you very much for your time and your efforts on S 2319. I’m available to answer any questions the committee may have.



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Oct. 16, 2014

Testimony of Norine Gall, AFTNJ Legislative Committee

Re S. 2319

Senate Education Committee

Sen. M. Theresa Ruiz, Chair

Sen. Shirley K. Turner, Vice-Chair

Sen. Diane B. Allen

Sen. James Beach

Sen. Michael J. Doherty

Introduction

The AFT New Jersey state federation believes that we have much work to do in order to improve education in our state and teachers must have a voice in that process. We believe charter schools, if done right, can be part of a reform strategy, and we are proud to represent teachers at charter schools. Just like traditional public schools, charter schools need strong and meaningful oversight and accountability mechanisms to ensure high performance. We have several concerns about this legislation.

New Authorizer

The bill creates a new entity to authorize charter schools in the state, the charter school authorizing board. The State Board of Education oversees the new authorizing board. It is unclear why a more fragmented authorizer system is necessary in the state. If anything, multiple authorizers drive down quality as nonprofits are allowed to forum shop. While a provision in the bill prevents charters from applying to both authorizers in the same year, it does not prevent a school from forum shopping year to year. We believe, for example, that the creation of multiple authorizers in Ohio has led to a substantial diminution in charter school standards there. In Illinois, the state's new additional authorizer has already approved an application previously rejected by Chicago Public Schools. This has led legislation to be introduced there to eliminate this authorizer.

New Charter Application Process

S.2319's creation of a request for proposal process for charter applications—instead of the traditional charter application process where the authorizer accepts any application from any school district or community—could help create accountability for charters. The bill, however, fails to provide detailed criteria to guide the authorizers. For example, it says the request for proposal would detail “school districts or communities in which a new charter school would be approved” but does not detail how a school district or community would be eligible to get a new charter approved. It also does not require any coordination between the authorizers and the school district or community that could be eligible for a charter school. In fact, the legislation only requires the authorizer to examine “the student composition of the charter school and the potential effects that the loss of the students may have on the school district in which the potential charter school students reside” after it receives an application. The legislation also does not give guidance on how the authorizer should develop criteria that the authorizer will use when evaluating applications.

Research from Philadelphia has found that the transfer of students from districts to charter schools there has led to a systematic undermining of the finances and stability of Philadelphia public schools. We believe that charter expansion in our cities threatens to do the same. We agree that this is an impact of charter expansion that authorizers should study, but we believe that more should be done to see that the entire system is functioning appropriately.

Transparency

New transparency requirements in S.2319 are a step in the right direction. The bill would require authorizers to issue detailed reports on the schools they authorize. The bill would also require charters to conduct an annual audit of their finances and for the charter to adopt a nepotism policy—both long overdue requirements that provide for a minimum level of transparency. For greater transparency, the state could require charter schools to have publically accessible any contracts with management organizations, have publically accessible their charter application and contract, disclose how much public money goes to marketing and advertising, clearly disclose administrative expenses and CEO pay, abide by a uniform statement of expenses and revenues, and clearly disclose student expulsion and mobility rates. We would also like to see charter schools reporting their expenditures using the same forms that all New Jersey public schools districts use for federal purposes.

S.2316 also specifies that a charter school should have a “detailed plan and timeline for student recruitment and the procedure for conducting a public lottery if the number of students seeking admission exceeds the capacity” with the authorizer developing a procedure “for publicizing and certifying a lottery conducted by a charter school to which it

has granted a charter.” The legislation, however, still leaves the lottery process fragmented and controlled by individual charter schools. Real accountable lotteries would be administered by the state department of education at a central location to give all interested families an opportunity to participate. We are troubled by reports showing that charter schools across the country are systematically creating barriers to admissions that allow them to configure their enrollment to their tastes. That includes reports of charter schools asking parents for social security numbers or requiring placement exams or essays as part of the admissions process. This is why we support the language in the bill calling for charter schools to recognize the grade status students earned in their previous school. However, we would like a blanket ban on pre and post lottery impediments to admissions.

Real Estate

The bill gives a charter school the right of first refusal to a public building being leased or sold. If such a right is to exist, it should be offset by legislative language indicated that even after the sale or lease, the building remains public property to ensure that chartering is not a pretext to shift public property to private control.

Charter Contracts

S.2316 extends the term of an initial charter to five years and gives an authorizer the discretion to renew a charter for up to 10 years. Such a long charter contract essentially allows charters more time to operate without a review by the authorizer. While the legislation gives new authority to shut down a school at anytime, it is unlikely the authorizer will take as complete a look at the school under this authority as it would under a charter renewal scenario.

Revoking Charters

S.2316 includes new and strong authority for authorizers to investigate and shut down failing charter schools. This is a very positive step. The critical question is whether the legislature will give the Department of Education the resources it needs for effective oversight.

Conclusion

While the legislation takes some good steps toward accountability and transparency for charter schools, additional protections are needed to ensure charters are operated in an effective manner.



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Comments of the Statewide Parent Advocacy Network on Proposed Charter School Bill

The Statewide Parent Advocacy Network (SPAN) is New Jersey's largest and only cross-issue parent advocacy organization in the state. *SPAN's vision* is that all families will have the resources and support they need to ensure that their children become fully participating and contributing members of our communities and society. *Our mission* is to empower and support families and inform and involve professionals interested in the healthy development and education of children and youth. *Our focus* is on the whole child and family, including education, health and mental health, human services, child care, and child welfare/prevention. *Our foremost commitment* is to children and families with the greatest need due to disability or special health/mental health needs; poverty; discrimination based on race, sex, language, immigrant or homeless status; involvement in the foster care, child welfare, or juvenile justice systems; geographic location; or other special circumstances. *Our motto* is Empowered Parents: Educated, Engaged, Effective! *Our activities* include providing information, training, technical assistance, parent-to-parent/ family-to-family support, leadership development, and advocacy. All families may access information and support through telephone/email technical assistance, parent-to-parent support, in-person or archived web-based workshops, and our website. Families with more intensive needs receive support from our Family Resource Specialists housed in every county. *To reach us*, call 800-654-SPAN or go to www.spannj.org.

SPAN evaluates all proposed public policies and legislation against three criteria: effectiveness, equity, and extent of engagement of families in development and implementation. Is the proposed policy based on policies with demonstrated effectiveness for children and families? Does the proposed policy ensure that all children and families benefit from its provisions? Were families representing the full spectrum of New Jersey's diversity meaningfully engaged in their development, and do the proposed policies contain provisions that strengthen and support meaningful parent involvement, especially of underserved families and families who have children placed at greatest risk? Our comments today are based on these principles.

We have serious reservations regarding the proposal to establish an additional charter school authorizing board. SPAN believes that it is the responsibility of the NJ State Board of Education and the NJ Department of Education to ensure that all educational programs in the state meet all federal and state constitutional and statutory responsibilities including those related to equity and civil rights. We have questions regarding how this responsibility could be carried out effectively if a separate entity had the authority to review, approve, or disapprove, of charter school applications. Such questions would need to be answered fully before we could support establishment of a separate charter school-authorizing entity.

This is especially true given that there is significant evidence that charter schools discriminate against students with disabilities, ELLs, and students with challenging behaviors, and insufficient evidence that charter schools are any more effective in educating students once you control for disability, ELL status, poverty, etc. This lack of equity and lack of demonstrated effectiveness requires very close review of charter school applications and performance in these areas.

