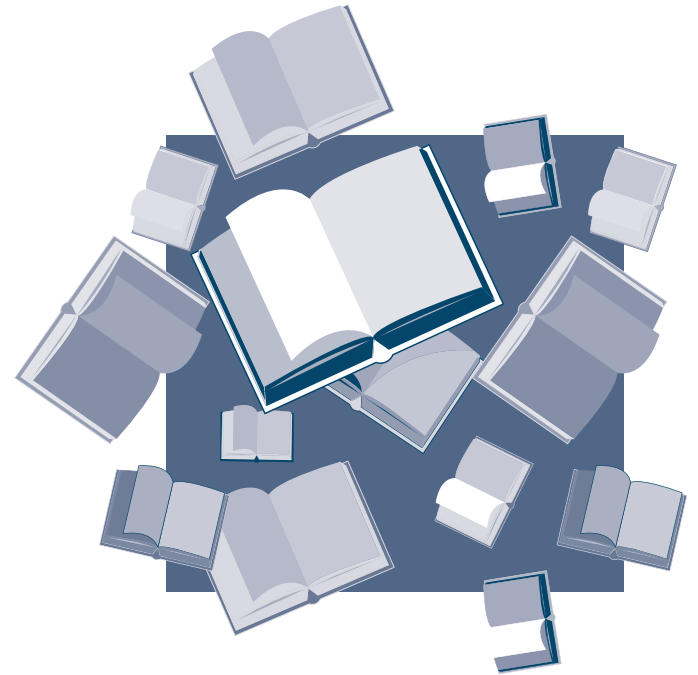




**Education Commission**  
of the **S t a t e s**

# Bringing To Life the School Choice and Restructuring Requirements of NCLB

## **Closing Low-performing Schools and Reopening Them as Charter Schools: The Role of the State**







## Overview

What should policymakers and administrators do when a school's persistently low performance is impervious to various interventions? Under the provisions of the No Child Left Behind Act (NCLB), they must restructure it.

NCLB requires that if a school fails to meet its state's "adequate yearly progress" (AYP) performance benchmarks for five consecutive years, its district must create – and, in the following year, implement – a plan to restructure the school in one of the following five ways:

- Reopen the school as a public charter school
- Replace all or most of the school staff, which may include the principal, who are relevant to the school's failure to make AYP
- Enter into a contract with an entity, such as a private management company with a demonstrated record of effectiveness, to operate the school as a public school
- Turn the operation of the school over to the state education agency, if permitted under state law and agreed to by the state
- Any other major restructuring of a school's governance arrangement.

Currently, most states' low-performing schools are not at the restructuring stage of the AYP timeline (See Appendix A). But given the potentially large number of schools that may face this fate in the next few years, school restructuring is sure to become more of an issue for state leaders – and one they should begin preparing now to address.<sup>i</sup>

This paper provides an in-depth look at the first of the five policy strategies mentioned above: namely, that states incorporate into their broader restructuring efforts an option that allows policymakers and administrators – selectively and wisely – to close down

chronically low-performing schools and reopen them as charter schools.<sup>ii</sup>

The "close-and-reopen" option, as it's called, has several distinct advantages. It provides an opportunity to enlist the interest and energy of the community in changing and improving an underachieving school. It serves as a mechanism for heightening the visibility and promoting the spread of promising practices across the public education system. And it gives low-performing schools a powerful new tool – the unique blend of autonomy and accountability that charter schools embody – for addressing the difficult and diverse problems they typically face.

The close-and-reopen option is not, of course, a "silver bullet." Implementing it may be difficult politically, and carrying it out effectively may prove costly and time consuming. Careful consideration must be given to the nature and extent of the state's role in the process, and to ensuring the end result is fundamental and lasting improvement, rather than superficial change.

This paper explores the challenges and potential benefits of the close-and-reopen option, and the role that states can and should play in its implementation.

## Why Should States Consider Closing Low-performing Schools and Reopening Them as Charter Schools?

Existing research on the effectiveness of the school restructuring options outlined in NCLB is scant, and what little there is focuses primarily on reconstitutions of schools and state takeovers of districts and schools. This research shows that reconstitutions and state takeovers have a mixed record of effectiveness

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### What is a Charter School?

Charter schools are semi-autonomous public schools, typically founded by educators, parents, community groups or private organizations that operate under a written contract, typically for three to five years, with a state, district or other entity. This contract, or charter, details such matters as how the school will be organized and managed, what students will be taught and expected to achieve, and how success will be measured. Underlying the contract is an explicit exchange of deregulation for accountability, in which states apply less regulation to charter schools and demand a higher level of accountability for results. Charter schools may be closed for failing to satisfy the terms of their charters.

