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Roles and Responsibilities

Building a Foundation for Success: How Authorizers Can Help Schools with the Facilities Challenge

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Introduction

One of the single biggest challenges for a charter school is securing financing for an adequate facility. While a stellar building provides no guarantee that a school will be a success, having adequate facilities that at least meet the needs of an academic program without robbing the budget can go a long way toward creating an environment conducive to learning. Many charter schools, however, have struggled to obtain even adequate facilities at a reasonable cost. Some have failed to open altogether due to facilities challenges.

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Authorizers are limited in the direct support and resources they can provide for charter schools' capital needs. Nevertheless, they can and do play an important role in the relationship between charter schools and financial institutions that provide facilities financing. This brief will explore the ways in which authorizers can, indirectly and directly, affect a school's ability to obtain the financing necessary for a schoolhouse. Part I examines the indirect impact: how the quality of the authorizer, as perceived by a financial institution, can affect loan decisions. Part II considers the direct, proactive roles that some authorizers have taken to help schools meet their facilities financing needs.

Part I: Quality Authorizing

For any lender, in any transaction, the key consideration is risk compared with potential return. Risk is what lenders try to mitigate through the underwriting process (also known as "due diligence" or, more plainly, "kicking the tires"). Most financial institutions that lend to charter schools agree that the authorizer can be a key component in mitigating risk for charter school loans. Yet lenders vary widely in their analysis of authorizers: some just check a website; others set up meetings and collect reports. Even those who do minimal examination, however, acknowledge that an authorizer that provides consistent and high quality oversight can have a significant impact on the ease with which lenders finance charter schools and the amount that they finance.

Consider how lenders work in more traditional sectors: a company comes to a lender to finance the acquisition of a building. The lender conducts due diligence and analyzes the company's financial and management capabilities. For example, the lender may look at a company's level of cash on hand, inventory, and current debt status to determine whether the lender's minimum requirements are met. For charter schools, these standard forms of measurement are not always available. There is no inventory to count, and few schools have a track record of prior debt. Furthermore, assessing the school's educational viability is typically well outside a lender's area of expertise. Consequently, financial institutions are likely to look for reliable sources for these assessments. Authorizers can be an obvious and perhaps the primary source, but only if they run high-quality operations.

Financial institutions look for three general characteristics in a quality authorizer:

- Stable and consistent **communication** with schools and financial institutions;
- Clearly delineated **processes** and standards in all facets of the authorizer-school relationship; and,
- A politically **stable history** of approvals, oversight, non-renewals, revocations and appeals.

Ultimately, these characteristics allow for a more transparent system of approval, oversight, and renewal. The more transparent the process, the less the perceived risk. Reducing perceived risk can not only help close the deal, but it can allow for more affordable loan terms since financial institutions often employ risk-adjusted pricing. Affordable terms not only mean lower interest rates; they can also relieve schools from onerous requirements such as personal guarantees.

How do these general characteristics translate into specific practices that financial institutions look for in authorizers? We will look at these general characteristics in relation to the core responsibilities of authorizers: application process management, performance contracting, ongoing oversight and evaluation, and renewal decisionmaking. Financial institutions are keenly interested in how an authorizer handles each of these four areas of practice.

Application Process

Communication

The first stage of the authorizing process, the application review, is an appropriate time to lay the groundwork for communication. Although no lender would close a loan to a school before it had a charter, school developers can still take the time to meet with potential lenders to gauge interest. Authorizers might encourage such meetings via the actual application (e.g., request informal letters of support from a financial institution or a list of lenders contacted.) At this time, the lender and the authorizer can also establish a connection, mostly to educate the financial institution on the authorizer's process for reviewing charter applications and the criteria it applies before approving a charter.

Clear Processes

In addition to open communication, financial institutions value clearly delineated processes for charter approval. The application process should be rigorous, with evaluation criteria carefully spelled out in the application. In fact, the business/operations section of charter application should be very similar to a loan application. Both should solicit

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information on governance, management, finances, facilities, marketing, community support, and general operations. An authorizer who considers an application complete without this information will raise significant red flags for a lender since it indicates a lack of rigor in the approval process.

Given that a lender's area of expertise lies in finance, a loan officer may lack the knowledge to conduct appropriate due diligence on a school's educational program. Consequently, a lender will place considerable reliance on existence of a clear process that gives the lender confidence in the authorizer's ability to judge key aspects of a proposal such as the academic program.