If a new charter school authorizing board is created, SPAN strongly urges that there must be members with expertise in special education, inclusion, and bi-lingual education laws, regulations and evidence-based practices, and commitment to ensuring equity in recruitment, enrollment, and maintaining of diverse students.

Further, the criteria by which a charter school application would be reviewed initially should include criteria related to its demonstrated commitment to equitable access by the full range of potential students, including students with disabilities and those with ELL status, and its demonstrated capacity to serve the full range of potential students, and its renewal should include a specific review of how it has lived up to that commitment.

The charter contract must also have specific performance targets related to special populations such as students with disabilities and ELLs, as well as specific language that the charter school understands that it is bound by IDEA, Section 504, the Americans with Disabilities Act, NJ Bilingual Education Code, etc.

Whether or not a new charter school authorizer is created, SPAN supports language in Section 5 that require (a) the NJ Board of Education to promulgate regulations that define the nationally recognized principles and standards for review of a charter school application; (b) more rigorous review of charter school applications, including an in-person interview with each charter school applicant and two public meetings at which a single charter school application is discussed and the residents of the school district that would be “served” by the charter school would have the opportunity to provide input on the application. We would further support language requiring any charter school authorizer to meaningfully consider and respond to concerns raised by the school district and its residents in their determination of whether or not to issue a charter.

SPAN welcomes the language in Section 6 that would require development of a charter contract to detail the performance framework by which the charter school’s performance will be assessed including annual performance targets for absolute measures of student academic proficiency, student academic growth over time, academic achievement gaps between student subgroups, student attendance and attrition rates, students’ readiness for college and careers, and compliance with laws, rules, and regulations. SPAN strongly supports this section’s requirement for disaggregation of data in the performance framework by student subgroups including racial and ethnic classifications, gender, income groups, students with disabilities, and English language learners. The targets should at a minimum contain the same expectations to which non-charter public schools are held, for all students overall and for student subgroups. We assume that this is the intention of the language in this section requiring that any federal or state accountability requirements shall be applicable to the charter school, but would recommend strengthening of this language to make it as clear as possible to everyone.

Section 9 (sale or lease of district buildings, etc.) should allow districts to sell to the highest bidder, not require them to sell at "reasonable market value" to charter schools. In these days of district fiscal shortfalls, districts must be allowed to maximize the finances they can generate by selling buildings that are no longer required to serve the students in the district.

SPAN supports new section 10, which provides that students who withdraw from a charter school and enroll in another public school in New Jersey can take their credits with them.

In Section 12, the Executive County Superintendent must also include in its periodic meetings with the charter schools discussion of concerns that have been raised by parents and others about the charter school including discrimination against students with disabilities, ELLs, etc.

There should be language emphasizing that the county Supervisor of Child Study has the same oversight responsibilities for special education in charter school districts as it does in typical districts.

SPAN would support the language prohibiting religious or for profit charter schools. We would also support the more detailed requirements such as those on page 12-13.

We would also suggest language regarding discipline, suspension and expulsion of students since this is how, in our experience, many charter schools are able to dis-enroll students with disabilities. Disproportionality -- by race, gender, ability, language, economic disadvantage -- in suspensions, expulsions, and dis-enrollments should be a measure used in determining charter extensions/expansions.

We would strongly suggest language specifying that charter schools must provide parents with information on how to make complaints about discrimination against students with disabilities, ELLs, etc.

In Section 23, we have concerns regarding the provision that the commissioner may exempt the school from state regulations concerning public schools except those pertaining to assessment and accountability, testing, civil rights, and student health and safety. This provision is unfair and inequitable on its face, both to students and to non-charter school districts, which are bound by all of the state's educational requirements. As LEAs, charter schools should be bound by all requirements unless there are some that do not apply because the charter school, unlike traditional LEAs, is only one school as opposed to a group of schools. What guidance is given to the Commissioner regarding the criteria that should be used to make this determination? What if the educational goals and objectives of the school are ill-founded? Which exact provisions is the legislature thinking about that should be able to be exempted? Rather than taking this approach, if the legislature believes that there may be some provisions that are not appropriately applied to charter schools, SPAN recommends that there be specific, tailored legislation that authorizes exemption of charter schools from those specific regulatory provisions as opposed to giving the Commissioner carte blanche to make that determination. The language as written does not provide sufficient guidance to parents, students, or advocates regarding which regulations could or could not be exempted

In Section 24, SPAN supports the language requiring “highly qualified teachers” and defining “highly qualified” to mean that teachers have proper credentials and demonstrate subject matter mastery.

SPAN supports other sections establishing greater accountability for charter schools and greater transparency about their performance, including the provision that would require an annual assessment of each charter school in writing and posted on the NJ Department of Education’s website. We would recommend that language be added requiring such report to include information on student attrition in each charter school (i.e., students who enrolled in and withdrew from the charter school during the year, and/or students who left the charter school by expulsion, other disciplinary action, or any other circumstance), disaggregated at least by race, ethnicity, disability, and ELL status. This is important for many reasons, not the least of which is the many calls SPAN receives from parents whose children are expelled from the charter school or “counseled out” after the school year begins.

SPAN supports this legislation’s emphasis on clearer guidance regarding procedures and guidelines for revocation or renewal of a school’s charter, including how to ensure that students in a school whose charter has been revoked are able to register in their district school with their needed educational records.

Thank you for this opportunity to share our comments regarding the proposed charter school legislation, and we look forward to working with you to ensure that NJ’s charter school system provides the most effective, equitable, and parent/community-“engaging” system possible.



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JerseyCAN testimony S2319

Good morning members of the Committee.

Thank you for the opportunity to speak today. My name is Janellen Duffy, and I am the Executive Director of JerseyCAN: The New Jersey Campaign for Achievement Now. JerseyCAN is a nonprofit education advocacy and research organization.

Today I am here to testify in support of S2319, which aims to overhaul New Jersey's 18-year old charter law. As you may already know, the National Alliance for Public Charter Schools, recently ranked New Jersey's charter law #32 out of #43 – making New Jersey one of the most challenging places for charter schools to operate in the country.¹ The key reasons for our poor ranking are the lack of a 2nd authorizer, which is nationally recognized best practice, limited autonomy, and the lack of facilities funding.

A lot has changed in 18 years and without updates in these key areas, it will be difficult for high quality charters to expand and for New Jersey to attract new high performing charters from other states, where there are typically less restrictions and more facilities options available.

I. Background on New Jersey Charters and Need for Updating the Law

Despite these restrictions, charter performance in New Jersey is strong. The National Alliance ranked New Jersey's charter movement #4 out of #26.² New Jersey's charter movement ranks highly because charters across the state have dramatically improved student achievement for New Jersey's most at-risk students. According to a 2012 study from Stanford University, on average, charter students in New Jersey gained an additional two months of learning per year in reading and three months in math when compared to their district school counterparts. In Newark, these academic gains were even greater. Charter students there gained an additional 7.5 months per year in reading and nine in math compared to traditional public school students in Newark.³

¹ "Health of the Charter Movement," National Alliance for Public Charter Schools, accessed October 9, 2014, <http://www.publiccharters.org/wp-content/uploads/2014/09/health-of-the-movement-2014.pdf>.

² "Health of the Charter Movement," National Alliance for Public Charter Schools, accessed October 9, 2014, <http://www.publiccharters.org/wp-content/uploads/2014/09/health-of-the-movement-2014.pdf>.

³ "Study Finds New Jersey Charter Public Schools Significantly Outperform Their District School Peers," Center for Research on Education Outcomes, accessed October 15, 2014, <http://credo.stanford.edu/pdfs/NewJerseyPressReleaseFINAL.pdf>.