<sup>i</sup> On this point, it is important to remember that under the previously reauthorized version of the Elementary and Secondary Education Act in 1994, which also included standards for AYP, over 8,000 schools were identified as needing improvement. NCLB's much tougher standards for AYP, however, will likely increase this number.

<sup>ii</sup> While the focus is on the option to close and reopen schools as public charter schools, much of the material in this paper also is applicable to the "contracting option" within NCLB, depending upon a state's laws. Within the "contracting option," a district enters into a contract with an entity, such as a private management company with a demonstrated record of effectiveness, to operate the school as a public school.



in significantly improving chronically low-performing schools.<sup>iii</sup>

NCLB's school restructuring requirements, it is fair to say, are driven primarily by the urgency of the problem rather than the clarity of the solution. A different approach – one that warrants the attention of states – is to incorporate into their broader school restructuring initiatives an option that allows the closing and reopening of low-performing schools as public charter schools. In the absence of such an option, most schools and districts are likely to take a minimalist approach – either removing a handful of staff at a school but changing little else, or choosing the “any other major restructuring option” but defining it in ways that don't fundamentally address the problems a school is facing.

In fact, one of the first states to experience school restructuring under NCLB – Michigan – recently reported that 41 of the 69 schools that faced restructuring chose to replace their principal or other staff members. The remaining schools chose such strategies as hiring an outside consultant to work closely with a district to launch an improvement plan at the school; appointing a governing board composed of teachers, administrators, parents, and business and community leaders; and using an external reform model that includes outside consultants to change how schools interact with parents or teach students. Not one district chose to close and reopen a school as a public charter school.<sup>iv</sup>

**Closing low-performing schools.** Besides the mixed record of reconstitutions and takeovers, as well as the likelihood that districts and schools will take a minimalist approach to restructuring, there are other, more positive reasons for states to incorporate the close-and-reopen option into their restructuring efforts. First and foremost, this option allows policymakers and administrators to close down low-performing schools with chronic and widespread failure – not, it should be noted, as the first strategy out of the

box, but rather the last one after others have failed over a period of several years.

**Providing autonomy.** A charter school's autonomy gives it the flexibility to make changes in a timely manner to meet the particular needs of its students, specifically regarding budgets, staff, schedules, and curriculum and instruction. It is important to remember that closing and reopening as a charter school doesn't change the challenges that students often bring with them. It does, however, give the new school the flexibility to better deal with these complex needs.

For example, there is general agreement that struggling students need to spend more time on task. Toward that end, schools need to put into place longer school years, school weeks and school days, while also improving the quality of the instruction that takes place during this time. Because a charter school is freed from the many layers of school scheduling constraints that are found within state rules, district regulations and collective-bargaining agreements, it is often better able to create the types of schedules that respond to the needs of its students.

**Ensuring accountability.** A charter school's contract outlines the expectations for the school and charges the school with the responsibility for meeting these expectations. In the context of the close-and-reopen option,” chartering is less of a “laissez-faire” approach that some associate with charter schools, and more of a thoughtful, rigorous approach to identifying the specific needs at a low-performing school, conducting a thorough process to identify an entity with proven results in successfully meeting the school's needs, entering into a charter with this entity to operate the school, and monitoring the school's performance relative to the terms of the charter.

<sup>iii</sup> See Brady, Ron (2003, January). *Can Failing Schools Be Fixed?* Washington, DC: The Thomas Fordam Foundation; Wong, Kenneth K. and Shen, Francis X. (2001). *Does School District Takeover Work? Assessing the Effectiveness of City and State Takeover as a School Reform Strategy*. Paper prepared for delivery at the 2001 Annual Meeting of the American Political Science Association, San Francisco, CA; Seder, Richard (2000, March). *Balancing Accountability and Local Control: State Intervention for Financial and Academic Stability*. Los Angeles, CA: Reason Public Policy Institute; *Fixing Failing Schools: Reconstitution and Other High-stakes Strategies Meeting Summary* (1997, May 12-13). Summary of a meeting convened by the Consortium for Policy Research in Education and the Pew Forum on Standards-Based Reform, Baltimore, Maryland. Unpublished; Community Training and Assistance Center (2000, May). *Myths and Realities: The Impact of the State Takeover on Students and Schools in Newark*. Boston, MA: Community Training and Assistance Center; and, Orfield, G., Cohen, B.L., Foster, G., Green, R.L., Lawrence, P., Tatel, D.S., and Tempes, F. (1992). *Desegregation and Educational Change in San Francisco: Findings and Recommendations on Consent Decree Implementation*. Report submitted to Judge William H. Orrick, U.S. District Court, San Francisco, CA.

