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ABSTRACT

This report is a general guide for people planning a charter school. In September 1995 the Program on Reinventing Public Education, a collaborative effort of the University of Washington's Institute for Public Policy and Management and the RAND Institute for Education and Training, sponsored a workshop on charter school startup. This report results from that workshop. It is most relevant to charter schools in states where the charter school operators control at least some of the economic decisions affecting their school. The first section introduces some issues connected with charter schools. Section 2 provides advice on the expertise charter school founders need to integrate into their application and how to organize their applicant team. Section 3 discusses different approaches to designing the school and negotiating the charter. In section 4, the challenges a new charter holder will face while preparing to open are explored. The report concludes with recommendations for starting a charter school that serve as guiding principles for charter school founders. These recommendations are: (1) start with a strong team that holds a common vision and diverse expertise; (2) use outside experts; (3) be willing to adapt to changing needs; (4) view the charter application as a planning tool rather than a "hurdle" on the way to obtaining a charter; (5) institute well-defined roles and processes; (6) be proactive and anticipate potential problems rather than waiting to solve them as they arise; (7) stay focused on the school's mission; and (8) act like a trustee of the state's responsibility for public education. (SLD)

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UW/RAND

Program on Reinventing Public Education

So You Want to Start a Charter School? Strategic Advice for Applicants

Recommendations from an Expert Workshop

Marc Dean Millot and Robin J. Lake, Reporters

October 1996

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Program on Reinventing Public Education
Institute for Public Policy and Management
Box 353060
University of Washington
Seattle, WA 98195

(206) 685-2214
(206) 616-5769 (FAX)
http://www.gspa.washington.edu/PRPE/prpehome.html

Dr. Paul Hill, Director
Robin Lake, Associate Director

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1. INTRODUCTION

This report is a general guide for people planning a charter school, especially aimed at citizen/parent/teacher groups.

ABOUT THIS REPORT

In September of 1995, the Program on Reinventing Public Education invited twelve experts to Seattle for a workshop about the business side of charter school start-up. Specifically, we asked this group to discuss what it takes to start a successful charter school. Some of the participants are bankers, lawyers and insurance experts. Others provide assistance in finance or offer more general technical support to their state's charter schools. All have worked directly with charter school applicants in their state. Based on their experience in five states (California, Colorado, Massachusetts, Michigan and Minnesota), all believe that potential charter school operators could profit from written materials with advice on start-up strategies.

This report is the result of the September workshop. It is most relevant to potential charter school applicants in states where charter school operators control at least some of the economic decisions affecting their school. It is aimed specifically at those who will lead efforts to start charter schools -- individuals whom workshop participants often referred to as "founders." It should also be of general interest to education policy makers, individuals in organizations providing technical assistance to charter applicants, and people affiliated with the charter school movement or merely interested in it. The report was written on the assumption that the reader is generally familiar with charter school law, or at least with the statute in his or her state.

This report summarizes the strategies for charter school start-up recommended by the workshop participants. The remainder of this section describes the participants and provides a brief introduction to the charter school concept. Section 2 provides advice on the expertise founders need to integrate into their application and how to organize their applicant team. Section 3 discusses different approaches to designing the school and negotiating the charter. Section 4 examines the challenges a new charter holder will face while preparing for opening day. The report concludes with recommendations for starting a charter school that should serve as guiding principles for charter school founders.

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ABOUT THE PARTICIPANTS

Barbara Barrett is an Executive Director with the Michigan Partnership for New Education and Leona Group, which provides technical assistance and direct school management for charter schools. She was a co-founder of the Michigan Center for Charter Schools.

Linda Brown is Director of the Pioneer Institute of Public Policy's Charter School Resource Center in Boston, Massachusetts.

Barbara Hayes Buell is a partner in the law firm of Bloom and Buell in Boston. She is retained by the Pioneer Institute to advise on legal issues associated with charter school start-up.

John Cairns is a partner in the law firm of Briggs & Morgan in Minneapolis, Minnesota. He has negotiated charters on behalf of operators in several states.

Jerry Christensen helped develop a charter school in Denver, Colorado.

Chris Delorey is the President of Marketing Financial Services, Inc., an insurance brokerage serving a number of private and charter schools in Massachusetts.

Peggy Hunter was with Charter School Strategies in Minnesota -- a national organization that supports charter schools, and was the official responsible for charter schools in Minnesota's Department of Education.

Don Jacobson provides administrative services to two charter schools in St. Paul, Minnesota through his company, Stenmark, Inc.

Jim Peyser is Executive Director of Boston's Pioneer Institute and served as the Undersecretary of Education for Charter Schools in Massachusetts.

Eric Premack directs the Charter Schools Project of the Institute for Education Reform at California State University, Sacramento. He provides technical assistance to charter school developers and charter granting agencies

nationally and advises on state-level policy matters.

Tom Watkins founded Michigan's first charter school, served as Director of the Detroit Center for Charter Schools at Michigan's Wayne State University, and helped create the first charter school in Florida. He serves as a Senior Consultant to the Florida Charter Foundation that helps in the creation of new charter schools, and he is currently the Executive Director of the Economic Council of Palm Beach County Florida.

Chuck Watts is a banking executive with Old Kent Bank in Petoskey, Michigan, who has been involved in several efforts to finance charter school facilities.

Marc Dean Millot, who facilitated the workshop, is an attorney and a Senior Social Scientist with the RAND Corporation in Washington, DC. He has authored several reports on charter schools for the Program on Reinventing Public Education and is involved in the development of a charter school statute for Washington state.

Robin Lake, who recorded the workshop, is Associate Director of the Program on Reinventing Public Education.

