



# Why **Good Authorizers** Should Close Bad Schools

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## CHAPTER 1 GUIDANCE

- Define performance expectations up front.
- Identify red flags and build an evidence base.
- Make a strong case.
- Don't balk.

Charter schools serve a variety of purposes. They empower parents by giving them more educational options from which to choose; they provide opportunities for innovative educators to implement new approaches to teaching and learning; they create schools for specific student populations or neighborhoods that are underserved by local school systems; and they put competitive pressure on school districts to change and improve.

The charter sector is thus driven by diverse purposes, and authorizers have different reasons and motivations for chartering schools. Despite these differences, a bedrock principle of the movement is that charter schools must have the freedom to determine their own course within the broad parameters of their charters, and in return, they must be held accountable for their results.

This chapter provides an overview of charter school closure and the need for matching solid evidence with political will.

### Reasons Bad Charters Remain Open

An explicit part of the autonomy-for-accountability bargain is that bad charter schools will be closed by their authorizers. While hundreds of low-performing charter schools have closed, many others are allowed to remain open year after year, from one charter renewal to the next. The reasons are complex and varied, and each case presents unique circumstances. Nevertheless, it is possible to generalize about why authorizers balk at revoking or not renewing charters.

### **Reason #1:**

#### **The absence of clear or meaningful performance criteria**

In some cases, authorizers have not established clear performance criteria for charter schools at all; in others, the standards are vague or ambiguous. This is particularly common for special-purpose or highly innovative schools that are often focused on hard-to-measure outcomes other than academic achievement on state or other standardized assessments. In other cases charter school accountability agreements or contracts<sup>1</sup> have specific and measurable performance objectives, but they are aspirational rather than achievable (at least during the charter term), making it problematic at renewal time for authorizers to determine how much progress towards the goal is enough.

### **Reason #2:**

#### **The absence of a strong body of evidence gathered over the charter term**

Often even when authorizers have established clear renewal criteria, they fail to gather a strong body of performance data and evidence over the charter term. Insufficient monitoring and inadequate evidence renders authorizers unable to build a solid, publicly defensible case for closure even when schools are on shaky ground.

### **Reason #3:**

#### **The absence of better alternatives in the surrounding neighborhood**

Closing a low-performing charter school often means that displaced students will have to enroll in an equally weak (or even worse) district school. Compounding the problem is the troubling reality that former charter students may be forced to attend schools that are not only educationally unsound, but downright unsafe.

### **Reason #4:**

#### **Community and political support for the failing school**

Even bad charter schools tend to have devoted parents, students and staff members who in turn are supported by local community leaders and public officials. This presents authorizers with two challenges. First, closing a well-loved school is contrary to the goal of parent empowerment, which most authorizers value highly. Second, bucking a mobilized group of parents and politicians is a tough assignment, especially when there is little or no countervailing public pressure in favor of closure. When it comes time to decide, authorizers are inevitably left alone to take the heat and can find themselves evaluating political costs and benefits, rather than the educational and organizational merits of the case or the best interests of the students affected.

These reasons for inaction are real and powerful. Some of them can be addressed directly by authorizers themselves. For example, authorizers should establish clear and achievable performance goals in each school's charter contract. Similarly, authorizers should develop clear closure protocols and policies that ensure options and orderly transition for affected students and families, such as providing admissions preferences at quality charter or district schools. Other reasons for inaction, including the poor quality of local district schools, may be beyond the immediate control of authorizers. But no matter how difficult it is to close bad schools, authorizers have an obligation to fulfill the promise of charter accountability by ensuring that all their schools meet basic standards of performance. In the face of powerful forces that favor keeping persistently low-performing schools open, what are the most compelling and defensible reasons for shutting them down?