<sup>iv</sup> Martin, Tim (2004, August 9). “Restructuring Schools Opt to Replace Staff, Make Other Changes, State Says,” *The Associated Press*.



## Emerging Research about Charter Schools and Student Achievement

A recent meta-analysis found that existing research on charter schools' impacts on student achievement reveals a mixed picture, with studies from some states suggesting positive impacts, studies from other states suggesting negative impacts, and some providing evidence of both positive and negative impacts.<sup>v</sup>

Since the meta-analysis was written in 2002, a handful of studies on student achievement in charter schools have been released. Here are some highlights:

- One national study found that test scores in charter schools lagged behind scores of regular public schools in the 10 states that were studied, but charter schools in those states registered significant gains in test scores from 2000 to 2002 relative to regular public schools. It also found that conversion charter schools in California produced average test scores despite serving students with demographics that are usually correlated with low scores. Finally, it found that compared to regular public schools and to charters serving students with similar socioeconomic characteristics, charters operated by educational management organizations (EMOs) have much lower test scores. Gains made from 2000 to 2002 in EMO-operated schools, however, have been significantly higher than those of both regular public schools and non-EMO charters.<sup>vi</sup>
- A study of charter schools in Arizona found that charter school students, on average, began with lower test scores than their traditional public school counterparts and showed overall annual achievement growth roughly three points higher than their noncharter peers. Plus, charter school students who completed the 12th grade surpassed traditional public school students on reading tests.<sup>vii</sup>
- A study of charter schools in California generally found comparable achievement scores for charter schools relative to conventional public schools. But it did find significant differences in achievement among different types of charter schools. Students in classroom-based conversion charter schools have average test scores comparable to those of similar students in conventional public schools, while classroom-based start-up charter schools have slightly higher test scores on average. In contrast, students in conversion or start-up schools that deliver at least some of their instruction outside the classroom have lower average test scores than do similar students in conventional public schools.<sup>viii</sup>
- A study of charter school performance on the National Assessment of Educational Progress (NAEP) found that overall charter schools scored slightly lower than the average public schools. When the NAEP data was controlled for factors such as race, however, the difference between charter schools and traditional public schools was negligible.<sup>ix</sup>

**Re-engaging the community.** The close-and-reopen option also provides an opportunity to re-engage the community in the school in a variety of ways. At one level, policymakers and administrators may ask capable community organizations to operate some of the schools that are closed and reopened as charter schools. In fact, across the country, an increasing number of community organizations are starting charter schools as a means to expand their current services

and provide one-stop shopping to their target population.<sup>x</sup> Short of that, policymakers and administrators may require the reopened school to work with community organizations, local governments, community foundations and local businesses as partners in the provision of services to the school's parents and students. At a minimum, policymakers and administrators may recruit people from these entities to serve as members on new schools' boards of trustees.

## Potential Benefits of Reopening a Low-performing School as a Charter School

- New leadership
- New staff
- New mission
- New culture
- New educational approaches
- New schedules (e.g., longer school years, school weeks and school days)
- New boards of trustees
- New decisionmaking approaches (e.g., more decisionmaking authority for teachers and parents).

<sup>v</sup> Miron, Gary and Nelson, Christopher (2004). "Student Achievement in Charter Schools: What We Know and Why We Know So Little." In Katrina E. Bulkley and Priscilla Wohlstetter (Eds.), *Taking Account of Charter Schools: What's Happened and What's Next?* (pp. 161-175). New York, NY: Teachers College, Columbia University.

<sup>vi</sup> Loveless, Tom (2003, October). *2003 Brown Center Report on American Education*. Washington, DC: The Brookings Institution.

<sup>vii</sup> Solomon, Lewis C. and Goldschmidt, Pete (2004, March). *Comparison of Traditional Public Schools and Charter Schools on Retention, School Switching and Achievement Growth*. Phoenix, AZ: The Goldwater Institute.

<sup>viii</sup> Zimmer, Ron, Buddin, Richard, Chau, Derrick, Daley, Glenn, Gill, Brian, Guarino, Cassandra, Hamilton, Laura, Krop, Cathy, McCaffrey, Dan, Sandler, Melinda, and Brewer, Dominic (2003). *Charter School Operations and Performance: Evidence from California*. Santa Monica, CA: RAND.