Today, New Jersey's charter schools serve only 40,000 students, but there are 20,000 students on waitlist across the state.⁴ Parents want more high-quality options for their children and are voting with their feet. Data from Newark's first year of coordinated enrollment shows that charters were eight of the 10 choices most commonly selected for seats in kindergarten through eighth grade, but only 45 percent of these families got their first pick.⁵ The demand for more high-quality options is clear in Newark, but this is also the case in other cities like Camden and Jersey City, where charter waitlists continue to grow.

Even though charter schools across New Jersey have been successful under the current law, the National Alliance points out that New Jersey's charter sector will be unable to flourish and meet the demands of families, unless the current law is updated to address the weaknesses in the key areas I mentioned previously.⁶ That's why Senator Ruiz's new bill is so critical.

II. Strengths of S2319

Senator Ruiz, we applaud your efforts to bring forward a comprehensive charter bill, which takes into account best practices from across the country. The inclusion of an independent second authorizer is particularly important to monitor the operational and financial health of our charter schools. Currently, New Jersey is one of only seven states with just one statewide charter authorizer.⁷ Without a second authorizer the pace and nature of charter school growth depends on the capacity of the current authorizer – the New Jersey Department of Education. An additional authorizer will help ensure that high-quality charters continue to grow. A second authorizer will also add capacity in terms of the oversight that authorizers must perform to ensure that all charters in New Jersey are delivering a high-quality education for their students. Research indicates that among authorizer types, independent state charter boards are most likely to create policies that promote the replication of strong charter schools.⁸ And an independent charter board can operate as a specialist in charter issues, by providing the expertise, capacity and scale necessary to ensure high-quality authorizing.

⁴ "An Analysis of Charter School Facility Landscape in New Jersey," Charter School Facilities Initiative, accessed October 15, 2014 http://njcharters.org/docs/report_facilitiesanalysis_201301.pdf.

⁵ Leslie Brody, "Charters Catch On Fast in Newark, Parents Increasingly Look Outside District Schools," Wall Street Journal, July 6, 2014 accessed October 9, 2014, <http://online.wsj.com/articles/charter-schools-catch-on-fast-in-newark-1404694884>.

⁶ "Health of the Movement, National Alliance for Public Charter Schools, accessed October 15, 2014, <http://www.publiccharters.org/get-the-facts/health-of-movement/states/NJ/>.

⁷ Policy Recommendation: Statewide Alternative Authorizers," National Association of Charter School Authorizers, January 29, 2014, http://www.qualitycharters.org/assets/files/images/stories/pdfs/policy/Statewide_Authorizers_Updated%20111313.pdf.

⁸ "The State of Charter Authorizing 2012," National Association of Charter School Authorizers, accessed November 5, 2013, http://www.pageturnpro.com/Publications/201304/3251/50124/pdf/130106249146911240_FactsReport2012%20FINAL%20pdf%204-15-13.pdf.

In addition to the creation of the 2nd authorizer, the other changes in the bill regarding authorizing and accountability will strengthen the charter sector here in New Jersey. In particular, the provision that would require authorizers to issue an RFP that would specify communities where charters are needed and preferences for serving a specific disadvantaged population of students will help to ensure that charters are approved in areas where they are needed most. And the inclusion of a required charter contract will help to strengthen accountability.

Lastly, an important component of this bill is the inclusion of measures to ensure that charters and traditional public schools have opportunities to share best practices, which we welcome and encourage.

III. Recommendations

S2319 is a comprehensive piece of legislation that will help charter schools in New Jersey continue to thrive. However, there are two areas within the legislation we recommend strengthening.

The first area pertains to facilities access. In my past experience at the Newark Charter School Fund, one of the most daunting challenges for new and growing charter schools is access to facilities. This continues to be the case today. In most of New Jersey's urban areas there are limited spaces that are suitable to open a school, especially without costly renovations. In line with national best practices, S2319 provides charters the right of first refusal, which will grant school districts the ability to sell or lease a school facility at an amount equal to the fair market value. While we welcome this provision, charter schools should also be able to purchase or lease facilities *below* the fair market value. Purchasing or leasing a facility at fair market value may still be out of the financial reach of many charter schools.

Providing charters access to underutilized space at below market rates would help offset the costs that charters are facing without incurring any new expenses for the state. Other states, such as Mississippi, Washington and Indiana have included provisions in their charter law to allow districts to sell or lease school facilities at or below the market rate.⁹

Second, the bill clarifies that individuals employed in charter schools are subject to the residency requirement embedded in the New Jersey First Act. While this provision codifies existing practice, we at JerseyCAN and others are seeking a repeal of this residency requirement for both charter and district schools to broaden the pool of educators for New Jersey students. Such a repeal was passed by the Senate State Government Committee back in June, and we would urge the Assembly and the full Senate to consider such a repeal.

⁹ Equitable Access to Capital Funding and Facilities," National Alliance for Public Charter Schools, accessed October 15, 2014, <http://www.publiccharters.org/law-database/equitable-access-capital-funding-facilities/>.

Once again thank you Senator Ruiz for your leadership on this important legislation and other critical issues in education. And thank you for your time today.

**TESTIMONY OF EDUCATION LAW CENTER ON
SENATE BILL NO. 2319 AND
IMPROVING NJ'S CHARTER SCHOOL LAW**

OCTOBER 16, 2014

Thank you, Senator Ruiz and members of the Senate Education Committee, for the opportunity to speak on behalf of Education Law Center (ELC). ELC advocates for a thorough and efficient education for New Jersey's 1.1 million public school children, particularly students at-risk, in high poverty schools and districts, English language learners, and students with disabilities.

The State's implementation of the charter school program has changed significantly since the charter law was enacted almost two decades ago. Under Governor Chris Christie's administration, these changes have been dramatic and often have occurred out of public and legislative view. It is imperative, therefore, that this Committee, as an initial step, develop a full, public record of those changes to inform any proposed legislation to address the on-the-ground impacts of the charter program on the right to a thorough and efficient education guaranteed to all of our students under the NJ Constitution.

The touchstone of this Committee's review of the charter school law must be to ensure that any additional, new charter schools are only authorized after rigorous and comprehensive State review, including an assessment of the impacts on student segregation and funding loss in the districts of residence. Your review must also examine whether State ongoing monitoring of approved charter schools ensures these schools are operating equitably and effectively and are advancing a thorough and efficient education for all students, district and charter alike.

First, let's face the facts: over the last several years, the Christie administration has implemented the charter school program not as a laboratory for innovation to assist district schools or to provide alternatives for students at-risk of academic failure, as the Legislature intended in 1995. Instead, the Administration has encouraged and allowed charter schools to serve as replacements for district schools and, if current trends continue in some districts, replace the district itself as the primary provider of public education to children. In Newark, we estimate that charters have already been authorized to serve upwards of 40% or more of all district students. Recent approvals in Camden authorize three national charter chains – Mastery, Uncommon and KIPP – to open 16 schools enrolling 9,000 students, over 70% of the district's total student enrollment.

Further, as Senator Ruiz knows all too well from Newark, this unplanned charter growth occurs largely out of public view, triggering the closing of neighborhood schools and exacerbating student segregation and a loss of funding for students in district schools. In short, the Commissioner and Department of Education (DOE) have, mostly behind closed doors, allowed the explosive growth of charter schools in Newark, ignoring the State's overarching

constitutional responsibility to ensure a through and efficient education for all Newark students, especially those who are academically at-risk, English language learners and students with disabilities.