ABOUT THE CHARTER SCHOOL CONCEPT

The "basic bargain" embodied in charter school legislation is "autonomy for accountability." On the autonomy side of the bargain, the defining features of charter school statutes are the right of those operating an individual public school to control decisions the legislature has deemed critical to the success of a school's educational program, and the guarantee of that right for some number of years. On the accountability side are the operators' responsibilities to improve student performance and meet a public trust in public education. Charter schools are held accountable to the market for economic viability and parent satisfaction and to government for financial stability, student performance and the operation of a public agency. The bargain is documented in a legally binding agreement called a "charter".

Like other proposals for systemic reform reflected in state education legislation, including site-base management, performance standards and assessment, and vouchers, the charter school concept is motivated by a desire to improve student learning, make our students better citizens, and help them to become more productive workers. And as with other reform proposals, neither education policy makers nor the general public can be certain that the charter school concept will work. In particular, no one knows the mix of autonomy and accountability that will yield the best payoff in student performance for the most students.

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Nevertheless twenty-five states and the District of Columbia have legislation permitting the establishment of charter relationships between individual schools and education agencies of the state. More states are likely to follow. Each has created a unique balance of autonomy and accountability. In some cases, the scope of autonomy extends only to the school's curriculum and instructional strategy. In others, it includes control over some or all of the human and financial resources expended at the school. In still others, charter schools are completely independent agencies of government. While the scope of accountability tends to match the extent of autonomy, the specific forms of accountability also vary by state; from adherence to state standards for student performance, to measures determined by negotiation between the charter applicant and the chartering agency, to responsibility for financial stability and maintenance of specific accounting standards, to adherence to laws governing the decision processes of public agencies.

Whatever mix of autonomy and accountability proves to be the best, the future of the charter school concept depends on a supply of "qualified" operators; i.e., operators with the capacity to exercise the scope of autonomy granted to them in a responsible manner. The barriers to a large supply of such applicants are significant. Although many applicants, such as for-profit businesses, nonprofit community service organizations and institutions of higher education, tend to be equipped with expertise, capital resources and political connections, this is not the case for the majority of charter school applicants: groups of parents and teachers that want to start their "dream school." Even the more qualified applicants require outside assistance in certain areas to get their schools off the ground.

A CAUTIONARY NOTE

Charter school planning is an iterative process aimed at continuous improvement of the charter application, and ultimately the school itself. It is impossible to be highly prescriptive or formulaic in making recommendations to new applicants -- the variation in state charter school laws, the extent of differences in the political environment surrounding each application, and the resources available to each applicant are too great. Nevertheless, this report is laid out sequentially, as if charter school planning could proceed from A to Z without ever revisiting L or M or even A. This has been done to give applicants a road map or checklist as they grope for a way to plan their charter school, to help them understand some of the more likely scenarios they will encounter, and to suggest general strategies for success. Potential applicants should realize that their own journey is bound to be less straightforward than the sequence of sections and subsections laid out in the following pages.

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2. GETTING STARTED

This section discusses some basic considerations that any person starting a charter school must keep in mind.

- The need for a vision of the school
- Basic expertise required of the charter applicant
- The need to consider the character of members of the applicant team and avoid conflicts of interest
- Special issues related to the conversion of an existing public school to charter status
- Places to look for assistance
- The role of the non-profit charter school technical assistance organization

COMMON VISION

Are you running after something or running away from something? It's my experience that people who want to get out of the system they hate, but who are unclear about what it is they want to do, tend not to succeed.

Jerry Christensen, charter school developer

You are going to have to have committed people who are willing to go the extra mile. This is no easy task, and you're generally doing it toward the evening, after work, all your weekends, your vacations, getting a major corporation started. You better all pretty much agree on what it is that you are hoping will be the result. So there has to be a vision and a mission and some real strong believing that will guide you.

Peggy Hunter, Charter School Strategies

Experts agree that the single most important attribute of the successful charter school is a clear sense of purpose or mission shared by parents, students, staff and the school's board of trustees. A common vision of what it means to be educated and how one becomes educated forms the basis of a coherent school design. It guides the school's decision-makers in every aspect of planning and operations. It gives potential employees, prospective students, and their parents clear indications of how they will be treated and what will be expected of them. It explains to chartering agencies and the community at large how this charter school is distinctive from other public schools. It provides a basis for decisions by foundations to support the school. It gives prospective lenders confidence that key personnel and constituencies have the level of commitment and purpose necessary to make the school financially viable.

Creating and nurturing this common vision is the most important task facing a charter school's founder. The vision may exist in the mind of one person who articulates it to others and then recruits a small cadre of

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like minded individuals, a situation familiar to business entrepreneurs. It may grow out of sustained discussion among people living in the same community, a route more familiar to many "kitchen table" charter applicants. However it is developed, the "vision thing" is the cornerstone of the start-up process and founders are well advised to spend time developing it before they take concrete steps to put a school together.

EXPERTISE

Charter school statutes offer operators a high degree of autonomy from state and district regulations. Charter school operators are invariably given complete control over the implementation of the school's approved educational program, including curriculum, instructional strategies, class organization and scheduling. They often control all or most of the "business" decisions of the school, including budgets, personnel, contracting for goods and services, acquiring interests in real property, and borrowing money. Because charter schools are public institutions, charter school operators may also be held responsible for compliance with laws governing public schools -- student admissions for example -- and laws governing public agencies generally, such as those involving open meetings and government procurement.

Most charter schools are educational programs, business entities, and government agencies, so a charter applicant's "core team" should include general expertise in education, business and law. Because charter school proposals are often controversial and invite substantial interaction in the public arena, many experts would recommend public relations expertise. And given the demanding timetables, deadlines and processes associated with developing an application, having a charter approved, and securing a loan, the core team needs a good administrator.