<sup>ix</sup> Nelson, F. Howard, Rosenberg, Bella, and Van Meter, Nancy (2004). *Charter School Achievement on the 2003 National Assessment of Educational Progress*. Washington, DC: American Federation of Teachers.

<sup>x</sup> Halsband, Robin. (2003, November/December) Charter Schools Benefit Community Economic Development," *Journal of Housing & Community Development*, pp. 34-38.



**Spreading promising practices.** Another potential benefit of the close-and-reopen option is that it provides a mechanism to spread promising practices within the public education system. For example, policymakers and administrators can recruit as school operators the entities that have successfully served a population of students similar to the population of students in a school that is to be closed and reopened as a charter school. In this effort, they can reach out to national charter school networks (both nonprofit and for profit), national school reform models, and traditional public schools, charter public schools and private schools within the community and the state. The key isn't finding a model that has been successful in general, but rather finding a model that has been successful with a similar group of students in much the same circumstances that face the low-performing school in question.<sup>xi</sup>

Instead of attempting to add another layer of school reform on top of a low-performing school that is already wobbling under the multiple reforms that have been piled on it over the years, the close-and-reopen option allows the reopened school to implement such promising practices from a clean slate as well as with a new school community that is united behind the value of such practices.

## What are the Challenges for States in Closing and Reopening Low-performing Schools as Charter Schools?

Along with the potential benefits of the close-and-reopen option, policymakers and administrators must consider several concerns and challenges involved in implementing it.

**Making real changes.** One concern that both charter supporters and opponents have about the close-and-reopen option is that renaming the school – Sunny Elementary School becoming Sunny Elementary Charter School, for example – will wind up being the extent of school restructuring. Thus, if states and districts implement this option, one challenge is to ensure they make real changes in schools, instead of merely adding a word to a school's nameplate.

**Impacting teaching and learning.** Some have voiced concern that governance changes are sometimes disconnected from teaching and learning changes. Therefore, another challenge for states and districts that implement this option is to ensure changes in the group of people in charge of the school are connected to improvements in the teaching and learning experiences at the school.

**Matching problems and solutions.** Another concern is the potential to mismatch a problem – a low-performing school – and a solution – closing and reopening the school as a charter school. In this context, the challenge facing state and district leaders is determining when the particular problems at a low-performing school will be alleviated by the close-and-reopen option. In some cases, it will; in others, it won't. The trick for state and district leaders is recognizing the difference – a topic that is addressed in the next section.

**Finding school operators.** Some state and district leaders interested in this option also are concerned that may not be enough high-quality school operators. These operators must not only be familiar with the particular problems facing chronically low-performing schools but also must have a track record of success in solving such problems. Thus, state and district leaders are faced with the challenge of determining where new, high-quality school operators will come from.

**Navigating politics.** The politics of implementing the close-and-reopen option may prove challenging. Often, when a district closes a school that is under-

<sup>xi</sup> Hassel, Bryan and Steiner, Lucy (2004). *Stimulating the Supply of New Choices for Families in Light of NCLB: The Role of the State*. Denver, CO: Education Commission of the States.

enrolled, there is an outcry from the school's parents and students. Under this option, not only is a state or district closing a school as people have known it, but they also are opening up a charter school in its place. While charter schools are increasingly familiar to policymakers, they remain an unknown quantity to many parents and students, which may exacerbate the apprehension and confusion they feel.

Two other elements of the political equation are the teachers at the school and the unions that represent them. The author of this paper assumes that in the close-and-reopen option, the new school operator will have the ability to start from scratch in staffing the school as well as have the autonomy to hire and fire staff at the school throughout the term of the charter. Another assumption is that the new school operator will have the autonomy to operate outside of existing collective-bargaining agreements in the district.

It is possible that a group of teachers at the existing school may apply to run the school and, if their application is the best of the bunch, may be granted a charter to do so. Even if they don't run the new school, though, they may apply for jobs at the new school, but it will be up to the new school operator to decide whether or not they want to hire them. Notwithstanding these opportunities, it is apparent that even if states and districts handle parent, student, teacher and union engagement well, the closing and reopening of the school will be a challenging process. If they handle it poorly, the process may be a failure.

**Providing intensive support.** A final concern of some leaders is that the close-and-reopen option may be time consuming and costly to successfully implement. First, the amount of management required of the charter authorizer for the closing and reopening to be a success is potentially significant. Authorizer staff must engage in a number of activities, including engaging the school community in the process, selecting a new school operator, negotiating a charter with them, overseeing preparations for opening the

new school, monitoring the reopened school against performance benchmarks established in the charter, and periodically meeting with the new school operator to keep the effort on track.