## Identifying a “Bad” School: Red Flags and Evidence Basis

Before examining several policy arguments for closing bad charter schools, we first have to define what “bad” means, as well as how to determine how to know a bad school when you see one. While it is impossible to reach consensus on exactly where to set the bar, it is possible to identify several red flags that should at least trigger consideration of school closure:

- **Academic Underperformance.** The inability to deliver the student outcomes promised by a school’s charter is cause for serious concern and careful scrutiny. Minimum performance expectations for all charter schools should include reliable measures of academic achievement and attainment, including rigorous measures of student learning growth over time. A school’s promised outcomes may also include valid non-academic measures, provided that the authorizer approves their quality and reliability. Defining high-quality, multidimensional measures of success is especially important for schools serving specialized populations, such as former dropouts or students with disabilities, or schools with a particular mission (such as an arts or environmental focus) whose breadth of accomplishment may be only partially measured by state assessments. Authorizers need to ensure that rigorous, well-constructed performance measures and clearly defined targets or thresholds for acceptable performance form the basis for charter school performance contracts. In no case should authorizers use other failing schools as their benchmark; better than the worst is not good enough.
- **Financial Mismanagement.** Often, the most obvious indicator of a troubled school is financial mismanagement. A charter school that is teetering on the brink of insolvency can certainly be characterized as bad, whether its condition is the result of misfeasance or malfeasance. Regardless of the strength of its academic program, a charter school that cannot pay its bills is a failure waiting to happen whether or not an authorizer intervenes to administer the last rites.
- **Organizational Incompetence.** Struggling charter schools that are in organizational disarray or that lack the will and capacity to change and improve should also be candidates for closure — even if they are nominally meeting other minimum performance standards. These characteristics would disqualify a founding team from receiving a charter in the first place; they should also give an authorizer pause when evaluating an application for renewal.
- **Non-compliance.** Finally, any school that is consistently or seriously out of compliance with applicable state or federal regulations governing public schools must be placed in jeopardy by its authorizer. Some compliance issues can be addressed short of school closure, but others — including those involving student safety or access to mandated special education services — may reflect either a disregard for public accountability or a level of incompetence that could justify non-renewal or revocation.

Analyzing such data over the charter term is essential for authorizers to make well-informed judgments, including closure decisions, that stand up to the scrutiny of a skeptical public.

## Making the Case for Closure: Key Policy Rationales

To determine which schools are too weak to justify continued operation, authorizers should collect and analyze data over the full charter term (except in cases of mismanagement so egregious as to merit mid-term revocation). Assuming the authorizer has sufficient data to support a case for closure, it still needs to justify a closure verdict and avoid yielding to public or political pressure to give the school another chance. There are several broad policy rationales that support closure decisions when authorizers might otherwise be tempted to take the path of least resistance. Depending on the specific facts of a situation and the authorizer’s approach, the arguments for closing bad charter schools fall into three basic

categories: 1) safeguarding students and parents; 2) creating leverage for broader reform; and 3) protecting the public interest.

### **1. Safeguarding students and parents from schools that fail to meet basic standards**

Protecting the interests of students and their families is a primary responsibility of authorizers. This obviously includes ensuring a safe learning environment in which students are protected from physical or emotional harm. It equally applies to ensuring that students are receiving the educational services they were promised and have a right to expect. Schools are not daycare centers; they are not simply charged with safely warehousing children between the hours of 8 am and 3 pm. Schools exist to prepare young people for higher levels of education, to open doors of opportunity in the workplace, to develop informed and engaged citizens, and to cultivate in each student an understanding and appreciation of themselves and the world around them. Schools that fail in this great mission — notwithstanding the good intentions of their leaders and staff — are not just wasting taxpayers' money, they are profoundly degrading the life chances of a generation and limiting the potential of America's future. This must not be brushed aside in an attempt to protect adults from embarrassment or unemployment. Given that students' futures are at stake, charter schools must be able to demonstrate that they are at least meeting the same minimum performance standards applicable to all public schools in their respective states and localities, even if many district schools fail to meet those standards.

### **2. Creating leverage for broader reform by raising the bar**

For those authorizers who see charter schools as a vehicle for closing the achievement gap or driving system-wide reform, simply fulfilling the existing expectations for public education will not get the job done. If charter schools are providing a level of education that is only comparable to or even slightly better than the average district school, how will they ever catalyze the kind of transformational change that so many low-performing districts and low-income communities desperately need? Given the scarcity of human, financial and political capital needed to support charter school development, authorizers must set a high, yet attainable bar and be prepared to close schools that cannot meet it, so that others can come forward to take their place. In this way, an authorizer's portfolio of schools can strengthen over time, even if its growth is constrained by caps on the number of charter schools or by limited resources. The opportunity cost of sustaining a mediocre school is arguably far greater than the temporary dislocation caused by its closure.