Conference participants agreed that a core team should generally consist of no more than six to eight people. The size of the group is driven by a desire to balance the need for a range of expertise and to achieve a size sufficient to stimulate creativity and brainstorming, against the requirement that the group come to closure on the vision (and later on other key decisions) within a reasonable period of time. Most participants favored "participatory decision making." However, they also maintained that the need for group consensus on the school's mission should not be confused as a requirement for unanimous approval of every important decision facing an applicant. The former is a precondition of effective planning and implementation, but the latter is bound to cause paralysis. Members must decide for themselves whether any given subsequent decision agreed to by most of the group compromises their understanding of the vision to a point where they must bow out.

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CHARACTER AND CONFLICTS OF INTEREST

[The core team] needs to be as pure as the driven snow. If down the road an enterprising local reporter writes a story that the attorney in town, the accountant in town, the insurance agent in town, and the banker -- all of whom serve on the school's board, proposed policies, developed the school's plans and the like -- made "big money," it just feeds right into the hands of the opponents to charter schools.

Barbara Buell, Law firm of Bloom and Buell

Tom Watkins argued that members of the core team will be judged by outsiders on "the three H's: heart, head and hutzpah."

- They must have the interests of children at **heart**.
- They should not be motivated for reasons of personal gain or to pursue a vendetta against the local school system, or appear to be so motivated
- They must have a **head** for business; the capacity to get things done, to work together, to delegate and to see things through
- They must have the **hutzpa** to face and overcome numerous obstacles, because "charter schools are not for the fainthearted."

When chartering agencies grant charters, foundations make grants of money, and private financial institutions lend it, they look to the people they will hold responsible for the school's performance. The people on the team who will implement the proposal count at least as much its content. The character of those who will control the charter school matters greatly to the success of the new institution. Founders need to surround themselves with people whose character is above suspicion.

In keeping with Tom Watkins' notion that members of the core group should be motivated by a commitment to children, participants generally agreed with Barbara Buell's statement that professionals approached to join such a group should choose between business and public service. If they agree to serve on the core group developing a charter school proposal, professional ethics should discourage them from subsequently providing professional services for a fee to the approved charter school. If they would like to do business with the charter school after it is approved, they should not become members of the core group. Rather, they should provide their services to the core group for a (possibly reduced) fee during the application process, and -- above all -- make their intentions known.

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THE CONVERSION SCHOOL

> *[In an existing public school] when you finally raise the question, "Hey, do you want to be a charter school?" That ought not be a shock to people...because there should have been an internal context already prepared so that it's just sort of a logical question emerging out of a discourse about what we believe, how do you teach kids, how do you measure learning. That internal dialogue needs to be there as preparation for asking those questions.*
>
> Jerry Christensen, charter school developer

Charter school statutes often permit teachers and/or parents at existing public schools to petition for conversion to charter status. The conversion school differs from one started "from scratch" in many important ways. The building exists. The student body is defined. The principal and staff are in place, have worked together, and almost certainly have a history of cooperation. But the group still needs to agree on a clear vision.

In John Cairns' experience the "common incentive" for conversion is often "avoiding the regulatory box" that traps district-operated schools attempting radical innovations in curriculum, pedagogy, staffing, scheduling and governance. Existing public schools with a distinct focus and committed staff and parents are prime candidates for conversion, because as they attempt to expand their programs and implement their vision of public education they inevitably hit the regulatory and contractual roadblocks bypassed under charter school legislation.

The experts agree that successful conversions depend heavily on the leadership provided by the principal. On the one hand, that person must recognize that conversion requires the support of at least a majority of the teaching staff. On the other hand, as Eric Premack put it, the principal must "help staff discover for themselves" the promise of the charter school option so that they feel a part of the conversion process. Finding that balance requires sensitivity as well as a sense of purpose. The larger the school, the more difficult it is to get staff to reach some sort of meaningful consensus. With a very large school it may be easier to create a "school within a school" or to make a more limited programmatic shift than to convert an entire school at once.

SOURCES OF ASSISTANCE

The sources of information and advice for charter school organizers vary by state but often include: local and state education agencies; state and national networks of charter school operators and advocates; private attorneys, accountants and bankers; consultants with experience establishing charter schools; and nonprofit organizations with the mission of providing technical support to charter school applicants. The thoughtful charter school applicant will, in Peggy Hunter's words, "knock on multiple doors" and "continue to open doors until there are no more to open." Each source has something to offer, but the applicant should remember that each has its own perspective, objectives, and agenda.

From the chartering authority, whether it is the local school board or some other entity, the applicant will need to obtain the appropriate application forms and information on the agency's attitude towards charter schools and criteria for charter approval. But applicants need to remember that the perspective of what are typically highly bureaucratic agencies with legal responsibility for the oversight of charter schools and ultimately for the education of public school students differs from that of applicants hoping to open an innovative, autonomous school. Some experts suggest that this difference in perspective should not discourage the potential applicant from asking the agency any kind of question, on the grounds that charter schools are such a new phenomenon that, "There is no such thing as a stupid question in the charter world, and the only thing that's stupid is not to ask." Others counsel applicants to consider carefully the kind of questions they ask because, "You can kill yourself in the first 30 seconds. If you go to the chartering agency, look stupid, ask some bonehead questions and seem to be totally unorganized... you could be doomed before you even begin the process."

In some states, state education agencies (which may be known as the State Department, Board, Secretary or Superintendent of Education) without chartering authority may provide additional information or assistance. The extent and nature of assistance will depend on the staff's capacity and the agency's attitude towards charter schools.