In fact, just last week, in a legal argument before the Appellate Court, the Attorney General revealed for the first time that New Jersey has many more operating charter schools than the 87 charters in the official DOE count. Much to our surprise, the Attorney General told the Judges that 23 of the 87 approved charters are currently operating not just one school, but one or many more charter schools. A few have been allowed by DOE to open entire networks of schools for the apparent purpose of replacing, not enhancing, district schools, with the ironic effect of limiting public school choice for students.

We have attempted to figure out the number of charter schools in operation, and have discovered there may be as many as 40-some additional schools, bringing the statewide total to 130 or more.

Quite frankly and shockingly, I can't tell you here today exactly how many charter schools are now open in New Jersey districts. The DOE does not make this information public. All we know is that the DOE lists 87 charters on its website, a number the Attorney General concedes is not accurate. We also don't know how the DOE approved these additional charter schools, and whether they were authorized in compliance with existing law. It does appear, however, that at least some of the schools have been allowed to open in violation of the current law. In particular, no notice was given to legislators and local officials about many of these new schools, as is required under existing law. Because local and state officials – and most importantly, parents and students – have been deprived of notice of these proposed new charters – an important aspect of the original charter approval process – there is no assurance that the fiscal, segregative and other impacts on district schools and students was even considered by the DOE.

The bottom line is this: the Christie Administration has fundamentally altered the charter program without legislative authorization. The DOE no longer authorizes individual charter schools, but is authorizing charter operators – mostly national, out-of-state organizations – that are then free to open not just one, but two, three or even networks of charter schools in one district or multiple districts. The result has been a significant increase in the number of students attending charter schools in certain areas of the state, but here again, it's impossible to know the extent of current and previously authorized charter enrollments because the DOE does not make this crucial information public.

This Committee must get a full handle on this situation before even contemplating any changes to the charter law. ELC calls on this Committee, along with your counterparts in the Assembly, to conduct a joint investigation into the status of implementation of the charter program. This investigation must include a full accounting of the number of individual charter schools in operation in each district and information about the operators of those schools; the levels of enrollment approved by the DOE; the extent to which existing charters can open new schools to accommodate already approved enrollments, the process by which charter operators have been allowed to open new schools or expand existing schools; and the impact of this growth in charter schools and enrollments on key factors, including the loss of essential programs, staff and services in the budgets of district schools and the segregation and isolation of students by race,

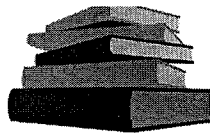
socio-economic status, English language barriers, disability, and other at-risk factors in resource-depleted district schools.

To conduct this investigation, we recommend the Committee not only obtain information from the DOE, but hear from independent researchers, educators, parents and stakeholders, from both the districts and charter schools. We strongly recommend public hearings, and that hearings be held in the State-operated districts of Newark and Camden. Once this comprehensive record is compiled, we will all be in a more informed position to determine what essential changes are needed to ensure the charter law achieves the core objectives of educational equity, opportunity and improved outcomes for all students, whether enrolled in district schools or charters.

We also urge this Committee to put on hold S2319 or any other charter law amendment at this time. Given the revelations by the Attorney General, and the substantial questions regarding the manner in which the charter program has been implemented and altered, it is entirely premature to even consider whether additional entities to authorize even more charters is necessary or appropriate. We simply can't consider whether New Jersey students will benefit from additional authorizers when we don't even know the full extent of what the DOE has already authorized.

Senator Ruiz is aware of ELC's positions on charter law reform, including the need to codify in statute the State's constitutional responsibility to address the increased segregation of student populations and the financial impact of charters on district schools, to improve fiscal accountability and transparency of charter school budgets and expenditures, to prevent profit-making from charter schools, and to allow new charters only if they respond to pressing needs that will enhance student opportunities and options, such as multi-district charters with the mission of serving a racially and socio-economically diverse student body.

But, as we have explained, we simply don't have the information and data necessary for an informed discussion of these and other proposals and about how best to reform and improve our charter program for the benefit of all students, district and charter. We ask this Committee to take the lead in conducting a comprehensive investigation into the substantial and serious questions raised by the State's implementation of the program, especially over the last several years. We stand ready to assist you in undertaking this long overdue and essential task.



**TESTIMONY OF DONNA SIMINSKI
DIRECTOR OF POLICY AND ADVOCACY
NJ CHARTER SCHOOLS ASSOCIATION**

SENATE EDUCATION COMMITTEE

OCTOBER 16, 2014

RE: S-2319

Good morning Chairwoman Ruiz and members of the Senate Education Committee. Thank you for the opportunity to appear before you today. For the record my name is Donna Siminski and I am the Director of Policy and Advocacy for the NJ Charter Schools Association.

It is my pleasure to appear before you today on behalf of the 87 public charter schools in New Jersey, the 40,000 students attending those schools this year and the 20,000 households that are currently sitting on waiting lists for public charter schools.

First, on behalf of New Jersey's public charter school community, I would like to publicly thank Chairwoman Ruiz for her dedication and leadership in leading a comprehensive discussion to advance much needed reform of New Jersey's 18-year-old charter school law.

New Jersey's charter school law was passed in 1996 and in the following years, charter schools have proven to be an important component of the public education mosaic. We've learned a lot in those years, not only from our experience in New Jersey, but also across America.

New Jersey has always been a leader in education reform but now our charter school law typically ranks very low in several national studies- including the National Alliance for Public Charter Schools' annual rankings report where NJ is ranked 32 out of 43. It is time to take the advancements of the last 18 years and improve our laws so we can provide even greater educational opportunities for our children.

The current charter school law falls short of many of components considered to be best practices, including: 1) multiple authorizers and authorizer accountability systems; 2) charter school access to equitable operational, categorical and facility funding; and 3) autonomy and flexibility from many state and district laws and regulations.

The good news is that charter schools are doing well in spite of the outdated law. New Jersey's charter school students continue to prove their success. In 2013, 91% of charter high school seniors graduated. This is 3 points better than the state average and 17 points better than the comparative district average.

In addition, charter school students are closing the achievement gap by increasing their proficiency on the NJASK and HSPA. If we look at the 2013 NJASK scores we see that charter school students were 12 points more proficient in LAL and Math than their comparative districts.

Charter school students also performed well on the HSPA. In 2013 charter high school students were 11 points more proficient in LAL and 4 points more proficient in Math than their comparative districts.

I would like to touch on a few key policy points.

Authorization Process

The Association applauds the inclusion of an independent charter school authorizer. This is a major policy priority for the NJCSA. A second independent authorizer will provide independence and continuity to the charter school environment free from political influence. The authorization process- application review, approval, renewal, nonrenewal and revocation are critical to ensuring that only high quality charter schools serve students and should not be impacted each time the administration changes policy priorities.

We also support the authorizer accountability language in the bill including the creation and execution of a performance-based contract between the authorizer and the public charter school. For many years, we advocated for a stronger charter school application process and we thank Chairwoman Ruiz for accepting our suggested language. A strong application process together with a performance-based charter contract will lead to high-quality public charter schools. Changing the public charter school authorizing paradigm is a significant step forward.

As we appreciate your efforts in drafting this bill, we do have some concerns with the items in the bill and some that are not in the bill including funding equity, facilities aid and autonomy.