The authorizer's rigor in reviewing a prospective school's educational plan is especially important to lenders. Given that a lender's area of expertise lies in finance, a loan officer may lack the knowledge to conduct appropriate due diligence on a school's educational program. Consequently, a lender will place considerable reliance on the existence of a clear process that gives the lender confidence in the authorizer's ability to judge key aspects of a proposal such as the academic program.

Political Stability

Above all, a lender wants to see that the authorizer is turning away applicants who would be likely to fail in their efforts to operate successful schools and viable organizations. Lax approvals are often based on political momentum, not on clear processes and standards. A charter that is approved on political whim can also be revoked by political whim—perhaps a lender's worst nightmare.

This type of risk brings up the importance of political stability in the application process. A lender may want to evaluate an authorizer's track record: Is this entity acting as a voluntary authorizer or has it been forced into this role? How strong is the support for quality authorizing on the part of the board or official that controls the entity? How likely is that support to remain in place over time? Was this particular approval supportive or combative? How many applications has this authorizer denied? How many were appealed and then accepted by a higher authority? A significant percentage of applications denied, then approved on appeal, will raise concerns about influence of political biases in the application process.

Performance Contracting

Communication

Solid communication between the authorizer and the lender about the school's performance contract is especially important. The performance contract sets out the expectations the authorizer has for the school. It sets forth the conditions under which the school's charter will be renewed at the end of its term—and the circumstances under which it can be revoked prior to that point. Since the school's very existence can depend upon the contract, it becomes critical to lenders. Schools that lose their charters or fail to attain renewal generally do not make very good borrowers!

To the extent that a new school is relying on a management company, a lender may be more interested in the details of contracts. In these cases, there are really two contracts in force: one between the authorizer and the school's board, and one between the board and the management company. This second contract becomes a very important part of the legal picture from the financial institution's perspective. For example, a lender will want to have a thorough understanding of the fee structure: Does it seem reasonable for the services provided? Will the company make enough money so it will have incentive to stay? Will it subordinate its fees to the lender?

Lenders may also consider the school's level of dependence on or independence from the management company. Does cash flow to the school and then to the management company or vice versa? Does the board make independent decisions or does it act as an extended arm of the management company? These are important questions for both the lender and the authorizer to ask. Furthermore, a lender may be hesitant to work with a charter school whose management contracts are not subject to the authorizer's careful review.

Clear Processes

As with the application process, the performance contract requires clearly delineated standards and measures. Evaluating the quality of these measures may be particularly difficult because academic goals are trickier to assess than financial or business ones. Lenders are particularly ill-equipped to make qualitative judgments in this area, but they want educational goals to be clearly defined so that schools are not potentially subject to the random impulse of those in charge of determining accountability.

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The limited length of the charter's term has long been a major concern for lenders and highlights the importance of clear processes around performance contracting. Many have not gotten comfortable with the fact that a school with loan payments spread out ("amortized") over 15-20 years can lose its charter after a standard charter term of five years. Nevertheless, lenders that are knowledgeable about this "industry" have developed greater comfort with relatively short charter terms. After all, lenders regularly make loans to businesses that have no "charters" or "terms" at all.

In fact, the limited charter term need not be a significant deterrent to lenders so long as the rules are clear and consistent. A solid performance contract, with clearly defined goals and benchmarks that both lender and authorizer can monitor, substantially reduces perceived risk. As Priya Jayachandran of Citibank Community Development says, "While a longer charter term certainly would not hurt, it is not a panacea. It would not suddenly make facilities financing that much easier to obtain. Lenders would still need to be comfortable with the operations of the school." Standard & Poor's rating of the charter school industry states that "the periodic need to renew a charter does not necessarily pose a major risk…"[1] S&P asserts that a successful school will have its charter renewed, just as successful hospitals have their operating licenses renewed if they satisfactorily meet a community need. Of course, the validity of this analogy depends on the authorizer making the definition of a "successful" school clear and explicit.

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Political Stability

A stable political history is important when it comes to performance contracts. A lender will want to know whether any charters were revoked mid-term for failure to comply with a performance contract, and, if so, whether these were reasonable decisions. If the authorizer is perceived to have revoked charters in response to local politics or arbitrarily, such actions may increase perceived risk and adversely affect a loan decision.

