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# High-Quality Charter Authorizing Policy Profiles: Washington

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# Washington: Overview of State Law and Snapshot of Quality Authorizing Practices

## Introduction and Methodology

The National Charter School Resource Center (NCSRC) created the [Policy Framework for High-Quality Charter Authorizing Practices \(Framework\)](#) as a tool for assessing a State policy environment's support for high-quality authorizing practices. The Framework is based on a review of high-quality authorizing practices referenced in the Every Student Succeeds Act (ESSA) and literature by the National Association of Charter School Authorizers (NACSA) and the National Alliance of Public Charter Schools (Alliance).<sup>i</sup> NCSRC staff used this review to identify common themes or categories of policies that are essential to State support for high-quality authorizing and incorporated them into the Framework.

NCSRC then created High-Quality Charter Authorizing Policy Profiles (State Authorizing Profiles) that describe states' authorizing policy contexts based on the Framework. As of winter 2020, NCSRC staff created 19 profiles for the States that were awarded Charter School Programs (CSP) State Entities grants between FY2017 and FY2019, including:

- Alabama
- Arizona
- Arkansas
- Colorado
- Delaware
- Idaho
- Indiana
- Maryland
- Michigan
- Minnesota
- Mississippi
- New Mexico
- New York
- North Carolina
- Oklahoma
- Rhode Island
- Texas
- Washington
- Wisconsin

CSP State Entity (SE) Grants provide funding for State entities to support eligible applicants in planning and preparation for the opening of new charter schools and the replication and expansion of high-quality charter schools. Grant funds must also be used by the State entity to provide technical assistance to eligible applicants and to improve the quality of authorizing.

More State Authorizing Profiles may be added in the future. In addition, NCSRC may publish updated versions of State Authorizing Profiles to reflect changes in State policy.

The State Authorizing Profiles are intended to be used by state policymakers and practitioners to learn about their own authorizing policy environments and those of their peers. They may also be useful to charter school support organizations and charter management organizations that are looking to learn about different states' policy contexts.

Each State profile includes a (i) Framework Snapshot, which is an assessment of a State's authorizing practices using the Framework described in the first paragraph above and (ii) a more detailed description of the state context for each practice. The basis for the State Profiles was a review of the charter law and significant State policies for applicable states. Significant

state policies included those issued by the state education agency and/or state board of education. NCSRC used this review to identify whether the authorizing practices specified in the Framework were present in state law or policy. That is, boxes that were checked in the Framework Snapshot indicated that particular aspects of an authorizing practice(s) were included in state law or policy.

The State Authorizing Profiles provide a foundation for understanding authorizing practices in the State. The profiles are not an exhaustive review of the State’s authorizing policies and practices; it is intended to describe the key elements of the State’s policy context for supporting high-quality authorizing practices. Therefore, it is possible that certain State policies are not reflected in the profiles, and that individual authorizers within a state are implementing other practices as well. In addition, the review does not assess the quality of implementation of the policies; it is possible that state policy or statute articulates a quality practice that authorizers do not implement with fidelity.

Finally, state policy is one strategy for advancing high-quality authorizing practices and is the strategy we are focusing on in these profiles. However, there are other strategies and sources of support, including technical assistance and resources provided by state, regional, and local charter support associations. While this report does not address those other strategies, it provides a narrative of the policy context in which authorizers operate. We articulate this context to support authorizers and authorizer support organizations in understanding how to implement quality authorizing practices in their States.

## Overview of State Law

Washington's first charter school law was approved in the November 2012 election. On September 4, 2015, the Washington Supreme Court invalidated that law with its ruling in *League of Women Voters vs. State of Washington*, 355 P.3d 11331 (Wash. 2015), which held that the State's charter school act violated the State's constitution and that charter schools were not common schools because local voters did not control them.