### **3. Protecting the public interest from poor governance or mismanagement**

As publicly-funded institutions, charter schools must be held accountable as reliable and productive stewards of tax dollars. That means the management and board must behave in a competent fashion to assure the public and its representatives that the school will continue to function in accordance with all applicable laws and regulations. Equally important is that the financial affairs of each school are in order, both in terms of fiscal health and internal controls over the use of resources. Basic standards for effective governance are rightly applied to all public agencies, even if they do not always live up to them. As public schools operating on tax dollars, charter schools must adhere to those same standards. Those that do not or cannot justify the public's trust should be closed.

If charter schools are to have any hope of transforming public education, they cannot settle for simply being pretty good or just above average — especially when that average is well below what students need to succeed in the world. From this perspective, charter schools need to be about excellence. Specifically they need to prove that excellence is possible and achievable at scale and under difficult circumstances, even with students whom others may have given up on.

## Case Studies

A few recent real-world examples bring to life these arguments for charter school closure. In each of these cases, the authorizer's decision was difficult and controversial, though there was little doubt that the school in question was struggling operationally and falling short of its performance goals.

### ROXBURY CHARTER HIGH SCHOOL

#### CASE STUDY

#### *Reasons for Closure: Protecting the Public Interest; Safeguarding Students and Parents*

Roxbury Charter High School for Business, Finance and Entrepreneurship (RCHS) received a charter in 2002 from the Massachusetts Board of Education and opened its doors to 75 9th grade students in the fall of 2003. It was intended to grow to eventually serve 400 Boston students in grades 9 through 12 and prepare students both for college and vocational paths, with a strong grounding in business education.

While RCHS presented a strong charter proposal, it struggled to develop systems that could deliver on its performance commitments. RCHS's charter agreement detailed several distinctive features of the school, including a curricular focus on business, finance and entrepreneurship; a longer school year and school day; and individual learning plans for all students. In practice, the curricular emphasis was not fully developed, nor did the individual learning plans come to fruition. RCHS was open for a longer school day, but not a longer school year.

Operationally, RCHS was unable to meet many of its goals. Though plans called for 100 9th-grade students, RCHS had only 63 its first year. In its second year, RCHS had filled only 59% of its available spaces. Low enrollment strained RCHS's financial position, and it ended its first year of operations with an \$84,000 deficit. Cash-flow problems continued during RCHS's second year, though the school made attempts to cut costs and stem its financial decline.<sup>2</sup>

School governance was weak and the organization was in "deep turmoil and paralysis" by the fall of 2004.<sup>3</sup> The Board of Trustees was not able to effectively oversee school finances, nor manage the CEO or School Director.

While the Department of Education considered interventions and support to help the school improve, Massachusetts' Commissioner of Education David Driscoll ultimately recommended revocation of the charter on the basis of organizational disarray and financial mismanagement. The Commissioner's findings included the following:

- Significant cash-flow problems, largely stemming from under-enrollment;
- Lack of facilities plan;
- Ineffective oversight by the school's Board of Trustees;
- Failure to implement educational programs related to special education and English language immersion;
- Non-compliance with state and federal requirements for recordkeeping and documentation of Title I eligibility.<sup>4</sup>

In December of 2004, the Massachusetts Board of Education voted unanimously to revoke RCHS's charter, effective at the close of its second school year.

In May of 2005, the RCHS board asked that the decision be reconsidered, in light of increased organizational stability, the hiring of a new principal, and a donor who agreed to keep RCHS financially solvent. The State Board of Education decided not to reverse its decision, explaining that "a charter is a public trust that cannot be granted — or restored — lightly. And the decision must be grounded in evidence, not hope or wishful thinking."<sup>5</sup>

## INTERNATIONAL CHARTER SCHOOL OF SCHENECTADY

## CASE STUDY

### *Reasons for Closure: Protecting the Public Interest; Safeguarding Students and Parents*

International Charter School of Schenectady (ICSS) opened in September 2002, with 267 students in kindergarten through 4th grade and a management contract with SABIS Educational Systems. The school was authorized by the Charter Schools Institute at the State University of New York (the Institute), with the following mission:

**International Charter School of Schenectady will be recognized as a provider of top-quality education for a highly diverse student body. It will prepare all students for success in college, equip them with the ability and desire for life-long learning, and strengthen their civic, ethical and moral values. The School will maintain high standards of efficiency and accountability throughout its operation.**

When ICSS came up for renewal in the spring of 2007, the Institute planned to recommend short-term renewal for a term of three years based on “the conclusion that the school has a varied or mixed record of educational achievement, and now has in place an academic program of sufficient strength and effectiveness that will likely result in the school’s meeting...those goals at the end of the three-year period.”<sup>6</sup> However, as the State University of New York’s Board of Trustees was preparing to consider the staff’s renewal recommendation, ICSS decided to terminate its school management contract with SABIS. As a result, ICSS was granted only a one-year renewal, with an option for an extension pending implementation of its transition plan from SABIS to self-management.<sup>7</sup>

When ICSS returned in the spring of 2008, the Institute found that “the personnel, programs and structures in place are not sufficient in terms of quantity or quality...to make it likely that the school would meet or come close to meeting its Accountability Plan goals.” ICSS had again fallen short of its goals on New York’s state assessments, with its students performing on par or slightly below their peers in the Schenectady City School District. The school had not implemented many components of its transition plan, and the school board was “unprepared” to make critical decisions to support high-quality self-management. The “lack of rigorous oversight and organizational planning” resulted in under-enrollment and a weakened, albeit stable, financial condition.

In looking at the prospects for ICSS’s future, the Institute found that “to the extent International Charter School of Schenectady has not achieved its key academic goals, continues to implement an educational program that does not support achieving those goals, operates as an ineffective organization, and its financial condition has weakened, its plans to continue to implement the educational program as currently constituted for the next charter period do not appear to be reasonable, feasible or achievable.”<sup>8</sup> In sum, the Institute argued that ICSS had failed in its governance responsibilities and in its obligation to provide students with an educationally sound program.

While some parents of ICSS students expressed concern about the non-renewal decision because it meant sending students back to the Schenectady City School District and its many “failing” schools,<sup>9</sup> ultimately the State University board concurred with the Institute’s recommendation and voted to close ICSS.



## FREDERICK DOUGLASS CHARTER SCHOOL

### *Reason for Closure: Safeguarding Students and Parents; Creating Leverage for Broader Reform*

Frederick Douglass Charter School (FDCS) in Boston, Massachusetts, opened in 2000 and was designed to serve grades 6 through 12. Its mission focused on college preparation through research, writing and public speaking, as well as on emulating Frederick Douglass's values of justice, integrity and personal responsibility.

By its fifth year of operation, FDCS served 349 students in grades 6-10, and had 93 students on its waiting list. It planned to reach full capacity by the fall of 2006. Founder Ben Anderson described FDCS as “an environment for children who had had unsuccessful, unsatisfactory experiences in other schools...our children were behind and really put off by education.” Ninety percent of students were African-American and 60 percent qualified for free or reduced-price lunch.<sup>10</sup>

Academically, FDCS students performed similarly or slightly below most other Boston public schools, which was well below the state average. In 2003, FDCS made Adequate Yearly Progress (AYP) in English/Language Arts (ELA) and Math; in 2004 it made AYP in ELA only. National norm-referenced exams showed few significant gains or declines during the school's charter term.

By January 2005, FDCS was in an “unsound and unstable” financial position, according to the Massachusetts Department of Education. The school ran a deficit of over \$250,000 in fiscal year 2004, which management attributed largely to relocation expenses. While FDCS had met a majority of its organizational performance goals, it fell short on its targets for student and teacher retention. Although retention rates were improving, they still remained high enough to create instability.<sup>11</sup>

When FDCS came up for renewal, parents and students fought to keep the school open. Although state Commissioner of Education David P. Driscoll empathized with the FDCS families, he concluded that “the school clearly has not met the standards for renewal of a charter.” In February 2005, Commissioner Driscoll recommended non-renewal based on “low academic performance, high teacher turnover, the financial situation, and other issues.” The Board of Education voted unanimously not to renew the FDCS charter.<sup>12</sup>