Funding Equity

Current law mandates that public charter school students receive 90% of the per-student funding that their district counterparts receive. They receive less, because public charter schools DO NOT receive adjustment aid. The result-- charter school students receive an average of \$6,000 less than their district school counterparts. Since the majority of charter schools are in our older urban centers where economic hardship impacts students and there exists other funding disparities such as an unstable tax base, access to adjustment aid is critical for charter students if we are to fulfill the original intent of adjustment aid.

We have had many conversations over the last three years on this issue. The equitable funding of public charter schools MUST be addressed. At a minimum, there has to be consideration of public charter schools' access to adjustment aid.

Facility Funding

A 2011 study conducted by the Colorado League, the US DOE and NJCSA determined that it costs New Jersey charter schools an average of \$1,400 per student to pay for facility related expenses. This is money that comes directly out of the classroom. We have advocated and will continue to advocate for a per pupil appropriation for charter schools to offset the numerous facility related expenses.

S-2319 does not significantly address the area of facilities funding. While the proposed bill provides charter schools with the right of first refusal for district space, it only provides access to the district space at fair market value. To make access to facilities easier for charters we request that the bill be amended to read-- "at or below" fair market value.

In addition, this bill would require charter schools to adhere to the district requirements regarding the undesignated general fund balance for use in subsequent years. The limitation makes sense for traditional districts with tax levy authority and collection power, but charter schools do not have the authority to levy taxes. This requirement will not allow charter schools to save necessary funds for new facilities, repairs or other infrastructure needs.

We are also concerned about the new "highly qualified" definition included under teacher qualifications. The newly proposed language will create confusion as the definition of "highly qualified" already exists. The current definition is aligned with the federal law. Charter school teachers are already required to be highly qualified under this definition. We recommend amending the bill to remove the new text or remove the final sentence of the new text, keeping the reference to highly qualified, but not defining it since it is a widely used term with a specific definition.

Again, we thank you for your consideration and continued commitment to public education and your leadership on this issue.

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Wendell Steinhauer, President

Testimony before the Senate Education Committee

S-2319

October 16, 2014

Good morning. I'm Wendell Steinhauer, president of the New Jersey Education Association. We proudly represent over 200,000 active and retired public school employees across New Jersey, including nearly 500 members in nine charter schools. Those public charter school members make a great contribution to our association and to public education in New Jersey. We look forward to representing many more of their colleagues in the future.

I thank Senator Ruiz for her invitation to testify this morning, as well as for her interest in this important issue. I also thank all the members of the committee for listening to educators as you consider how best to ensure that New Jersey's charter schools serve the needs of their students and enhance the communities in which they operate.

We have long been clear in our support of charter schools as public schools. Our policy on charter schools says, in part, that "NJEA supports high quality public charter schools as one component of an innovative, progressive system of public education," and that "public charter schools, along with magnet schools, vocational schools and traditional public schools can all play an important role as laboratories for innovation and provide a broad array of choices for parents."

In that spirit, we supported the original law in 1995 that authorized public charter schools in New Jersey. More recently, we supported legislation to ensure that public charter schools are subject to the same accountability and safety standards as traditional public schools in order to better protect both students and staff in those schools. We also advocated for legislation to prevent profiteering on public charter schools so that student learning, and not corporate profits, will remain the most important priority.

Today, we are pleased to participate in this discussion about the future of public charter schools in New Jersey. It is a timely discussion, because much has changed in the nearly two decades since the original law that set us on our current path, which has led to 87 charter schools serving approximately 32,000 students as of last year. Among the significant changes is the rise of large-scale charter school chains operating dozens or hundreds of schools in multiple states. With that development, the original vision of charter schools as community-based schools responding to local needs is getting pushed aside in favor of a more corporate model where proposed solutions are too often imposed upon the community rather than being derived from the community.

The large-scale corporatized charter school model is a significant departure from the original idea of responsive, innovative, community-based schools where educator input and local control were prioritized. In fact, such chain schools often disenfranchise community members, who have no say in whether the schools come to their community and no voice in their operation once they arrive. With large chains, where the ultimate decision-makers are far removed from both the community and the school, the opportunity for meaningful input at the local level is limited if it exists at all.

We are pleased to see that the bill we are discussing today includes language that highlights the importance of charter schools being established by nonprofit entities, and look forward to working with the sponsor to ensure that both the letter and the spirit of that provision are honored. Where there has been any attempt to sidestep that priority, or if the potential to do so exists, this legislation should firmly close that door. And we should work together on additional safeguards against any potential abuse of precious public resources. There should be no question that public funds invested in public schools are for public education, not private profit.

We are also pleased to see language that emphasizes the need for public charter schools to be innovative, and to share their successes with other public schools so that all students can benefit. We believe such sharing should go both ways, and applaud the sponsor for making the value of such sharing an explicit part of this legislation.

We also have some concerns and hope to continue our dialogue on several issues. Among the items we believe deserve more consideration is the formation of a new, politically-appointed charter school authorizing board, to supplement the role currently filled by the Commissioner of Education.

NJEA is not opposed to the idea of a different charter school authorizing authority. In 2011, we supported legislation that would have designated up to three New Jersey colleges or universities as charter school authorizers. They would have not only authorized public charter schools, but also would have overseen the schools they authorized.

Our concern with the current language of this bill is that the board is explicitly comprised of political appointees. While I have great respect for the political process and for the people like you who serve New Jersey at the highest levels, NJEA believes that New Jersey should strive to make the charter school authorization process less political rather than more political. We believe that will lead to greater consistency in policy and decision-making and will help keep the authorization process focused where it should be: on what is best for all the children of the community in question.

Charter schools have come a long way in nearly 20 years. There are certainly some successes to celebrate, as well as some lessons learned. We know that we have to do a better job of making sure that charter schools serve student populations that are representative of the communities in which they operate. We need to be sure we have adequate fiscal and accountability safeguards in place to deal with an era of much larger and more sophisticated charter school operators.

We also need to deal with things that were not even contemplated two decades ago, such as virtual charter schools. Other states have learned some hard lessons about the limitations and shortcomings of providing virtual education at public expense. In New Jersey, we should learn those lessons the smart way, by examining the experiences of others rather than by experimenting on our students.

Given the recent changes in the charter school movement, we are well advised to look closely at how New Jersey handles its public charter schools, in order to make sure that over the next 20 years we will have more successes and fewer hard lessons. To that end, we believe that the Legislature should go beyond this legislation and engage in an even deeper and more detailed examination of charter schools in the state. We propose the formation of a study commission to document the progress we have made and the obstacles we still face, and to recommend the changes that are necessary in order for New Jersey's public charter schools to live up to their mission and purpose in the years to come.

We also propose a temporary moratorium on the approval of new charter schools until the study commission has completed its work and the Legislature has acted on its recommendations. Such a temporary pause in authorizations would not eliminate public charter schools in New Jersey, nor affect those already operating or approved. It would, however, give us the opportunity to refocus the mission and strengthen our commitment to equity, access and excellent educational outcomes for all students.

Thank you for the opportunity to testify. We look forward to more conversation and cooperation as these issues receive much-needed attention from our elected leaders.

New Jersey Principals and Supervisors Association



Testimony
On
The Charter School Accountability & Authorizer Act (S-2319 (Ruiz))
Before the Senate Education Committee
October 16, 2014

Thank you for the opportunity to share the thoughts of the NJ Principals and Supervisors Association (NJPSA) and its statewide membership on S-2319 (Ruiz) which seeks to modify various aspects of the charter school program, including authorization, regulation, and monitoring.

Our members are the principals, assistant principals and supervisory employees at the school building level who are responsible for: developing the educational vision of a school; ensuring a safe and secure learning environment for students and staff; implementing curriculum and assessment; and, leading teachers and school staff.