In 2016, the legislature passed E2SSB 6194 titled "An act relating to public schools that are not common schools," which re-enacted the 2012 charter school law with amendments.<sup>ii</sup> Some of these changes included (i) clarifying that charter schools are public schools, but operate separately from and as an alternative to the common school system,<sup>iii</sup> (ii) providing additional funding support for charter schools through an appropriation from the Washington Opportunity Pathways Account (a dedicated account funded by the State lottery), (iii) eliminating conversion schools and charter schools' eligibility for local levy revenue, and (iv) placing the Washington State Charter School Commission (WSCSC) in the Office of the Superintendent of Public Instruction (OSPI).

# State Authorizing Profile: Washington

## Framework Snapshot<sup>1</sup>

### **Authorization**

- Does not cap charter school growth
- Provides for more than one authorizing pathway

*Application includes the following:*

- Specific application criteria
- Timelines
- Evaluation review process
- Process for denied applications

*Performance-based contract includes and provides for the following:*

- Separate post-application agreement
- Rights and responsibilities of authorizer and school
- Academic, financial, and operational performance expectations for schools
- Initial term of not more than five years
- Fiscal, legal, and programmatic autonomy for schools
- Independent charter school governing boards

### **Performance Monitoring**

- Provides for annual authorizer evaluation of schools based on the performance goals and expectations set forth in performance-based contract
- Establishes a comprehensive accountability/monitoring system that includes performance expectations and compliance requirements
- Minimizes schools' administrative and reporting burden
- Articulates authorizer action for schools that fail to meet performance expectations (e.g., probation, sanction, or turnaround)

### **Renewal/Revocation**

- Establishes a clear renewal process and decision-making criteria
- Requires that decisions to renew/revoke be based on student academic achievement
- Requires clear school closure procedures (e.g., parent notification, student enrollment, student record transfer, and disposition of assets)

### **Authorizer Accountability**

- Provides for a registration process for eligible authorizing entities
- Requires the State entity to review authorizers' performance
- Requires authorizers to adhere to standards for high-quality authorizing

### **Authorizer Leadership, Student Access, and Student Services**

- Requires a mission or strategic vision for authorizing
- Promotes quality authorizing by requiring technical assistance or professional development for authorizers and/or charter school applicants
- Ensures equitable access to all students
- Requires appropriate services for educationally disadvantaged students (e.g., students with special needs, English learners, students in foster care, or unaccompanied homeless youth)

### **Authorizer Funding**

- Provides a mechanism for guaranteed access to authorizer funding
- Includes a process for holding authorizers accountable for how funding is used

**Source(s):** Washington Revised Code Chapter 28A.710, Charter Schools.

<sup>1</sup> As noted in the Introduction and Methodology section, boxes checked in the framework snapshot indicate that aspects of an authorizing practice(s) were included in State law or policy. If individual authorizers create and follow a certain policy that is not in State statute or policy, then the box will not be checked for the entire State.

## Authorization

- Does not cap charter school growth
- Provides for more than one authorizing pathway

### Does not cap charter school growth

Beginning in April 2016, Washington law capped charter school growth at 40 schools over a five-year period. In addition, the law also states that no more than eight charter schools can open in any year during a five-year period, with the exception that if fewer than eight schools open in one year during this five-year period, any additional new schools during the this period must equal the difference between the number opened that year and eight.<sup>iv</sup> Once an authorizer notifies the State Board of Education (SBE) that it approved a charter school application, the SBE certifies whether this approval exceeds the State’s 40-school cap on charter growth.<sup>v</sup>

### Provides for more than one authorizing pathway

The WSCSC is the statewide authorizer and resides in the OSPI for administrative purposes.<sup>vi</sup> School districts may serve as authorizers as well; Spokane Public Schools is currently the only district authorizer.