Second, it is unclear in some situations how the state and district will fund the school once it is reopened as a charter school. The basic question is: By going "charter," will a school get less money than it did as a traditional public school? In figuring out the answer to this question, state and district leaders need to examine several issues, including:

- Will the new school get the same amount of operating dollars as it did before?
- Will it receive resources to cover facility costs?
- Will it get access to bond levies as a charter school?
- Will it receive the same amount of federal, state and local dollars as before?
- If there are any gaps between what the school received as a traditional school and what it will receive as a charter school, will the state and/or district make up the difference?

## State Policy Options for Closing and Reopening Low-performing Schools as Charter Schools

As the above discussion makes clear, the close-and-reopen option represents a bold undertaking. Because of the dramatic nature of this option, state leaders should play a part in the process only if they see potential power in it. Assuming that they do, there are a variety of roles that states may play, including the following four that are discussed in this section:



- Establish guiding criteria and processes for the close-and-reopen option
- Create a request for qualifications (RFQ) or request for proposals (RFP) process
- Provide additional resources to school operators
- Implement the close-and-reopen option themselves.

### Establish guiding criteria and processes

There are two major types of charter schools across the country – conversion charter schools and start-up charter schools. In the conversion model, an existing public school converts itself to a charter school. In these cases, state law typically requires that a majority of a school’s teachers and parents vote in favor of the conversion. For start-up charter schools, school operators – e.g., parents, teachers or community organizations – essentially start the school from scratch.

Some policymakers and administrators have talked about implementing the close-and-reopen option through the processes already in place for conversion charter schools. While this approach may work in some situations, it is likely to be problematic in others. Put bluntly, if the leadership and more than a majority of the staff at a low-performing school are part of the problem at that particular school, policymakers and administrators probably don’t want them making the decision about whether to convert to a charter school nor do they want them as part of the new school.

Therefore, one of the most important roles for the state is to establish a new set of criteria and processes to guide the closing and reopening of low-performing schools as charter schools.

As the first part of this effort, the state should create criteria for when the particular problems at a low-performing school match the specific solution of closing

and reopening it as a charter school. Some possible criteria are:

- Several years of widespread low-performance
- Little, if any, improvement in performance from year to year
- Low rates of attendance for students and teachers
- Low quality of leadership
- Sub-par teaching staff
- Little capacity in the school community for strategic reflection and action
- Disengaged students
- Low level of parental and community involvement
- Dilapidated school facility.

These criteria may exist at a low-performing school in any number of ways. One scenario is all the above criteria exist. In essence, the school has completely melted down and is in total chaos. In this situation, the close-and-reopen option allows the district or state to wipe the slate clean (except for the existing student population) and essentially start over by bringing in an outside entity to operate the school. Obviously, it is critical for the district or state to involve students, parents and community members in this process from an early stage.

A second scenario is a school has disengaged students, parents and community members, a sub-par teaching staff and a crumbling facility, but also has a new, high-quality leader who is constrained in putting into place the necessary staff, educational programs, parental involvement efforts and facility improvement plans by a mountain of state, district and collective-bargaining regulations. In this case, the close-and-reopen option provides a less constrained environment for the school leader to assemble a team and a strategy to turn around the school, while still being held accountable for performance.



A third scenario is a school has unstable, ineffective leadership, but a small group of high-quality teachers and involved parents who are closely connected to the larger community. For these individuals, the close-and-reopen option provides a mechanism for organizing the school to strengthen connections between school and community. In this process, they can bring in community organizations, leaders, teachers and parents who share this vision, all toward the common goal of improving student achievement.

**Autonomy and accountability.** Another role for the state is establishing a process to ensure districts and schools implement this option in a way that truly provides the reopened school with the autonomy and accountability necessary for success, instead of just adding a word to a school's nameplate. In essence, the state needs a process for certifying that a given school is truly being closed and reopened under a different arrangement. The state should establish such a process through legislative statute, state board of education rule or state department of education regulatory guidance.

This process should make clear the various autonomies that will be granted to the school, especially regarding budgeting, staffing, scheduling, and curriculum and instruction. It also should delineate what the school will be held accountable for, as well as how the accountability process will work. For example, the process may require that a school's charter delineate academic, operational and fiscal performance goals and objectives for the time period covered by the charter. It also may require a reopened school to submit periodic reports to the district and the state – perhaps two to four times a year – that show the school's progress toward meeting the performance goals and objectives contained in the charter.