In many states there is also a "cottage industry" of private entrepreneurs and professionals including attorneys, accountants and consultants who provide their services to charter school applicants for a fee. At some point, charter school applicants will require professional assistance, for example, in filling out portions of their application, forming their school as a legal entity, establishing accounting systems, and entering into contracts for the goods and services required to start up their schools. Experts with specific experience working with charter schools, such as attorneys who were instrumental in drafting the charter school statute, should be among the first a charter school applicant searches out.

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As with any purchase, the consumer has an obligation to research the professional's expertise. Although the fact that a professional expects to be paid for his or her services is by no means a warning sign of a potential rip-off, the experts counsel applicants to "watch out for snake oil salesmen." Here is where having a balanced core team pays off. Members of the core team with related expertise should be used to check out the background, experience and track record of potential consultants. In states where charter schools have already been established, operators generally maintain informal networks and sometimes formal associations. These can be good sources of advice, particularly on approaches to solving the typical problems of charter school start-up, the peculiarities of chartering agencies, and experiences with professionals serving the charter school community.

THE NONPROFIT TECHNICAL SUPPORT ORGANIZATION: A CRITICAL FRIEND

> *It's appropriate to the role of technical assistance to describe the realities of the situation to the applicant. In other words, if a group comes forward with a proposal for the "creation science high school," I think it's perfectly fair to tell them that I do not believe that the chartering agency will approve it and that the school will be subject to curriculum standards and assessments that are not consistent with creation science. So I think it's fair to describe the political and legal realities to the applicant, which may or may not deter them from pursuing their proposal.*
>
> Jim Peyser, Pioneer Institute

> *Our role is not to select charter school operators, but to help charter school applicants. And that means we have to open our doors to everybody who's got an idea.*
>
> Linda Brown, Pioneer Institute

> *We have to be very careful in our role as a resource not to begin to impose what we think is best, but to listen to the vision and dream, and then take [the potential applicant] through a process of business and management analysis.*
>
> Barbara Barrett, Michigan Partnership for New Education

The experts agree that the first place a charter school applicant should go for information is the nonprofit technical support organization (TSO) operating in their state. As Barbara Barrett recommends, "Contact us when you know you are committed, but before you know what to do." The level of support provided by TSOs varies, but they are not likely to write applications, provide start up funds, or make decisions. The TSO's mission is to contribute to the implementation of state charter school legislation by helping potential applicants develop strong charter proposals and providing charter holders with advice on starting their new school. Staff often have developed guides or handbooks designed to walk applicants

through the application and start-up processes, a network of advisors prepared to provide pro bono assistance, and a library of specialized materials. Equally important, they are often aware of the political history of the charter legislation, the attitudes of important players in the education arena, the approach taken by chartering authorities, and the experiences of other applicants and operators. Particularly where informal or formal associations of charter school operators have not been formed, the TSO is likely to be the only source of advice given with the perspective of the applicant foremost in mind.

Perhaps the most important role of the nonprofit technical assistance organization in its direct support of charter school applicants is that of "critical friend." That role is played out primarily through the TSO's review and assessment of an applicant's planning materials, and particularly the critique of draft charter applications. That critique process serves several purposes. First, it is designed to improve the application. Applicants inevitably neglect to give certain portions of the application adequate attention and/or fail to make descriptions and explanations clear to the people in chartering agencies that will pass judgment on the proposal. The TSO's staff, with its knowledge of the charter school statute, chartering agencies' attitudes and personnel, and the experience of other applicants, is in a position to point out these shortfalls and perhaps to suggest alternative approaches to improve the application. Second, the TSO is often able to make applicants aware of potentially controversial aspects of their proposal. Armed with such knowledge, applicants can decide whether to change the problematic components of their application or develop strategies to deal with the chartering agency's concerns. In either case, forewarned is forearmed.

Questioning applications is a form of technical assistance, an important rehearsal for applicants preparing to sell the charter school to the chartering agency, the public community, the media, prospective students, and their parents. TSOs also can help applicants organize other forms of rehearsal. For example, after prospective applicants develop their common vision, Eric Premack helps them to "test drive it in the real world" before they begin serious efforts to fill out their formal application. He invites a mix of people who have a real stake in the outcomes of the proposed school to a session where they listen to the applicants, ask them questions, and provide an assessment of their concept. For a high school proposal for example, he might invite a local college admissions officer, a small business person, and a personnel manager from a firm that hires high school graduates in the area. If the vision appeals to this group, the applicant is ready to move on the application. If not, the applicant needs to reconsider the vision.

DEALING WITH OPPOSITION AND THE MEDIA

Understand that the progress of change can almost always be measured by the intensity of the resistance.

Eric Premack, Institute for Education Reform

Founders must handle public relations with three main groups: potential opponents, potential supporters, and the media. They should realize that their plans will not be kept secret for long. The process of exploring the charter option, creating a common vision, and building a core team lets others know something is happening, and will call forth opponents as well as supporters. Founders must expect that the teachers' union and central office will know about their proposals, whether the school is a new start or a conversion.

An awareness of local politics is essential to starting a charter school. Even when the charter school is a mere glimmer in the eye of the founder, he or she must be aware of the key political players and entrenched interests in the community -- the school board, the superintendent, the central office, the teachers' union; their interests; and how they interrelate. Interest groups likely to oppose the school must be recognized early on. "Know who you threaten." Similarly, potentially supportive groups must be identified. Peggy Hunter suggests that organizing supporters, especially parents who will have children in the school, can be a powerful way to persuade district officials to support the effort.

The experts agree that the debate will be inevitably about "power, control and money" in the public school system. But opposition will focus first on the quality of the proposal. Founders will be able to get by with "Aw shucks, we hadn't thought of that" for a short while, but not for long. Without a sound proposal, charter school applicants will never make it to the real debate over the power of entrenched interests. Without a sound proposal, potential supporters cannot be turned into active allies.