[1] Standard and Poor, *Public Finance Criteria: Charter Schools*, November 13, 2002, p.3.

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Ongoing Oversight & Evaluation

Communication

Since both the authorizer and the lender are usually conducting ongoing reviews and evaluations, they often need to examine the same information: financial reports; audits; accountability reports; and enrollment counts. Lenders should be sure to access any of the authorizer's public reports on a school, but what these are or where to find them may not always be obvious. A lender may not know these reports exist unless open communication and a solid relationship between the authorizer and the lender exist from the start. According to some lenders, authorizers seem to prefer that the lender obtain these kind of documents through the school. If there is an established relationship, however, and if the documents are public, authorizers may be willing to send them directly to the lender or make them available online.

Strong communication becomes even more important when the oversight process reveals anything from minor cracks to major fault lines in the charter school's program. In such cases, a lender that has had little or no communication with the authorizer may be quick to place a loan in default, which could lead to drastic actions such as demanding full payment immediately ("calling" the loan) and collecting on collateral. One lender described the following experience:

> A school with a bank loan was put on probation by its authorizer. As a result, the lender, which had made minimal effort to communicate with the authorizer or understand its role, became very skittish about the loan. To rectify the problems, the school was considering a contract with a management company. The authorizer reached out for help to another financial institution, City First Bank of Washington, DC, who had a good reputation working with DC charter schools. City First was asked to provide analysis of the management company and the school. After its analysis, City First not only shared its expertise with the authorizer, it also decided to refinance the loan from a nervous lender who may have taken more drastic action. The school has since been taken off probation and is still in operation.[2]

In this case, the lack of relationship between the authorizer and the lender could have had a negative impact on the school. Probationary status makes any lender nervous, but if there is comfort with the authorizer and a clear plan for removing the school from probation, the lender may develop more patience to let problems be resolved. In this case, an authorizer's good relationship and open communication with another lender may have helped save the school.

Clear Processes

The importance of clear processes and expectations is perhaps most striking in the arena of oversight and evaluation. The more transparent the process is, the more comfortable lenders can become with how authorizers make decisions about a school's performance. This helps reduce the risk of surprises, a key risk that any lender seeks to mitigate. Such processes or tools implemented by the authorizer may include:

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[2] Tom Nida of Eagle Bank, formerly of City First Bank.

- clear and consistent evaluation methods, such as annual audits, quarterly financial statements, annual accountability reports, and notes from site visits;
- proactive review of financial and academic reports;
- proactive review of operating procedures, including fiscal policies;
- a clearly spelled out set of responses to different kinds of underperformance (both financial and academic);
- the ability to dedicate sufficient attention to schools having problems.

Political Stability

The political stability of an authorizer continues to be an important factor in a lender's assessment of oversight and evaluation capacity. Consistent and regular monitoring by the authorizer can give a lender significant comfort, even though the lender will be doing its own evaluations. By contrast, financial institutions are likely to be made uncomfortable when an authorizer's oversight seems to be based on political whim. If this whim is "pro" charter school, the financial institution may come to believe that the authorizer's processes are unlikely to turn up evidence of financial or educational problems at its schools. As a result, the lender will not be able to rely on the authorizer's oversight as an "early warning" system. If the authorizer's political leaning is "anti" charter schools, the lender may fear that schools could have their charters revoked unjustifiably, or be otherwise burdened by the authorizer. In either case, financial institutions are more likely to shy away from lending to the authorizer's schools.

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Renewal Decisionmaking

In all three of the core responsibilities discussed up to this point, obvious alignment exists between what is best for the financial institution and what is best for the authorizer. When it comes to the charter renewal decision, however, the interests of these two entities seem to diverge. Ideally, the authorizer wants to make the decision that is best for the students, which, in some cases, may mean closing a poorly performing school. Although a lender may also want to be perceived as doing what is best for the students, it has immediate financial interests at stake. A lender will want to have its loan repaid, which may lead the lender to favor keeping a poorly performing school open as long as students (and thus dollars) continue to show up at the school. Despite these apparently diverging interests—or perhaps in light of them—a lender wants to see an authorizer approaching renewal decision making with a clear focus on open communication, clear standards and processes, and a stable political history.