**Timeline.** Besides addressing what autonomy and accountability will look like at the reopened school, the new process also should address the timeline for closing and reopening the school. Obviously, there is

no ideal time to close and reopen a school, and there are trade-offs within any particular approach. One option is for states to simply follow the timeline included within NCLB. In this option, if a school fails to meet its state's AYP performance benchmarks for five consecutive years, its district must create a plan to restructure the school. If a school fails to make AYP for a sixth consecutive year, the district must implement the restructuring plan no later than the beginning of the school year following the year in which the district developed the restructuring plan. The smoothness of this process will be particularly dependent on when the state releases its annual categorization of schools in relation to AYP.

While this timeline provides the district with over a year to create the plan to close and reopen the school, it essentially allows a "lame duck" group of leaders and teachers to operate the school during the year of planning, which may create a number of problems and tensions between the old and new groups of school operators.

An alternative approach is to use a modified timeline: If a school fails to make AYP for five years in a row, the district must still spend about one year creating a plan to close and reopen the school. If a school fails for a sixth consecutive year, though, the district allows the new school operator to take a planning year as well, instead of requiring the operator to reopen the school that year. If states want to include such a change in their restructuring timeline, the author assumes they will need to ask the federal government for permission to deviate from the timeline articulated in NCLB.

This option gives the new school operator more time to plan the reopening of the school; hire new leaders and staff; provide professional development to new leaders and staff; engage students, parents and community members in the process; and make the necessary capital improvements to the school building. One drawback of this approach is figuring out what happens to students during the new school operator's



planning year. In some districts, there may not be enough seats in nearby schools for these students, and therefore this approach is unrealistic. In a large district with many schools, though, there is still a challenge in moving students from school to school in such a short period of time.

**NCLB sanctions.** Another issue that states should clarify in a new process is the restructured school's relationship to NCLB's sanctions. According to federal regulations, a district must continue to implement the restructuring plan, as well as offer public school choice and supplemental education services to the school's students until the school makes AYP for two consecutive years.

But what if a restructured school continues to fail to make AYP? This situation presents policymakers with a dilemma. If the school must achieve immediate results to avoid additional sanctions, it will be difficult to attract organizations, school leaders and faculty to the restructured school. Most will likely say: "We need at least a few years to install our program and achieve results." But if the clock essentially restarts upon restructuring, with no consequences (beyond choice and supplemental services) for poor performance for several years, the sense of urgency created by NCLB may dissipate.

One state, New York, has addressed this dilemma through its restructuring guidance, which states that when a restructured school fails to make AYP for two consecutive years within three years of first implementing its restructuring plan, the district must develop a revised restructuring plan. The revised plan must be formally approved by the local school board by June 30 of the school year prior to the school year in which the revised plan must be implemented.<sup>xii</sup>

**District accountability.** One final issue that states should address is how to hold districts accountable for properly implementing the close-and-reopen option. The two major questions are: How should states monitor districts' implementation of these

processes? What should a state do if a district isn't carrying out its obligations according to state law?

In answer to the first question, states can review the charters for the reopened schools to ensure they contain the autonomy and accountability requirements spelled out in the state's new process, both before the district and the school operator sign it, and when any changes are made to the charter throughout the life of the contract. In addition, as a parallel to the requirement that reopened schools must submit periodic reports to the district and the state, the state can require districts to submit periodic reports to the state about the progress of implementation as well as require that the new school operator and the district meet with a state oversight committee of policymakers and administrators upon submission of the reports.

As for the second question, if a district isn't carrying out its obligations according to state law, the state can work with the district to make the necessary changes. If that fails to work, the state can take over the monitoring of the school from the district, as detailed later in this paper.

### Create an RFQ or RFP process

As mentioned earlier, one of the challenges within this option is determining where new, high-quality school operators will come from. To meet this challenge, states should deliberately cultivate a supply of new school operators for schools that will be closed and reopened as charter schools, potentially through a request for qualifications (RFQ) or a request for proposals (RFP) process.

In implementing these processes, states should specify the types of problems that need to be tackled at the schools identified for restructuring as well as the types of knowledge, resources and skills that the state feels are necessary to address the problems in these schools. The state-selected operators must not

<sup>xii</sup> New York State Education Department. (2004, February) *School Restructuring: Guidance for LEAs*.

only be familiar with the challenges within chronically low-performing schools but also must have a track record of success in meeting such challenges.