*Application includes the following:*

- Specific application criteria
- Timelines
- Evaluation review process
- Process for denied applications

### Specific application criteria

Charter school applications must include the school’s proposed plan for operation and other components such as the mission and vision, the grades to be served, minimum and maximum enrollment per grade per year for the full term of the charter contract, evidence of need and parent and community support, the proposed instructional design, and the school’s plan for using internal and external assessments.<sup>vii</sup> Washington law requires applicants that operate one or more schools in any State or nation to provide evidence of those schools’ performance in its application.<sup>viii</sup>

### Timelines

Per Washington State law, authorizers are responsible for issuing a solicitation for proposals for charter school applicants, and the SBE is responsible for establishing an annual statewide timeline for charter application submissions and approval guidance that authorizers are required to follow.<sup>ix</sup>

### Evaluation review process

The law states that “in reviewing and evaluating charter applications, authorizers shall employ procedures, practices and criteria consistent with nationally recognized principles and standards for quality charter authorizing ... the application review process must include a thorough evaluation of each application, an in-person interview with the applicant group, and an opportunity to learn about and provide input on each application in a public forum.”<sup>x</sup>

Authorizers also have the ability to “grant a preference to applications that are designed to enroll and serve at-risk student populations (defined as students with academic or socioeconomic disadvantage that requires assistance or special services to succeed in educational programs).”<sup>xi</sup>

### Process for denied applications

The law requires authorizers to explain in writing its reasons for denying applications, and denied applicants are permitted to reapply to that authorizer or to apply to another authorizer in the State.<sup>xii</sup>

*Performance-based contract includes and provides for the following:*

- Separate post-application agreement
- Rights and responsibilities of authorizer and school
- Academic, financial, and operational performance expectations for schools
- Initial term of not more than five years
- Fiscal, legal, and programmatic autonomy for schools
- Independent charter school governing boards

### Separate post-application agreement

Washington law specifies that the approved charter application does not serve as the charter contract, but rather, that the contract is a separate document.<sup>xiii</sup>

### Rights and responsibilities of authorizer and school

The law defines a charter contract as a “fixed term, renewable contract between charter school and authorizer that outlines roles, powers, responsibilities, and performance expectations for each party to the contract.”<sup>xiv</sup>

### Academic, financial, and operational performance expectations for schools

Per Washington statute, the charter contract establishes the “terms by which [the] charter school agrees to provide educational services that at minimum meet basic education standards.”<sup>xv</sup> The performance expectations set forth in the contract must “(i) be based on a performance framework that defines the academic and operational performance indicators, measures and metrics authorizers will use to evaluate its schools’ performance, and (ii) include metrics to measure student academic growth and proficiency, achievement gaps, attendance, enrollment, graduation rates, financial performance and sustainability, the board’s performance and compliance.”<sup>xvi</sup>

### An initial team of not more than five years

State law mandates an initial term of five years for new charter schools.<sup>xvii</sup>

### Fiscal, legal, and programmatic autonomy for schools

State law provides for fiscal, legal, and programmatic autonomy by exempting charter schools from the rules/laws not included in their contracts that apply to other public schools. These exemptions are to “allow [charter schools] flexibility to innovate in areas such as scheduling, personnel, funding, and educational programs to improve student outcomes and academic achievement, charter schools.”<sup>xviii</sup> A school’s charter board has authority to receive and disburse funds; enter contracts; and rent, lease, or own real property.<sup>xix</sup>

## Provides for independent charter boards

State law requires charter schools to be governed by the school’s board.<sup>xx</sup> As stated above, the school’s board also has the ability to enter into contracts.

## Performance Monitoring

- Provides for annual authorizer evaluation of schools based on the performance goals and expectations set forth in performance-based contract
- Establishes a comprehensive accountability/monitoring system that includes performance expectations and compliance requirements
- Minimizes schools’ administrative and reporting burden
- Articulates authorizer action for schools that fail to meet performance expectations (e.g., probation, sanction, or turnaround)

## Provides for annual authorizer evaluation of schools based on performance goals and expectations set forth in performance-based contract

State law requires that “each authorizer continually monitor the performance and legal compliance of the charter schools under its jurisdiction, including collecting and analyzing data to support ongoing evaluation according to the performance framework in the charter contract.”<sup>xxi</sup> In addition “an authorizer may conduct or require oversight activities that enable to authorizer to fulfill its responsibilities ... including conducting appropriate inquires and investigations, if those ... adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to charter schools.”<sup>xxii</sup>