Experts agree that charter school founders must accept early public awareness of the proposal, but differ on how to deal with it. One way is to approach the potential opposition relatively early in the process of developing an application and invite their comments as "critical friends". Jerry Christensen explained this option in the context of teachers' unions, but the principle applies to any other potential opposition.

> *My experience is that when these union people do come in with the assigned purpose of being critical, which is what they are given to do anyway, that allows them to be who they are. But it also allows them to engage your thinking at a moment when they would not ordinarily. Ordinarily they'd lie in the weeds, develop their arguments, and then come out at the eleventh hour and try to put the kibosh on things. And if you can get them before that happens, I think that's helpful.*

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Eric Premack suggested a variation on that theme for a conversion school's relations with its school district.

> *As one charter school principal put it to me, "I've been downtown and met with them enough to know their style. They take me into the superintendent's office, surround me with district administrators and union people, and tell me 'No,' and then tell me to go back and tell that to my site." He said, "I don't do that anymore. Now they come out to me, and they have to face my staff and my parents and my community...That forces a very different dynamic."*

Other experts would avoid exposing the planning process to potential adversaries. They are concerned that opposition groups may be able to disrupt the charter school group's early efforts to coalesce into a coherent team, and fear handing the opposition details that will be used as the basis for better targeted attacks on the charter school proposal. They would prefer not to improve the charter school enemy's prospects of defeating the application.

Participants agreed that the best strategy for dealing with the union and other local opposition groups depends on the political environment and history particular to each community. The response can range from "hard-ball" politics to a willingness to cooperate. They advise that applicants take the time to figure out what an interest group's likely reaction will be before approaching them.

When dealing with the media, charter school founders must realize two things: 1) a good reporter is looking for controversy; and 2) you cannot completely control what those working on the charter proposal and supporters will say. Nevertheless, founders must make efforts to shape their media image. The core team should appoint a spokesperson. Members of the applicant team need to discuss what they will say to the media about important issues, and those comments should be consistent with the school's common vision. More important, charter school applicants should seek out the media. Charter school founders would do well to invest time in developing personal relationships with local reporters, provide them with information about successful charter schools or copies of studies, and invite them to meet with supporters. Reporters generally don't know much about charter schools and applicants must not leave their education to the opposition.

3. MOVING THROUGH THE PROCESS

This section covers key aspects in the charter development.

- Managing group decision-making
- Developing the educational program
- Finding a building
- Liability, insurance and risk management
- Special education
- Contracting for services
- Admissions and marketing
- Budgeting and business planning

GROUP DECISION-MAKING

I think that at each stage of the process -- the planning, the application, the receipt of the charter and then the governing of the school -- there has to be a sustained balance between the educational, business and legal requirements of the school.

Barbara Barrett, Michigan Partnership for New Education

Building a charter school is kind of like building a bicycle wheel. There's no one diameter of wheel or one single number of spokes that you're supposed to have to a wheel or one width to a wheel, but the wheel all does have to fit together and all of the spokes have to be coordinated in the right tension and of complementary diameter, and you have to have the right size rim and the right size hub.

Consensus is not: everybody gets along and is unanimous; it's that we're going to build a wheel and it's going to be round and it's going to be true and we are willing and able to deal with one another on an adult and mature level to figure out how all of those spokes are going to come into tension and when and how and why. And in terms of the expertise that you need on each of those spokes, if one of those spokes is missing or breaks, again the wheel goes out of tension and you have to either buy it outside or have it internally on your core group. If you can't find it somewhere, your wheel's going to be warped.

Eric Premack, Institute for Education Reform

Members of the core group need to agree on how decisions will be made at each stage of the school's development. Because, in most instances, participants in the application and start up process will not be paid, their willingness to contribute will depend on their commitment to the common vision of the school and a

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sense that their contribution -- including their advice and perspective, as well as their more substantive work -- is valued by the founders. At the same time, the experts agree that charter school leaders must retain control of their effort. It is important to allow different perspectives to be aired -- the resulting debate can improve the proposal and the school and give participants a sense that their ideas will be taken seriously -- but after the common vision is determined, leaders should not expect or try to obtain everyone's agreement on every decision. They must not allow consensus decison-making to degenerate into a requirement for unanimity.

The specific skills and expertise and the nature of decision making required to start a charter school will change over time. It is to be expected, then, that there will be corresponding shifts in the membership of the core group and its advisors. As personalities change, the challenge for the founders will be maintaining a balance of skills without compromising the integrity of the school design.

Charter school developers must understand that some decisions can and should be made by others on the core team, and even by other volunteers or committees. Leaders are not experts in everything -- they ought to choose experts to work those areas and defer to their expertise. Delegation is also a sign of the leadership's respect for volunteers that is essential to maintain their loyalty and continued work on behalf of the charter school project. But in the end, charter school leaders must retain control over decisions that could undermine the financial viability of the school or its educational mission.

Participants agreed with Jim Peyser's advice: applicants should recognize that while the vision is the core concept guiding development of the application, "a vision that exists only on paper is not a school, and (they) must get to a point where the vision becomes a school. So it's not reasonable to say that modification to the design is a sell out. In fact, it may be a perfection of the design, because the design is only useful if it's real."

THE EDUCATIONAL PROGRAM

> *From a school management perspective there are things that I look for in their educational program when I sit down with a group developing a charter school that I know they need to have to function as a business. They need to have very carefully considered what kinds of students they are going to serve, and what kinds of educational, instructional and pedagogical strategies are really going to reach those kids. Because if they lose those kids -- even just a handful of them -- they're belly up in a big hurry.*

> *This [the possibility of failing economically because dissatisfied students and parents withdraw from the school] is one of the things that forces very rapid change within a charter school. It's part of the strength of the charter concept, but it's also a weakness for the school. You're very vulnerable if you don't know who you're serving, how you're serving them and, over the longer term, whether that strategy is effective in achieving the educational outcomes that the school is*

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designed to meet. So from a business and a management perspective, you really have to have the educational program very solidly grounded.