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Communication

With relationships in place from the charter school's inception, communication has likely been on-going so that the lender is aware of any potential problems that may surface during the renewal process. During the loan term, the financial institution should access the authorizer's public reports as well as check in with authorizing staff on perhaps an annual basis to discuss the school's performance. In case of schools with significant operational or academic problems, a consistent relationship could open the door, where appropriate, for the authorizer, the lender, and the school to work collaboratively in order to save the school. Should drastic problems that have been bubbling beneath the surface only come to everyone's attention at renewal, the school's chances for surviving are very slim.

Even if the school is beyond repair, coordination between the authorizer and lender may continue to be important. The authorizer, for example, may know of other charter schools looking for facilities, or, in cases of an overcrowded district, it may be able to broker a deal where the traditional school district purchases or leases the space. Such alliances may have impact beyond the immediate situation. As Marc Hunt of Self-Help in North Carolina says, the financial environment for all charter schools could be at stake. "If authorizers continually treat a closed school simply as the lender's problem, it establishes a track record of an inhospitable environment for lenders." Conversely, if communication is apparent, lenders might be more willing to enter the market.

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Clear Processes

As is true with the other core authorizer responsibilities, clear standards and processes for renewal are essential since they allow lenders to fully analyze the actual versus perceived risks of whether or not a school will be closed. As stated earlier, separating the actual risk from the perceived risk can not only lead to loan approval, but it can also lead to more affordable loan terms.

Political Stability

Finally, when it comes to renewal decisions, a lender is likely to evaluate an authorizer's track record. An unfavorable record—one that does not seem to be based on significant data and standardized processes—could impact loan decisions for schools chartered by this authorizer.

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Some may be surprised that lenders would want such rigorous decisionmaking practices. After all, a lax authorizer may be likely to simply renew a charter without creating any obstacles. The fact is, however, that financial institutions, at least those that fully understand this market, know that lax oversight does not guarantee renewal and can just as easily lead to surprises and inconsistencies.

For example, NCB Development Corporation worked with two schools that were not fully in compliance with teacher certification requirements. One school was monitored by an authorizer that had chartered the school reluctantly; the school was put on probation as a result of its lack of compliance, despite a plan to meet the requirement. The other school had a strong relationship with its authorizer who saw the school's good-faith efforts to achieve compliance, and consequently was not put on probation. A lender's job is not to gamble or hope for a pleasant surprise but to fully understand the risks involved and to mitigate them as much as possible.

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Part II: Proactive Roles

Beyond these indirect roles that quality authorizers can play in charter school financing, there are more proactive positions that some have taken to assist schools more directly in financing their facilities. Authorizers' proactive efforts fall into two broad categories: financial tools and technical assistance.

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Financial Tools

This section discusses several different ways in which authorizers have become involved in facilities financing. Since authorizers vary greatly in their legal status, their role in charter school funding, and their own financial wherewithal, not all of these methods will apply to all authorizers. But seeing the range of possibilities should help individual authorizers pinpoint what might work in their own contexts.

Funding a loan pool. One example of a more "hands-on" approach is the Chicago Public Schools' (CPS) creation of a loan fund that charter schools can access for facilities financing. While the funds come from CPS's budget, management of the loan fund is contracted out to the Illinois Facilities Fund, a local community lender that provides loans and technical assistance to nonprofits for facilities renovation and construction. By contracting the lending services out to the Illinois Facility Fund, CPS is able to remove itself from the loan decision-making process and therefore maintain objectivity. In addition, the Fund has the expertise and systems to manage loan administration (evaluation of requests, loan structures, monitoring) in a professional way. Few authorizers have such knowledge and systems in-house.

Providing a loan guaranty. Some programs allow for a more direct role by the authorizer. In addition to the loan fund, CPS has provided a loan guaranty for one of its charter schools. According to Greg Richmond, Chief Officer of the New Schools Development Department at CPS, the department and legal counsel carefully evaluated the proposal. Was there a long-term need for a school in that location? How financially and academically viable was the charter school? Did the mechanics of the guaranty (e.g., term of the guaranty in years, procedure for transfer of title, payoff terms) make sense?