The goal of these processes is to develop a list of new school operators that contains specific information about each operator's approach, as well as detailed data about the results that each operator has achieved with specific types of students. If a district

decides to implement the close-and-reopen option, but is struggling to find an entity to operate the school, it may choose an operator from the state-approved list of school operators, keeping in mind the importance of matching the particular problems at an individual school with the specific approach offered by an operator.

### Colorado's RFP Process for the Close-and-Reopen Option

As part of Colorado's accountability system, if a school is rated "unsatisfactory" for three years in a row, it must become a charter school. On August 6, 2004, the state announced that Cole Middle School in Denver will become the first school to become a charter school under this policy. That set in motion the following process:

- By August 15, 2004, the Colorado Department of Education must issue an RFP to various groups that may be interested in operating the new charter school.
- By August 31, 2004, the state must form a seven-member committee – a member of the Denver school board, a teacher and two parents from Cole, a teacher and a principal from other middle schools rated "excellent" in the state's accountability system, and a business representative – to evaluate proposals and make recommendations to the Colorado State Board of Education.
- By September 15, 2004, applications are due from those interested in operating a new charter school at Cole.
- By October 15, 2004, the seven-member committee submits its recommendations to the state board of education, which then passes its pick on to the Denver school board.
- By February 15, 2005, the Denver school board negotiates a three-year contract with the new charter school operator.
- By July 15, 2005, all planning is completed and Cole is ready to reopen as a charter school in August 2005.<sup>xiii</sup>

### Provide additional resources to school operators

To increase the likelihood of success for this option, one role for the state is providing additional resources to new school operators to plan and execute their approaches. If states decide to provide such resources, they must decide what monies to use for these purposes. One idea is for states to make a new appropriation through the legislative process. Another idea is for

states to craft their next proposal for the federal public charter schools grant program to emphasize the close-and-reopen option as a major part of the state's strategy for increasing the number of high-quality charter schools in the state.

States also must decide at what point to award such funds. One option is to give the funds to potential school operators in districts with a large number of chronically low-performing schools before the district

<sup>xiii</sup> Mitchell, Nancy (2004, August 6). "Group May Apply to Operate Cole," *Rocky Mountain News*.



has selected such operators to run certain schools. This option allows the state to have a set of potential school operators at the ready once a district decides to close and reopen a school as a charter school.

A second option is to wait and award these resources after a district has selected the operator for a particular school. This option allows an operator's planning activities to focus on a particular school's set of challenges and ensures state dollars are only provided to groups that definitely open a charter school.

### California's Federal Grant Proposal

As part of its recent grant from the U.S. Department of Education's Public Charter Schools Program, the California Department of Education (CDE) is emphasizing the development of high-quality charter schools for students assigned to Title 1, Part A, schools through a combination of weighted scoring and set-asides.

For example, CDE will create a set-aside of up to 20% of its local assistance funds for local education agencies (LEAs) converting schools to charter status. Anticipating that some of California's traditional public schools will fail to achieve their NCLB goals, CDE will give a scoring preference to Title 1, Part A, schools pursuing chartering as a means of improvement if the applicants contract with a neighboring LEA (not the district in which the school is located) or an educational management organization (EMO) to provide educational restructuring and management assistance. LEAs and EMOs must have a track record of success (as defined by CDE) in operating California public schools serving the same student population as the grant applicant school to be eligible for consideration.

CDE also is creating a set-aside of up to 20% of its local assistance funds for applicants developing innovative, community-based start-up charter schools, and a set-aside of up to 50% of its local assistance funds for applicants developing start-up schools based on existing, replicable models.<sup>xiv</sup>

### Implement the close-and-reopen option themselves

In states interested in the close-and-reopen option, some districts may implement it as a catalyst for making necessary changes in chronically low-performing schools. In addition, some districts may be interested in doing so, but may lack the capacity to do it. But other districts are likely to view the option as intrusive and unnecessary, and therefore won't pay it much attention. In addition, districts that choose to implement this option may fail to carry out their obligations according to whatever new process is created by the state. In these situations, states may choose to implement the close-and-reopen option themselves.

While the specifics of each situation will dictate the way in which the state should implement this option,

there are two broad approaches for states to consider. First, the state can create a provision within its accountability system that allows a state entity (i.e., the state board of education or the state department of education) to close and reopen a chronically low-performing school as a charter school – either because a district has failed to turn around the performance of the school or because a district has asked the state to take over the school as allowed within NCLB. In this case, the state becomes the entity that oversees the closing and reopening process, as well as the entity that monitors the performance of the school once it is reopened.