We applaud Senator Ruiz for her thoughtful and deliberate approach in overhauling New Jersey's legislation which authorized charter schools in 1995. We have learned much in the ensuing period and this legislation seeks to improve on the 1995 framework. We believe this work is critical to ensuring educational excellence for students attending our charter schools.

As such, we were pleased to see the legislation's commitment to ensuring that profit motives do not drive the provision of educational services in the State of New Jersey. Bolstering the commitment in existing law that all charter applicants retain a non-profit status is essential to ensuring that every dollar that comes into a school goes to the betterment of the students served.

Additionally, NJPSA supports the legislation's commitment to a comprehensive review of charter applicants based upon 'nationally recognized principles and standards for charter school authorizers. These include a comprehensive statutory framework, while permitting the details to evolve regulatorily. We believe this strikes an important balance between legislative oversight and unnecessary interference.

Similarly, we endorse the legislative provisions which affirmatively address potential conflicts of interest both between the authorizer and the schools it authorizes, as well as internally within established schools via the adoption of a nepotism policy. These safeguards help ensure integrity within the process.

Charter Authorizing Board

NJPSA appreciates the strong qualification requirements for members of the Charter Authorizing Board (CAB) and the organizational structure which places **this office under the auspices of the State Board of Education. We believe ensuring this body is directly tied to the Department of Education's chief policy makers – the State Board of Education – is essential to ensuring its success. It will also help**

ensure the CAB can evolve and remain responsive to regulatory change as it happens. To that end, we would recommend that the sponsor consider staggering terms of members to ensure that the CAB remains continually 'staffed' with experienced board members in comparison to establishing terms of differing lengths. This will not only help ensure continuity in the application process but more importantly ensure comprehensive support for the schools under the CAB's purview.

Sharing Resources

Moreover, in order to create enhanced efficiencies for the two authorizing entities – the Department of Education and the CAB - we would recommend that the two entities share training and support for the charters they manage. This will expand capacity for both the authorizers and charter schools.

Similarly, we applaud efforts by the sponsor to foster enhanced communication between the Executive County Superintendent's Office and the charter schools within each county. We do, however, urge some caution in extending that requirement to the Regional Achievement Centers (RACs) as their work with priority and focus schools consumes the RACs time and limited resources. Unfortunately, at the present time they are unable to support non-categorized Title 1 traditional public schools (those schools that have NOT been designated as schools with sub-group or whole school under-performance).

Accountability

Turning to the foundational aspects of the legislation, we applaud the legislation's focus on comprehensive standards of accountability which provide a framework in legislation. We do wonder, however, whether, in comparison to the contract approach as outlined under the legislation, these requirements could better be spelled out regulatorily based upon the requirements outlined in legislation. This is consistent with the current approach taken by the Department of Education and eliminates a step in the process as an applicant would be bound by these criteria immediately upon accepting a charter rather than upon signature of a contract between the two parties.

Nonetheless, we were pleased to see the robust reporting requirements as outlined under the bill. These factors include academic growth and college and career readiness metrics as well as governance and financial (including an annual audit) requirements.

However, as educators we were a bit concerned to see language that compels a school to accept a student who has withdrawn from a charter school to accept all credits from the sending school without a review and consideration of the course material provided at the sending school. We would rather encourage the sponsor to consider requiring the receiving school to review the credits in a uniform and consistent manner and attempt to honor a student's status and grade level, absent a compelling reason. This is consistent with the sending/receiving relationship that exists when a student enters a school from another jurisdiction. Similar rules should apply in this context as well.

Meaningful Public Input

NJPSA was also pleased to see a commitment within the legislation to input from the community via a hearing process before the authorizer. **As an Association, we fundamentally believe that a community should have a say in the public education provided to students in the community.** This process is maintained for those attending a traditional public school via a community's School Board public testimony process where residents have a chance to weigh in on proposals.

The proposition of establishing a new school in a community – whether a traditional public school or charter school - should include a meaningful opportunity for the community to weigh in. **As written,**

we are unclear as to the physical location of these hearings – within the impacted community or centrally within the State. We recommend localized hearings to increase the opportunity for local input and the development of partnerships within an educational community.

We also hope that this process does not negate the existing ability of a Board of Education to weigh in on an application. As the local education policy maker, elected by the community, they are the entity best able to provide insight. While including a representative from the state organization that represents school boards statewide can provide invaluable expertise for the CAB we do not believe this adequately supplants the critical input of the local education decision maker.

We must insure that an authorizer has meaningful input from the community in making a decision to grant a charter within that community.

Quality Inputs for Students

Finally, we turn to a few items that are not comprehensively covered by the legislation but which we urge action. As you know, in the spring of 2013 the Department of Education weakened licensure requirements for charter school teaching staff members while elongating the period required to attain tenure.

NJSPA believes that quality inputs through licensure for entry into the profession should not be modified simply based on the type of school a professional chooses to teach within. Licensure serves as the baseline requirements that a teaching staff member should possess to adequately provide teaching and learning. **Eliminating this baseline jeopardizes the quality of instruction students receive.**

Consistency in licensure also ensures the free transferability of employees between the traditional public school environment and the charter school environment. This free transferability leads to the enhanced proliferation of ideas and innovative practices – something that this legislation calls for.

We urge the sponsor to consider bolstering the language within the legislation to ensure that students, regardless of the environment they are being educated within, receive instruction from properly trained professionals properly certificated to provide instruction.

Defining A Baseline Process

That same regulatory change modified the tenure acquisition process for certificated charter school employees, including principals and supervisory employees. Specifically, the change eliminated the baseline regulatory requirements at the district level for tenure acquisition and dismissal in charter schools, creating the potential for wide variation in the process and standards by which an employee is not only dismissed but also supported. It allowed a board of trustees to make tenure dismissal or reductions in compensation decisions unilaterally with limited appeal to the Commissioner.

Our greatest disappointment would be in losing a novice or even experienced educator because he or she did not receive instructional support, professional development or even notice by which to make improvement. This is what the recent changes made by the TEACHNJ Act around evaluation and tenure in traditional public schools were all about.

While we can understand the need for flexibility – NJSPA believes that we must do better and as such implore the sponsor to address this issue within S-2319 as well. The Department should establish a

baseline standard, or at least guidance, to assist new charter schools as they address complex staffing and labor issues.

Further, the code adopted last year strips employees of tenure protections where a charter school is going through a re-structuring. This process occurs even if a charter school's issues don't stem from instruction or educator effectiveness (e.g. financial or facility concerns). **We simply don't understand the need for unilateral discretion to strip employees of employment rights/protections. We urge the sponsor to consider this issue as we contemplate this comprehensive overhaul of the charter legislation.**

Disallowing Waiver of Certain Regulatory Requirements

Lastly, the 2013 revision to charter regulation allowed for the broad exemption of state regulation by the Commissioner. We are unsure how this authority would operate should a CAB, in addition to the Commissioner, serve as an authorizer. More importantly, however, there are certain school requirements, particularly in the areas of instruction, health and safety, and school quality standards as an example, that are so critical that they should never be waived. As such we would urge the sponsor to consider this issue as we move forward.

We thank the sponsor and this committee for their time and consideration. We look forward to working with the Senator on her proposal in the coming days.