## Establishes a comprehensive accountability/monitoring system that includes performance expectations and compliance requirements

As stated above, authorizers are responsible for continually monitoring the performance and legal compliance of charter schools within their jurisdictions, including collecting and analyzing data to support the ongoing evaluation consistent with the performance framework set forth in the school’s contract.<sup>xxiii</sup>

## Minimizes schools’ administrative and reporting burden

While there is no express language in the Washington statute or State policy about minimizing schools’ administrative and reporting burden, the Washington State Charter Schools Association’s (WA Charters) 2019 CSP grant application references partnering with authorizers through an administrative memorandum of understanding on monitoring activities to (i) support authorizer and CSP monitoring goals, (ii) reduce burdens for schools, and (iii) avoid duplication of efforts.<sup>xxiv</sup>

## Articulates authorizer action for schools that fail to meet performance expectations (e.g., probation, sanction, or turnaround)

State law permits authorizers to “take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in charter performance or legal compliance. These actions or sanctions may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified time frame.”<sup>xxv</sup>

## Renewal/Revocation

- ☒ Establishes a clear renewal process and decision-making criteria
- ☒ Requires that decisions to renew/revoke be based on student academic achievement
- ☒ Requires clear school closure procedures (e.g., parent notification, student enrollment, student record transfer, and disposition of assets)

### Establishes a clear renewal process and decision-making criteria

Per Washington State law, at a charter school's request an authorizer may renew the school's contract for successive five-year terms at which time it may vary the school's renewal terms based on the school's performance and/or grant-specific conditions to address necessary improvements.<sup>xxvi</sup> Six months before the expiration of a school's charter contract, authorizers are required to issue a performance report (detailing the school's performance based on data required by the charter contract and advising the school of the authorizer's concerns) and renewal application guidance (providing the school to opportunity to present additional evidence and/or explain improvement efforts).<sup>xxvii</sup> Authorizers may also revoke or refuse to renew a school's contract at any time if it determines the school violated or failed to meet (i) the performance expectations set forth in its contract, (ii) generally accepted standards of fiscal management, or (iii) any provision of law from which the school is not exempt.<sup>xxviii</sup>

### Requires that decisions to renew/revoke be based on student academic achievement

Authorizers are required to base renewal decisions on evidence of the school's performance, and must also (i) ensure the data used in making this decision is available to the school and the public, and (ii) provide a public report summarizing the basis for its decision.<sup>xxix</sup>

### Requires clear school closure procedures (e.g., parent notification, student enrollment, student record transfer, and disposition of assets)

Authorizers are required to develop revocation and nonrenewal processes that include timely notification of the school's board of the reasons for revocation or nonrenewal and providing the board a reasonable amount of time to respond.<sup>xxx</sup> Before making the decision not to renew or revoke a school's contract, authorizers must also develop a school termination protocol to ensure timely notification to parents and an orderly transition of students and student records to new schools.<sup>xxxi</sup> Within ten days of a revocation or nonrenewal decision, authorizers are required to submit a report of the decision to the State Board.<sup>xxxii</sup>

## Authorizer Accountability

- ☒ Provides for a registration process for eligible authorizing entities
- ☒ Requires the State entity to review authorizers' performance
- ☒ Requires authorizers to adhere to standards for high-quality authorizing

### Provides for a registration process for eligible authorizing entities

Washington law requires the SBE to annually disseminate an application, approval process, and evaluation criteria, and timelines for school districts applying to become authorizers.<sup>xxxiii</sup> The authorizer application must include the applicant's "strategic vision for chartering, plan to support this vision, evidence of applicant's budget and personnel capacity, commitment to

execute the responsibilities of quality charter authorizing, and a draft of the applicant’s proposed renewal, revocation, and nonrenewal processes.”<sup>xxxiv</sup> In addition, “the state board of education shall consider the merits of each application and make its decisions within the timelines established by the state board of education.”<sup>xxxv</sup>