The school district also recognized that a potential existed for a conflict of interest. For example, if the school were not performing adequately, would the authorizer be less likely to revoke its charter, since doing so could require the authorizer to expend funds to cover the guaranty? In the end, CPS determined that since it is in such need of school buildings, specifically in the neighborhood where this school is located, a default would simply mean that CPS would purchase the building and locate another school there. Ultimately, the structure of the deal ensured that CPS had no incentive to keep open a poorly performing school, and the benefits of the deal outweighed the risk of any potential conflict.

The New York City Department of Education (NYCDOE) has entered into an analogous arrangement. The NYCDOE provided a letter of intent to lease a property from a nonprofit charter school real estate developer in the city. This letter of intent sufficiently addressed the financial institutions' concerns about zoning and allowed the developer to

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purchase and renovate the building. The letter of intent contemplates that the NYCDOE will lease the property and sublet it to a charter school. This commitment presented no financial risk to the NYCDOE as the charter school will be responsible for all lease payments. In the event that the charter school defaults, a new charter tenant can be located in the building, or the NYCDOE can use the building for other purposes. The NYCDOE concluded that it could safely make this commitment given its strong support for charter schools, the overcrowding of other public schools in this area of the city, and because the building will be renovated to certain NYCDOE building standards. As this particular charter school is authorized by the State Board of Regents, and not by the NYCDOE Schools Chancellor, there is no financial pressure or authorizer conflict of interest to keep open a nonperforming charter school.

Some authorizers have helped schools access the local bonding authority.

Accessing public finance channels. Some authorizers have helped schools access the local bonding authority. In Indianapolis, the Charter Schools Office is under the auspices of Mayor Bart Peterson, who serves as the local authorizer. After the passage of the Indiana charter law, the Mayor successfully petitioned the legislature to allow the Indianapolis Public Improvement Bond Bank (the City's financing arm) to offer financing to charter schools, backed by the City's "moral obligation." Such backing provides great comfort to lenders, since it serves as a near-promise by the City to make good on the financing. As a result, the Bond Bank and the Charter Schools Office are currently in the near-final stages of developing a program that will allow new and existing schools to obtain facilities financing at very attractive rates.

Other types of authorizers can also help broker such relationships. Central Michigan University, one of several university-based authorizers in Michigan, played an instrumental role in helping schools access the Michigan Public Educational Facilities Authority. CMU took an active part in developing the financing by brokering the relationship between the bonding authority and the schools, and "translating" between the two entities. Similarly, the Massachusetts Department of Education, an authorizer, and the Massachusetts Finance Development Agency (MassDevelopment) jointly applied for the Charter School Facilities Credit Enhancement Program. Together, they obtained a federal grant to help subsidize bond financing for charter schools. The Massachusetts DOE does not directly manage the program, but it does serve in an advisory role.

Devising structures to reassure lenders. CMU has established an "intercept" mechanism that allows charter schools' funding to pass through CMU. This process ensures the schools' repayment of the loans. Lenders still have to take the risk that a school will fail altogether. But as long as a school is open and receiving funds, the lender is assured that it will not miss loan payments because it is directing money to other purposes. Similarly, in Massachusetts, the Department of Education created a certification program for short-term lines of credit. This program certifies to the lender the specific amount the school will receive from the DOE for each quarterly payment. With assurances that those monies were coming in, the lender has comfort to lend against that amount, expecting repayment from the funds received in the next quarter.

Providing vacant space. Authorizers that are part of the school district have experienced remarkable efficiencies from simply allowing charter schools to access space owned by the traditional public school district. New York City is planning to

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accommodate one-third of the city's charter schools in shared space with traditional public schools by September 2004. No rent is charged, just the cost of custodial services. Chicago Public Schools has implemented similar arrangements in which it charges charter schools rent of $1 per year, plus operating and maintenance costs.

So why have these authorizers chosen to take on active roles, while others are concerned that such roles may affect their neutrality? Do they see the potential for conflict when they are making renewal decisions for a school with outstanding debt to a city's bonding authority or a guaranty to the authorizer? Most recognize the concern of compromising their objectivity, and take affirmative steps in ensuring checks and balances in order to avert trouble. Ultimately, the authorizers that have taken on such proactive roles recognize that access to facilities is at times an insurmountable barrier to opening or operating a charter school. In order to stimulate the supply of new charter school development, this issue must be addressed head on. The actions they have taken have created a better environment for charter school lending, leading to additional competition among lenders, policy improvements, and productive relationships among authorizers, schools, and financial institutions. The jury is still out, however, on how these potential conflicts will play out over time. Authorizers considering strategies like this should proceed carefully.