While state officials certainly had concerns about the organizational capacity of FDCS, their decision was based primarily on their unwillingness to accept weak academic performance, even though other schools in the district were worse. Underlying this position was the belief that the power of charters to drive broader change depended on their ability to rise above the prevailing mediocrity: “If charter schools serve only to expand parental choice without significantly raising the bar of student achievement, this innovative and ambitious reform will have little or no impact on the wider landscape of public education.”<sup>13</sup>

Starting and running a charter school is hard work. It requires an around-the-clock commitment and a willingness to do anything and everything — from painting walls to raising money to recruiting new students — all within an often uncertain and contentious environment, and in some states hamstrung by threatening lawsuits and unfriendly legislation.

All of those who embark on this perilous journey of hope deserve our deepest gratitude and respect for embracing this challenge with courage, persistence and good faith. But these virtues alone are not enough. Charter schools are not supposed to rest on good intentions and earnest effort; they are supposed to achieve meaningful results demonstrated by a sound body of evidence over the charter term. Charter schools that cannot deliver on that promise, either to their students or the broader public, need to be closed. This is the unpleasant, but imperative responsibility of authorizers.

## ABOUT THE AUTHORS

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## ENDNOTES

- 1 Different authorizers and jurisdictions may use terms such as “charter contract,” “performance contract,” “charter,” “memorandum of understanding,” “accountability plan” and “accountability agreement” for similar purposes.
- 2 2004-2005 Site Visit Report, Massachusetts Department of Education, Charter School Office, <http://www.doe.mass.edu/charter/reports/default.html>.
- 3 Hearing Officer's Initial Decision, Docket No.CSO-05-01, Massachusetts Department of Education, 2005.
- 4 “BOE Votes to Close Roxbury Charter High School in June,” Massachusetts Department of Education, December 21, 2004, [www.doe.mass.edu/news/news.asp?id=2173](http://www.doe.mass.edu/news/news.asp?id=2173).
- 5 “Statement on Roxbury Charter High School,” Massachusetts Department of Education, May 24, 2005, [www.doe.mass.edu/boe/chairman/05\\_0524rcs.html](http://www.doe.mass.edu/boe/chairman/05_0524rcs.html).
- 6 Renewal Report: International Charter School of Schenectady, Charter Schools Institute at the State University of New York, March 9, 2007, [www.newyorkcharters.org/documents/ICSSFINALReport.3-07withAddendum.pdf](http://www.newyorkcharters.org/documents/ICSSFINALReport.3-07withAddendum.pdf).
- 7 Addendum Regarding the Renewal Report of the International Charter School of Schenectady, Charter Schools Institute at SUNY, March 20, 2007, [www.newyorkcharters.org/documents/ICSSFINALReport.3-07withAddendum.pdf](http://www.newyorkcharters.org/documents/ICSSFINALReport.3-07withAddendum.pdf).
- 8 Renewal Report: International Charter School of Schenectady, Charter Schools Institute at SUNY, February 27, 2008, [www.newyorkcharters.org/ICSSFINALRenewalreport2-08.pdf](http://www.newyorkcharters.org/ICSSFINALRenewalreport2-08.pdf).
- 9 “State Recommends Closing Schenectady Charter School,” *Schenectady Daily Gazette*, February 12, 2008.
- 10 *Frederick Douglass Charter School: The Renewal Decision*, by Childress, S. & Kozer, D. Harvard Business School case study, March 20, 2006, [www.harvardbusinessonline.hbsp.harvard.edu](http://www.harvardbusinessonline.hbsp.harvard.edu).
- 11 Summary of Review: Frederick Douglass Charter School, Massachusetts Board of Education, January 14, 2005.
- 12 “Commissioner to Make Multiple Charter School Recommendations to Board of Education,” Massachusetts Board of Education, February 10, 2005, [www.doe.mass.edu/news/news.asp?id=2269](http://www.doe.mass.edu/news/news.asp?id=2269).
- 13 Statement by Chairman James A. Peyser, Massachusetts Board of Education, February 15, 2005, [www.doe.mass.edu/boe/minutes.html?yr=2005](http://www.doe.mass.edu/boe/minutes.html?yr=2005).