As a variant of this approach, if a state is interested in implementing this option but doesn't have the organizational capacity to effectively close, reopen and monitor schools, it should consider either turning to an

<sup>xiv</sup> California Department of Education. (2004) *California's Approved 2004-2007 Federal Charter Schools Program Application*.

existing alternative authorizer – such as a state charter school board or a state university or college – to take over this job or, if alternative authorizers don't exist in the state, it should consider creating them for this purpose.

For this approach, the state can create a provision within its accountability system that allows it to turn over the closing, reopening and monitoring of a chronically low-performing school to an alternative authorizer. If a state implements this approach, it also should require that alternative authorizers submit periodic reports to the state about the progress of implementation as well as require that the new school operator and the alternative authorizer meet with a state oversight committee of policymakers and administrators upon submission of the reports.

## Conclusion

Given that there is no silver bullet for addressing the difficult challenges posed by chronically low-performing schools, the author suggests that states incorporate the option of closing and reopening these schools as charter schools into their broader school restructuring efforts. When implemented selectively and wisely, it has the potential to be a powerful tool for school improvement. Conversely, if this option is implemented in a haphazard way, it has the potential to lead nowhere fast. The ultimate challenge for policymakers and administrators, then, is to provide the necessary support to reopened schools so that their students are more successful than before. The bottom line: Create something better for students attending the most persistently struggling schools in this country. A sound implementation of the close-and-reopen option is one plausible way for policymakers and administrators to do just that.

### Louisiana's Statewide Recovery School District

As part of the state's accountability system, Louisiana created a recovery school district in 2003. According to state law, the recovery school district may assume jurisdiction over a chronically low-performing school if any of the following conditions exist:

- A local school board fails to present a plan to reconstitute the failed school to the state board of education.
- A local school board presents a reconstitution plan that is unacceptable to the state board.
- A local school board fails at any time to comply with the terms of the reconstitution plan approved by the state board.
- The school has been labeled an academically unacceptable school for four consecutive years.

Once the recovery school district has jurisdiction over a chronically low-performing school, it may turn the school into a charter school.

The state recently took over the first school through this process. Pierre A. Capdau Middle School in Orleans Parish was taken over by the state as of July 1, 2004, and will be operated by the University of New Orleans as a new charter school in the state's recovery school district beginning in 2004-05.<sup>xv</sup>

<sup>xv</sup> Louisiana Department of Education. (August 9, 2004) *Seventy-Five Schools Must Offer Choice*, Press Release.



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<sup>xvi</sup> The information in this table was drawn from the New Mexico Legislative Education Study Committee. (June 2004) *Schedule of Events for Schools That Do Not Make Adequate Yearly Progress Through Consecutive School Years*.

## Appendix A

### The Adequate Yearly Progress (AYP) Timeline <sup>xvi</sup>

NCLB Status	Action Required by NCLB
School doesn't make AYP for two years in a row.	In the following school year: <ul style="list-style-type: none"> <li>• School must develop an improvement plan</li> <li>• Local education agency must provide technical assistance and</li> <li>• Students must be offered the option of transferring to a higher performing school.</li> </ul>
School doesn't make AYP for three years in a row.	In addition to earlier measures, the local education agency must offer supplemental services to low-income students.
School doesn't make AYP for four years in a row.	In addition to the earlier measures, the local education agency must do one or more of the following: <ul style="list-style-type: none"> <li>• Replace school staff responsible for school not meeting AYP</li> <li>• Implement new curriculum</li> <li>• Decrease management authority at the school level</li> <li>• Appoint outside expert to advise the school</li> <li>• Extend the school day or year or</li> <li>• Change the school's internal organizational structure.</li> </ul>
School doesn't make AYP for five years in a row.	In addition to earlier measures, the local education agency must prepare a plan to restructure the school in one of the following ways: <ul style="list-style-type: none"> <li>• Reopen the school as a public charter school</li> <li>• Replace all or most of the school staff, which may include the principal, who are relevant to the school's failure to make AYP</li> <li>• Enter into a contract with an entity, such as a private management company with a demonstrated record of effectiveness, to operate the school as a public school</li> <li>• Turn the operation of the school over to the state education agency, if permitted under state law and agreed to by the state</li> <li>• Any other major restructuring of a school's governance arrangement.</li> </ul>
School doesn't make AYP for six years in a row.	In addition to earlier measures, the local education agency must implement the restructuring plan at the school.





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