Technical Assistance

Even authorizers who don't have the human or financial resources required for more proactive facilities assistance roles can provide technical assistance to charter operators in the form of clear information. In places where a resource center does not play this role, the authorizer can serve as a clearinghouse for information on companies and consultants that are willing to work with charter schools. At a minimum, an authorizing entity can convene financial institutions, real estate professionals and charter schools on a regular basis so that each group can educate the other. (Lenders may even be willing to sponsor such events.) Authorizers interviewed for this brief, for example, have invited lenders to meetings in their area and convened real estate professionals to discuss how to address charter schools' facilities challenges. The authorizer can also use those opportunities to explain its oversight role to the financial institutions, so that they understand the added layer of oversight that exists in the system.

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Conclusion

If authorizers are truly committed to creating excellent charter schools, they must recognize the facilities challenge. Authorizers can approach this challenge from a range of levels and from various angles. While some may want to take more proactive roles such as establishing loan pools, providing credit enhancement tools, or brokering relationships with a public bonding authority, others can provide simpler forms of technical assistance such as serving as a clearinghouse of information or reaching out to educate financial institutions and schools. Regardless, one thing is certain: quality authorizing is essential. Across the four core authorizer responsibilities—application process, performance contracting, ongoing oversight and evaluation, and renewal decisionmaking—authorizers should establish open communication; institute clearly delineated processes and standards; and ensure a politically stable history of decisions affecting the schools they authorize.

About the Authors

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Additional Resources on Charter School Facility Financing

Charter School Facilities: A Resource Guide on Development and Financing. NCB Development Corporation and Charter Friends National Network. The publication can be downloaded at www.uscharterschools.org/facilities/toc.htm.

Underwriting Loans to Charter Schools. Renee Jacob for NCB Development Corporation, September 1999. The publication can be downloaded from National Community Capital Association's website: www.communitycapital.org.

"Lending to Charter Schools." Thomas A. Nida; The RMA Journal, May 2002.

"Assessing the Performance of Charter Schools." Thomas A. Nida and Bridget C. Bradley; The RMA Journal, December 2002-January 2003.

The Finance Gap: Charter Schools and their Facilities. New York University Institute for Education and Social Policy for Local Initiatives Support Corporation, January 2004.

Facilities Financing: New Models for Districts that are Creating Schools New. Education/Evolving, February 2004. The publication can be downloaded at www.educationevolving.org/pdf/FacilitiesFinancing.pdf

"A Building Need: Charter Schools in Search of Good Homes." Kim Smith and James Wilcox; Education Next, Spring 2004. The publication can be downloaded at www.educationnext.org/20042/44.html

The United States Department of Education has launched two initiatives, Charter School Facilities Credit Enhancement Program and State Charter School Incentive Program, that provide assistance to help charter schools meet their facilities needs. See www.ed.gov for more information.

*NACSA wants to hear from you! If you have questions, comments, or recommendations for future Issue Brief topics, please contact us at **info@charterauthorizers.org.***

Your “Go To” Resource for the Charter School Authorizer Community

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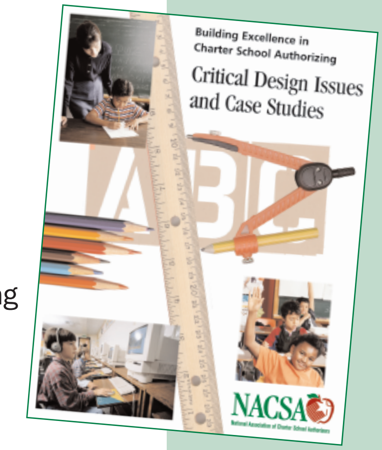

Critical Design Issues for Charter School Authorizers
Check out this valuable resource, made possible through the federally-funded *Building Excellence* project. This publication highlights a core set of activities and practical choice options for developing a comprehensive charter school authorizing program. Each authorizing program component is examined through a series of planning questions accompanied by illustrations, case studies and sample resources that document the methods employed by experienced authorizers.

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