SAVE OUR SCHOOLS NJ
TESTIMONY TO THE SENATE EDUCATION COMMITTEE ON S2319
Presented by Susan Cauldwell
October 16, 2014

Thank you Senator Ruiz and members of the Senate Education Committee for the invitation to speak to you on behalf of the more than 21,000 members of Save Our Schools NJ about S2319, which would amend the 1995 Charter School law.

I will address the following four categories as they pertain to this legislation:

- 1) Potential for significant fraud and abuse
- 2) Need for stronger local control
- 3) Preventing for-profit charter schools
- 4) Need for more carrots and sticks to decrease segregation

Potential for significant fraud and abuse

S2319 calls for the establishment of a charter school authorizing board, comprised mostly of political appointees, and provides minimal funding to support the work of this board. We believe the establishment of such a board will not increase the quality of new charter schools and is likely to pave the way for significant waste and fraud.

Numerous reports were released this year on charter school fraud and abuse, including one in May by the Center for Popular Democracy that identified more than \$100 million in public tax dollars that had been lost nationwide. Notably, that report included few instances of waste and fraud in New Jersey and the Commissioner of Education had revoked the charters and closed those New Jersey charter schools that had committed such misdeeds.

Save Our Schools NJ does not believe a politically-appointed charter authorizer board would be as effective either in authorizing high-quality charter schools or in closing down those that break the law. One need only look to Pennsylvania to see how long charter schools that have engaged in misdeeds are allowed to continue to operate. Pennsylvania is a state that has multiple charter authorizers. Conversely, Massachusetts, which has some of the highest quality charter schools in the country, has just one charter school authorizer, and it is the State Board of Education. We strongly support retaining the Commissioner of Education as the sole authorizer of charter schools.

Need for stronger local control

We appreciate the effort in S2319 to increase local public input on charter school applications, as outlined in Section 5 of the bill. We respectfully request that this legislation also include a vote by local residents or an elected school board. As

you know, such local approval was supported by 73% of all New Jersey residents polled by Rutgers University.¹

Preventing for-profit charter schools

Section 17 of the bill deletes the clause in the 1995 Charter School Act that says a “private entity shall not realize a net profit from its operation of a charter school.” We suggest that this language be retained and strengthened significantly. Despite this prohibition in the original act, we are aware of at least three charter schools in the state that are being operated and/or managed by for-profit corporations

Need to decrease segregation²

New Jersey charter schools do not educate the same population of students as their sending districts. Whether by accident or by design, charter schools across the state consistently enroll fewer students from very low-income families, fewer male students, and almost no English language learners.

Some specific examples:

- In Trenton, the free lunch population (children whose families earn \$0 to \$130% of the poverty line) is 30 percentage points greater in the traditional public schools than in the charter schools.
- In the Hoboken school district, 46% of students qualify for free lunch while only 7% of charter school students qualify for free lunch.
- The Plainfield school district educates 7 times the limited English proficient students as the charter schools.
- Three percent of the students at Teaneck Community charter school qualify for free lunch, versus 19% to 27% at Teaneck’s seven district public schools.

• Charter schools also educate many fewer students with special needs. Statewide, students with special needs comprise 15.2 percent of school district populations. In charter schools, special needs students comprise just 9.2% of the student body.

And, the special needs students in charter schools are much less costly. Forty percent of traditional public school special education students are in the moderate or high cost categories. Just 21% of charter school students fall into those categories.

¹https://docs.google.com/file/d/0B40ranDWYumAMzIxMTU0MzItYzg2OS00MDVjLWE2MTQtYmZkMTI4MjQzMDhl/edit?hl=en_US&pli=1

² The source of the charter school demographic data in this testimony is “New Jersey Charter Schools: A Data-Driven View, Part I: Enrollments and Student Demographics, By Mark Weber and Julia Sass Rubin.

Some specific examples:

- Camden Public Schools have a 19% classification rate; Camden charter schools have a 9% classification rate.
- Newark Public Schools have an 18% classification rate; Newark charter schools have a 9% classification rate.

This segregation hurts children by concentrating the most challenging students in the district public schools, making it significantly more challenging to offer them a high quality education. This inequality of need is further exacerbated by a resulting funding inequality.

S2319 requires demographic and attrition data to be collected, which is an important part of addressing the segregation.

We would encourage you to go further. Voluntary desegregation is rare and very unlikely to happen in this context.

We propose:

- Requiring charter schools to reflect at least 90% of the aggregate free lunch; Limited English Proficiency; and special needs percentages of their sending districts, including higher cost special needs.
- Using weighted lotteries to help charter schools reach those goals.
- Requiring charter schools to backfill any students who leave and to do so from comparable demographic categories, whenever feasible.
- Having the NJ Department of Education conduct the lottery process for all charter schools, with one application deadline, to increase lottery and waiting list transparency and to make it easier for low-income and Limited English Proficient families to apply.
- Funding charter schools based on the students they actually educate. If charter school demographics fall below 90% of the sending districts in terms of Free Lunch, Limited English Proficiency and Special Education, so would the funding.
- Collecting enrollment data at least three times a year from charter and district public schools, to account for shifts in student population characteristics.
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Thank you again for this opportunity. I would be happy to answer any questions.



TESTIMONY OF MICHAEL LILLEY BEFORE THE SENATE EDUCATION COMMITTEE
ON BEHALF OF BETTER EDUCATION FOR KIDS (B4K).
OCTOBER 16, 2014

On behalf of Better Education for Kids, I would like to thank the Education Committee and Senator Ruiz for the opportunity to testify today.

First, I would like to underscore an important fact: New Jersey's charter schools are remarkably successful in educating New Jersey's kids – particularly by helping minority kids in poverty close the achievement gap.

The facts speak for themselves. Stanford's Center for Research on Educational Outcomes – the nation's foremost research institute of charter school effectiveness - studied five years of data for New Jersey charter schools and found that our charter schools significantly outperform their district school counterparts. On average, New Jersey's charter school students gain an additional two months of learning per year in reading and an additional three months of learning per year in math.

In Newark – New Jersey's largest and most developed charter system – charter students have some of the largest learning gains the Stanford researchers have ever seen. Newark charter school students gain an additional seven-and-half months of learning per year in reading and an additional nine months of learning per year in math when compared to their district counterparts.

The researchers concluded that: "Both Black and Hispanic students in poverty who are enrolled in charter schools show significantly better performance in reading and math" compared to their district school peers. New Jersey's charter schools have shown that these kids can and do succeed in school.

Importantly, this success has indeed closed the achievement gap. From 2010-2013, minority students at charter schools reduced the gaps on the NJASK test by 30% in math and 14% in language arts literacy. We can all be proud of this achievement.

Parents know this. In addition to the 40,000 kids statewide who attend our 87 charter schools, there are more than 20,000 kids on waitlists trying to get into one.

It's time to give those kids a chance, too.

That's why B4K applauds Sen. Ruiz's charter school reform bill S2319. New Jersey's charter law is almost 20 years old and needs to be updated to reflect what we have learned in these 20 years as well as national best practices.

We support S2319's creation of a second charter school authorizer. New Jersey is one of only seven states that have a single authorizer – in our case, the NJDOE. We are concerned that future NJDOEs may be limited by capacity or the administration's agenda and therefore unable to meet the demand for high-quality charter schools. This occurred in the recent past when charter school authorizing came to a six-year standstill from 2001-2007. An independent second authorizer – as envisioned in S2319 – would facilitate the creation of high-quality charter schools and provide the capacity to hold them accountable for their performance.

B4K also supports S2319's right-of-first refusal for charter schools for unused and underused district facilities. High quality charter schools need the ability to grow in order to accommodate the large waiting lists. Many districts already have unused or underused school facilities that would otherwise sit vacant. This common-sense approach matches charter school demand with existing supply.