Eric Premack, Institute for Education Reform

A charter school's educational program is where all the pieces of the application come together in an attempt to improve student learning. Rather than thinking of the application in terms of satisfying the approving agency, the applicant group should stay committed to its vision of the elements of a successful school and finding a way to make it happen. Applicants should consider themselves educational entrepreneurs as they contemplate the specifics of their application and avoid a "compliance mentality".

Participants agree that it is essential to define the educational philosophy of the proposed school before deciding curriculum and instructional methods. Eric Premack recommends a method he calls "designing down." The first step for applicants is to develop a common vision about what it means to be educated. The next is to write down a list of outcomes or objectives that you would like your students to achieve. The third step is to find out what's available in the way of curriculum and instructional methodologies. The final step is to select materials that will support the outcomes the school is trying to achieve.

The experts believe that applicants should take time to "dream" about an educational philosophy. However, some cautioned that applicants should be wary of spending too much time theorizing and not moving on to action. Over time, groups often add jargon and incompatible or irrelevant concepts to the educational program that obscure the original philosophical idea. "They devote too much time theorizing about the schools instead of trying to create a school."

The conference participants disagree about whether an applicant should propose a curriculum with the initial application or wait until after the application is approved to avoid overwhelming the chartering agency. But as Jerry Christensen pointed out, in some states chartering authorities will need to determine if the proposed curriculum is in line with state standards before they decide to grant a charter. In any case, when the time comes to choose a curriculum and instructional methods, participants recommend finding out what's already available on the market before creating something from scratch. It is possible to quickly find an entire curriculum package or piece one together into a coherent package if the group has the necessary expertise. Another option that Tom Watkins suggested is to identify the programs that successful charter schools are using and adjust them to the proposed school's needs.

As important as it is to know what students in your school will be expected to learn and decide which tools will be used to achieve those goals, it is equally important to make provisions as early in the process as possible on how and when student progress will be assessed. There are two important reasons for this. First, the charter school will have to demonstrate its performance to the approving authority and to parents if it is to survive. Second, the assessment methods will be important diagnostic tools for discovering and correcting student problems, or problems related to the educational program, or to its implementation. The assessments

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used by a charter school must be both meaningful to the teaching staff and parents and also be seen by policy makers as legitimate measures of student achievement and comparison with other schools. This argues for the use of multiple assessments.

FINDING A BUILDING

> *We have one school in California; I call it 100 Square Foot High. It's a distance learning based school. The school, if you want to call it that, consists of a 10 by 10 foot room in the back of the school district administrative building that has a bunch of file servers and a lot of modems. That's the only facility per se. We have another school that is located in 17 storefront locations across the city of San Diego.*
>
> Eric Premack, Institute for Education Reform

The location of the school is of sufficient importance for the core team to retain control over site selection, renovations, and associated expenditures. It will influence the size and character of the school, and other areas of the charter application. For instance, a location's access to transportation will affect marketing and will influence the nature of the student body. The experts caution applicants to consider carefully the cost of bringing a facility up to code when choosing a site. If possible, applicants should determine the projected size of the student body and expected revenues before making a final decision on the building. Nevertheless, the research necessary for an informed decision can be delegated to a committee.

Generally speaking, there is a limited amount of real estate likely to be appropriate for a school in any given area. In addition, it will be difficult to line up a deal before having been approved for a charter. Jim Peyser recommends that the applicant team start prospecting for space as early as possible, but in the meantime continue to develop the rest of the plan. Because suitable space can be so elusive, creative thinking is often necessary. Depending on the school design, it may be possible to "dream up" very non-traditional facilities by using closed down private schools, donated space or unused district space.

Finding a suitable facility will be one of the most difficult tasks faced by the applicant. School districts across the country have not proved ready and willing to make space available. Nonprofit community institutions, like the YMCA/YWCA may not have space. Vacant parochial schools may not be located where the applicant hopes to open a school. Commercial buildings will almost certainly have to be renovated to create classrooms and other school facilities; these renovations will have to conform to general building codes and provide access for handicapped persons; and, depending on the extent of renovations required, the prohibition on the use of public funds to construct charter school facilities may require the party selling or leasing the facility to bear the costs before turning the property over to the charter school.

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Locating suitable space, considering the need for and cost of renovations, determining the applicability of zoning and building codes, negotiating the lease or and purchase of real estate, requires professional assistance. Experts agree that applicants should seek out the services of commercial real estate agents, architects, building inspectors, general contractors, real estate financiers, and attorneys with a practice in real property for the building committee.

LIABILITY, INSURANCE AND RISK MANAGEMENT

> *Probably more important than any of the other liability questions is, what is your strategy to manage risk and what are you doing to try to see to it that your school doesn't end up in that situation in the first place, not only to keep you out of it, but if you do get into it, can you make an argument to a court or a jury that you were being reasonable in your activities. That's harder work and gets one into some pretty tough discussions about how far do we want to go to turn ourselves into our own little nightmare of a little bureaucracy with our own policies and operating manual, versus having the flexibility in being able to do those sorts of things.*
>
> Eric Premack, Institute for Education Reform

Liability issues for charter schools are somewhat dependent on each state's law. In some states, charter schools are distinct legal entities that can sue and be sued. In others, it is less clear where a school's liability ends and the district or state's begin. The extent to which board members of a non-profit organization can be held personally liable for school-related decisions also varies. The first step, then, in defining a risk management strategy is to understand thoroughly the relevant state's legislation to clarify potential liability. In some cases, a law may not require insurance, but the school and individual board members may not be fully protected without it.