### **Requires the State entity to review authorizers’ performance**

State law requires authorizers to submit an annual report to the SBE that includes a description of progress towards meeting its strategic vision for chartering, an overview the academic and financial performance of the schools within its jurisdiction during the preceding year, and the status of schools in its portfolio (e.g., schools up for renewal, nonrenewal, or revocation).<sup>xxxvi</sup>

### **Requires authorizers to adhere to standards for high-quality authorizing**

In Washington, approved authorizers are required to develop and follow chartering policies and practices that are consistent with the principles and standards for quality authorizing developed by the National Association of Charter School Authorizers (NACSA).<sup>xxxvii</sup>

## **Authorizer Leadership, Student Access, and Student Services**

- Requires a mission or strategic vision for authorizing
- Promotes quality authorizing by requiring technical assistance or professional development for authorizers and/or charter school applicants
- Ensures equitable access to all students
- Requires appropriate services for educationally disadvantaged students (e.g., students with special needs, English learners, students in foster care, or unaccompanied homeless youth)

### **Requires a mission or strategic vision for authorizing**

As stated in the previous section, Washington law requires authorizers to provide a strategic vision and plan for achieving that vision in the authorizer application.<sup>xxxviii</sup>

### **Promotes quality authorizing by requiring technical assistance or professional development for authorizers and/or charter school applicants**

Though State law does not require technical assistance or professional development to promote quality authorizing, in its 2019 CSP grant application, the WA Charters stated it will contract with NACSA or any other organization that provides technical assistance on high-quality authorizing practices to identify authorizers with renewal best practices and facilitate learning about those practices.<sup>xxxix</sup>

### **Ensures equitable access to all students**

The law requires open enrollment for all charter schools and permits schools to provide a weighted lottery preference for at-risk students.<sup>xl</sup> A charter school may not discriminate in its admissions policies and practices against students with special needs.<sup>xli</sup>

### **Requires appropriate services for educationally disadvantaged students (e.g., students with special needs, English learners, students in foster care, or unaccompanied homeless youth)**

The law requires each school to serve as its own local education agency (LEA) for special education under applicable federal laws and regulations and is responsible for meeting the

requirements of local education agencies and public schools under those federal laws and regulations, including the Individuals with Disabilities Education Improvement (IDEA) act, the Federal Educational Rights and Privacy Act (FERPA), the McKinney-Vento Homeless Assistance Act of 1987, and the Elementary and Secondary Education Act (ESEA), currently known as the Every Student Succeeds Act (ESSA). Applications to open a charter school must include a plan for “identifying, successfully serving, and complying with applicable laws and regulations regarding students with disabilities, students who are limited English proficient, students who are struggling academically, and highly capable students.”<sup>xlii</sup>

## Authorizer Funding

- ☒ Provides a mechanism for guaranteed access to authorizer funding
- ☒ Includes a process for holding authorizers accountable for how funding is used

### **Provides a mechanism for guaranteed access to authorizer funding**

State law requires the SBE to “establish a statewide formula for an authorizer oversight fee, which must be calculated as a percentage of the State operating funding,” but this fee “may not exceed four percent of each charter school’s annual funding.”<sup>xliii</sup>

### **Includes a process for holding authorizers accountable for how funding is used**

State law also requires each authorizer to submit an annual report to the SBE, that includes “the authorizer’s operating costs and expenses detailed in annual audited financial statements that conform with generally accepted accounting principles;” and “the services purchased from the authorizer by the charter schools under its jurisdiction, including an itemized accounting of the actual costs of these services.”<sup>xliv</sup>