Finally, we support S2319's creation of a formal mechanism for the sharing of "best practices" between district and charter schools. One of the original purposes of charter schools was to allow for a "laboratory" to explore different pedagogical approaches and find the best way to educate kids. S2319 requires county superintendents and the state Regional Achievement Centers to work together with charter schools to disseminate best practices. In the end, it's New Jersey kids who would benefit.

We also urge the Senate to consider other ways that legislation can support our charter school sector.

Even though charter schools are public schools and their students are public school students, kids in charter schools do not get the same financial support as district school kids. On average, charter school students get about 70% per pupil of what their sending districts get. Due to the funding formula, places like Jersey City get a mere 50%. We urge the Senate to consider the unfairness to these kids.

In addition, charter schools and their students do not receive any facilities aid. On average, charter schools spend 15% of their reduced state and local aid on facilities. These funds could be better spent on educational programs and instruction. Again, it is the kids who will benefit.

Finally, B4K believes that charter schools should have less onerous regulatory burdens. The charter school concept is simple: autonomy in exchange for accountability. Unlike their district counterparts, charter schools can be and are shut down for poor performance. Charter contracts set out performance standards that must be met. So long as charter schools meet those performance standards, they should be granted latitude to innovate and find the best way to teach their students without the same regulatory structure that applies to district schools that lack the same accountability.

Garden State



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Testimony before Senate Education Committee: S2319 Charter Schools/Ruiz – Discussion

'Modifies various aspects of charter school program, including authorization, regulation, and monitoring; appropriates \$250,000 to DOE for expenses of charter school authorizing board'

Committee Room 6, Statehouse Annex October 16, 2014

Good morning, I am Lynne Strickland, Executive Director of the Garden State Coalition of Schools/GSCS. GSCS appreciates, and thanks Senator Ruiz and the Education Committee, for the invitation to talk with you today on S2319.

GSCS welcomes the measures of transparency and accountability this bill brings forth. Quality education is the underlying goal and is underscored by those features in the bill. The repeal of the conversion of high-performing nonpublic schools located in failing school districts into charter schools make sense as does the requirement for charter schools to make admission decisions through a certified public lottery when the number of students seeking admission exceeds the number of available spaces.

GSCS notes that neither charter school funding issues nor local input emerge in the bill. However, both issues are a rub in communities across New Jersey and will require resolution before charter schools can be comfortably integrated alongside traditional schools.

Re: Funding – Funding the charter schools is omitted from the bill. This issue has dogged the acceptance of charter schools in New Jersey over the years and will continue to unless addressed. It requires an in-depth analysis and discussion by policymakers. Here are some of the complexities of the funding issue for one GSCS member district in Middlesex County:

1. While the charter students must be supported by the same per pupil cost as the local district at \$12,175 this year and,
2. While the district is considered to be the charter school's 'district of residence' only 52% of the students attending the charter school this year are from that district. The

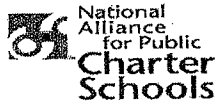
district (as the 'district of residence') must annually put aside the amount of funding that charter 'may' require for the charter's 'projected' enrollment in the next school year.

- In the first year of the charter school in this district, the charter projected enrollment to be 108 students, required approximately \$1.2M to be encumbered by that district. The actual enrollment turned out to be 36 students for the charter.
 - In this current year, 36 new students were projected to enroll yet only 10 students additional enrolled.
 - This hold on funds within the district's budget frustrates many in the community since a) some of the monies could have been spent on needs within the district and/or b) property taxes may have had to be raised above actual need. The district currently funds its school budget around 90% from local property taxpayers.
3. While it has been stated that there is a one for one cost per pupil no matter the setting in which the pupil situated, this theory does not often hold to fact. It is acknowledged that the larger a system and the larger the spread of students among grades, there may not be an impact on the number of teachers or classrooms required with the ebb and flow of students between traditional and charter schools. In this district's case, they looked at what the fiscal impact on staff and space would be if the 160 charter students returned to the traditional schools this year. Result? None.
4. The lid of a 2% cap on budget growth places hardship on numbers of districts that have to reserve funds for projected enrollment growth in charter schools within the community. In the case of the Middlesex district referenced above, \$2M had to be reserved for the current school year for the local charter school. Those dollars represented almost its entire cap allowance this year.

Re: Local Input – Because of the competing policy tugs and funding needs of charters and traditional schools within districts, communities are too often pitted against one another in the same towns and the same cities. A reasonable and calm arena for open information exchange, idea and concerns needs to be provided in the earlier stages of the approval process. Being heard and responded to realistically and openly is constructive and can allow for course correction as necessary.

Garden State Coalition looks forward to working with Senator Ruiz and the Education Committee on these and other issues as this discussion moves ahead.

Thank you.



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October 16, 2014

To Chairwoman Ruiz and Members of the Education Committee:

The National Alliance for Public Charter Schools ("NAPCS") is the national organization dedicated to raising academic achievement for all students by fostering a strong public charter school sector. The purpose of this letter is to voice support for S2319 with amendments and to request that this letter be made part of the official public record for S2319.

In January 2014, the NAPCS released its annual report, *Measuring Up to the Model: A Ranking of State Charter School Laws*. This report analyzes the 42 state public charter school laws against the 20 essential components of the NAPCS's model charter school law. In this year's report, New Jersey's ranking went from number 29 to number 32. While New Jersey's charter law fares well on several model law components, such as allowing a variety of schools and clear charter school monitoring and data collection processes, it needs significant improvement in other areas. These include establishing another authorizer, beefing up authorizer accountability and ensuring equitable access to operational and capital funding and facilities.

The NAPCS supports S2319 for several reasons. First, the bill creates a new authorizer, the charter school authorizing board. The bill's intent to establish an independent authorizer that only focuses on assuring high quality public charter schools will add New Jersey to the growing number of forward-thinking states like Missouri, Indiana and Maine that have chosen this new authorizer option.

Second, S2319 establishes a new accountability system for the charter school authorizing board by requiring the State Board of Education to provide oversight and take corrective action should the charter school authorizing board fail to provide adequate oversight or should its charter schools show persistently unsatisfactory performance, among other reasons listed in the bill. The NAPCS further supports S2319's provisions to assure that all authorizers follow national best practices in carrying out their duties. This provision will help ensure that charter school authorizers are held accountable for their performance and remain committed to the schools they charter and to the state's overall charter school program.

Third, the NAPCS supports the bill's provision to provide charter schools with the right of first refusal to purchase or lease a school facility for an amount equal to the fair market value of the school facility. Acquiring facilities and equitable access to facility funding is a major challenge not only for New Jersey's charter schools but for charter schools in the nation.

As the state continues to work on this important piece of legislation, we suggest that the committee consider amending the bill to delete the requirement of having charter schools comply with the undesignated general fund balance requirement as applied to district schools. Requiring charter schools to move their reserve money, often set aside for a new building or other facility-related costs, back to the general fund creates another financial burden on charter schools that do not receive state and/or local facility funds.

Furthermore, we suggest deleting the provision that requires charter schools to comply with the public district review known as QSAC. Since S2319 includes many of the model law's academic performance framework contract requirements, we believe that the QSAC would place an additional regulatory burden on the state's charter schools.

We appreciate the opportunity to submit this testimony to the Committee. Please do not hesitate to contact me should you have any questions or need further information.

Sincerely,
Todd Ziebarth
Vice President of State Advocacy and Support