Chris Delorey argues that well structured by-laws and clearly defined risk management policies serve as methods for self-protection and help reassure insurance providers that the founders have taken steps to manage risk. As he explained, "The better the bylaws, the more bullet-proof, the better you are in protecting your different risks."

Once the applicant team has identified potential risk factors and policies for managing that risk, the team should explore insurance options that will fit the school's needs. Several options may be available -- such as group purchasing, and, depending on the legal status of the school, charitable or municipal immunity. Insurance providers are likely to be concerned primarily with potential child abuse, athletic coverage, and vehicular coverage. But as Eric Premack warned, it may be very difficult for a brand new organization to find policies written by legitimate companies that will cover all those risks. It may be necessary for a new school to first legitimize itself by demonstrating a risk management record and then begin to build a strong insurance portfolio.

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Participants disagreed about the extent to which a charter school might be covered by municipal immunity. Chuck Watts argued that a strong case can be made that the state should be willing to cover charter schools under municipal liability, "[I]f you believe this is a public school that is being managed by a non-profit corporation, I think the logic of that suggests that just like any other public exposure or any other public school, the public treasury is at risk in the end." This may or not be the case, but it is certainly the case that bankers woud prefer that municipal liability hold true; its existence may mean there is more collateral, but the issue is likely to be unresolved until the first default.

SPECIAL EDUCATION

> *I think that the reality has been that schools have tried to consider special education as an add-on at the end of the planning process. You have to plan for special education as part of your integrated curriculum and financial package, and you need to set aside funds, services and personnel for that purpose.*
>
> Jim Peyser, Pioneer Institute

Whether the charter school operator will be responsible for students with special education needs depends on the wording of state legislation -- one reason why charter school applicants must read their statute with care. If charter school operators are required to accept special education students, the costs of serving that group could conceivably run as high as 25 percent of the total budget, according to Jim Peyser's experience with Massachusetts' public school system. The experts suggested that although charter schools tend to borrow many special education concepts (most importantly the individual education plan for every student); and despite the fact that their "inclusive ethos" and alternative, non-bureaucratic, community-based educational programs are likely to appeal to parents with children at the low end of the special needs spectrum (as well as "problem" children who do not qualify for special education programs, but nevertheless require greater attention than typical students), there is a tendency for charter school organizers to treat special education as an afterthought. Particularly in the rush to start a new school, organizers often push special education to the side on the grounds that it is not at the core of planning needs, requires special expertise, and is just "too hard to do right now."

Experts agree that special education should receive the same level of attention as the general educational program, the facility, and overall financial planning. "You can't throw a 25 percent item on the table at the last minute." Charter school applicants should form a special education committee made up of individuals with expertise in the field or an interest in acquiring such expertise. This group should research the relevant federal and state statutes and regulations, potential funding sources, staff requirements, curriculum and pedagogical options, and costs in an effort to develop a special education plan consistent with the common vision of the school. The committee should also explore options for reducing the costs of special

education, including contracts for part-time special education services and partnerships with other charter schools to share special education staff.

CONTRACTING FOR SERVICES

> *There are going to be certain foundations, corporations, and individuals that are going to love the fact that you're "privatizing," contracting out, and are going to be more likely to contribute to your cause than perhaps if you didn't. And then there's going to be a few because of their bent, their beliefs, where they get their money from, that aren't going to touch you with a ten foot pole.*
>
> Tom Watkins, Economic Council of Palm Beach County

A charter school's authority to contract for services varies widely from state to state, ranging from having no right to contract for goods and services to having the right to contract all of a school's services, including its educational program, to for-profit firms. Contracting out is a potentially unpopular decision, especially in heavily unionized states, as it often means forgoing unionized employees. If a group makes the decision to contract, it should expect opposition from opponents of privatization. Tom Watkins points out that the effect contracting has on a school's public image and its ability to raise money will depend on several factors, including where the school is located.

To alleviate fears of donors, the experts recommend charter school founders make sure before deciding to contract for a particular service that 1) they will be using money wisely to get value for service and 2) the service provided will be consistent with the school's mission. It may also be a useful strategy to target requests from foundations on programs or costs not associated with contracts. A charter school may seek foundation support to renovate or purchase a school site, while using the operating payments provided by government to finance its contract for educational services.

ADMISSIONS AND MARKETING

> *The way in which you market your school will help you in terms of "screening" who will attend....One way you do that, since you're going to have to accept anybody anyway, is to be very clear about what your program is about.*
>
> Peggy Hunter, Charter School Strategies

The basic state of the law is generally that you can't affirmatively discriminate against people. But there isn't a flip side requirement that you have to affirmatively integrate... A charter school has an obligation not to discriminate to keep people out, and if applications come from a racial mix...we can't say no...I don't think that charter school promoters have any legal obligation to integrate their schools.

John Cairns, Law firm of Briggs & Morgan

Because charter schools are funded on the basis of their student enrollment, their program offering must attract enough students to maintain the school as a viable economic entity. But because charter schools often offer a distinctive program, the school is not necessarily designed for every student; it seeks students who will profit most from the school's approach to public education. The importance of matching the charter school's student body to the founders' vision of the school and the complexity of the issues applicants must consider in developing a marketing plan warrant a separate planning committee. Individuals with experience in marketing, public relations and writing are obvious candidates for this group, but for reasons suggested by John Cairns' remark, the committee should also draw upon specialized legal expertise.

Most charter school legislation mandates open admissions, with a lottery in the event of over-enrollment. Public schools may not discriminate on the basis of race, ethnicity or gender, so a charter school may not set aside seats for members of "minority groups" in order to promote diversity or mandate that the student body will consist of an equal number of boys and girls. However, some charter school statutes may allow discrimination on other bases, such as academic ability or affinity with the school's educational program. Here, as with special education, potential applicants must review their statute carefully.