## Endnotes

<sup>i</sup> Language in ESSA Framework Details section below was taken directly and adapted from Title IV, Part C of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA), §§ 4301 to 4311 (20 U.S.C. §§ 7221 to 7221j)—<https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/charter-school-programs/state-entities/funding-and-legislation/>; Language in the NACSA: Framework Details section below were taken directly or adapted from the following resources: National Association of Charter School Authorizers: Quality Authorizing Practices; Reinvigorating the Pipeline; Authorizer Accountability Model Language; Higher Education Institution Authorizers; Leadership, Commitment, Judgment: Elements of Successful Charter School Authorizing; Findings from the Quality Practice Project; Principles and Standards for Quality Charter School Authorizing; Putting an End to Authorizer Shipping; Language in the Alliance: Framework Details section below were taken directly or adapted from the following resources: National Alliance for Public Charter Schools: 2019 State Charter Law Ranking—<https://www.publiccharters.org/ranking-state-public-charter-school-laws-2019>; 2016 Model Charter School Law—<https://www.publiccharters.org/sites/default/files/migrated/wp-content/uploads/2016/10/2016ModelCharterSchoolLaw.pdf>

<sup>ii</sup> The Washington State Board of Education, *Charter School FAQs*. Retrieved from <https://www.sbe.wa.gov/faqs/charter#When%20and%20how%20was%20Washington's%20charter%20school%20law%20enacted?>

<sup>iii</sup> A common school is defined as a “school [that is] maintained at public expense in each school district and carries on a program from kindergarten through the twelfth grade or any part thereof including vocational educational courses otherwise permitted by law.” WA REV CODE § 28A.150.020.

<sup>iv</sup> WA REV CODE § 28A.710.150(2).

<sup>v</sup> WA REV CODE § 28A.710.150(1).

<sup>vi</sup> WA REV CODE § 28A.710, et seq.

<sup>vii</sup> WA REV CODE § 28A.710.130(2).

<sup>viii</sup> WA REV CODE § 28A.710.130(4).

<sup>ix</sup> WA REV CODE § 28A.710.130(1).

<sup>x</sup> WA REV CODE § 28A.710.140(2).

<sup>xi</sup> *Id.*

<sup>xii</sup> WA REV CODE § 28A.710.140(1) and (5).

<sup>xiii</sup> WA REV CODE § 28A.710.160(1)-(2).

<sup>xiv</sup> WA REV CODE § 28A.710.010(4).

<sup>xv</sup> WA REV CODE § 28A.710.160(2).

<sup>xvi</sup> *Id.*

<sup>xvii</sup> WA REV CODE § 28A.710.160(5).

<sup>xviii</sup> WA REV CODE § 28A.710.040(3).

<sup>xix</sup> WA REV CODE § 28A.710.030(1).

<sup>xx</sup> WA REV CODE § 28A.710.020(3).

<sup>xxi</sup> WA REV CODE § 28A.710.180(1)-(2).

<sup>xxii</sup> *Id.*

<sup>xxiii</sup> *Id.*

<sup>xxiv</sup> 2019 CSP Application.

<sup>xxv</sup> WA REV CODE § 28A.710.180(4).

- xxvi WA REV CODE § 28A.710.190(1).
- xxvii WA REV CODE § 28A.710.190(2).
- xxviii WA REV CODE § 28A.710.200(1).
- xxix WA REV CODE § 28A.710.190(5).
- xxx WA REV CODE § 28A.710.200(3).
- xxxi WA REV CODE § 28A.710.210(1).
- xxxii WA REV CODE § 28A.710.200(5).
- xxxiii WA REV CODE § 28A.710.090(1).
- xxxiv WA REV CODE § 28A.710.090(2).
- xxxv WA REV CODE § 28A.710.090(3).
- xxxvi WA REV CODE § 28A.710.100(4).
- xxxvii WA REV CODE § 28A.710.100(3).
- xxxviii WA REV CODE § 28A.710.090(2).
- xxxix 2019 CSP Application.
- xl WA REV CODE § 28A.710.050(3).
- xli WA REV CODE § 28A.710.020.
- xlid WA REV CODE § 28A.710.130.
- xlili WA REV CODE § 28A.710.110(1).
- xliv WA REV CODE § 28A.710.100(4).