The requirement of open admissions can be difficult for potential applicants to reconcile with the public policy underlying the charter school concept. The visions and missions of charter school organizers consciously diverge from the "one size fits all" approach of traditional public schools operated by school districts. Indeed, charter schools are intended to serve groups of parents and students who are "underserved" by the traditional system -- including gifted and talented students; drop-outs; groups that are victims of racial, ethnic or gender discrimination; parents with views of education that depart from the mainstream, and students who have a vocational or technical rather than an "academic" bent. Charter school legislation encourages applicants to develop distinctive educational programs to increase the range of options parents and students may choose from when pursuing their public education.

The flip side of choice is that a given charter school is not designed for all children, but for children with particular needs and for parents with a compatible view of the kind of education that is best for their children. But where admissions are open to any student, the student body of charter schools is the result of strategic marketing as well as self-selection by parents and their children rather than the screening of applications by charter school operators. It is therefore possible for a new charter school to find itself in a

situation where a portion of the parents and students may not be compatible with the school's mission and vision.

The reality of self-selection underscores the importance of the clearly articulated common vision -- and of student marketing. The school must communicate its vision effectively. Parents need a clear understanding of the mission, educational program, approach to special education, meal and transportation plans, and extra-curricular activities of the charter school. Armed with such information, they can assess whether the school's offering meets their children's needs. While parents may nevertheless choose a charter school for reasons the organizers believe are not central to the school's vision -- for example because of the school's location, or the fact that it offers an extended day -- a clear and consistent explanation is more likely to yield the student body the school was designed to serve.

It is the charter school's responsibility to provide this information, in the form of brochures, interviews with local media, presentations to community groups, and one-on-one discussions with potentially interested parents. A school aimed at drop-outs should provide sufficient information for average, middle-of-the-road high school students to understand the program was not designed for them. And it is the charter school's responsibility to target its marketing to the kind of students the school has been designed to reach. The school for high school dropouts should focus on the places where teenagers "hang out"-- record and clothing stores, for example.

Experts agree that charter school applicants need to understand the difference between legitimate marketing and unlawful discrimination. It is one thing to provide the information that parents need to make a decision or to target student recruiting to the kind of students the school is intended to serve. It is quite another to apply subtle or not so subtle pressures on potentially interested parents not to submit an application in a one-on-one interview because the operator believes the student would not fit into the charter school's program, or deliberately refuse to send marketing materials in response to requests from particular groups of students or areas of town where such students are believed likely to be found.

The line between legitimate marketing and discrimination may not always be clear in practice. For example, the operators of a charter school for high school dropouts with an educational program emphasizing African-American culture may locate their facility in an area with a predominately African-American population. If a white, Latino or Asian student requests information on the school, the operators must provide it. If that student wants to attend the school, the school must treat the application like any other. And while the school's operators have every right to explain the African-American focus and why they expect it to appeal to African-American students, they would be well advised to avoid conversations that imply that whites, Latinos or Asians are not welcome.

These points seem clear. But how may the school's organizers focus the finite resources they can devote to marketing? The African-American school can target record and clothing stores frequented by African-American teens, and the neighborhood surrounding the school where African-Americans predominate. But

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what about a high school focused on the Pacific Rim that could draw its student body from across the city? How must the marketing plan for that school treat record and clothing stores frequented by African-American, white, Latino or Asian youths, or African-American, white, Latino or Asian neighborhoods? Assume a program designed to serve less than 100 students, with a very tight overall budget and a minimum of resources set aside for marketing. Can the operators devote absolutely no resources to any one of those places? The answer is not obvious and applicants should develop their marketing plans with the assistance of an attorney with expertise in the area.

FINANCIAL PLANNING

A charter school's budget is more than just a financial planning document; it is also a tool for setting priorities and is the start of a school's business plan. A carefully thought through budget, developed early in the application process, will not only serve as a useful roadmap for the school's future. It will help convince approving agencies and bankers that the group proposing to operate the charter school is well organized and takes its fiscal responsibilities seriously.

Most charter school statutes provide charter schools with a broad set of powers necessary to control their fate as independent economic entities. In many cases, a charter school may receive and disburse funds; solicit and accept gifts and grants; and receive, hold, manage and use trusts and other bequests for school purposes. It may make contracts and leases for the procurement of services, equipment and supplies. It is permitted to incur temporary debt in anticipation of the receipt of funds. Beyond these specific powers, several statutes give a charter school all other powers necessary to carry out its charter program that are not inconsistent with the charter legislation.

The responsible exercise of this economic autonomy requires substantial business expertise. Potential charter school operators are required to demonstrate their business capacity by describing their financial plan -- or "budget" -- in the charter application. After the charter is granted, the applicant must execute that plan, start up the school, and manage an ongoing business operation. Applicants should not approach development of the financial plan with a "compliance mentality"; i.e., they should not treat it only as something that must be in the application. Instead, the plan should be considered one of the applicant's most important decision tools. The financial plan should be recognized as the monetary expression of the group's vision of the charter school and a reflection of its real priorities. The majority of charter school applicant groups have had little or no experience developing business plans and do not have the business expertise to start a small business like a school. Founders would be wise to consider hiring a consultant who can help them develop a business plan and as well as a competent accountant.

The budget is a means of identifying critical policy issues, reconciling conflicting priorities, and integrating the various activities of the applicant group. Charter school planning will inevitably lead to a

division of labor within the group. Subcommittees or individuals will become responsible for identifying a building site, researching prevailing salaries for school staff, exploring the possibility of contracting out services from payroll to food to instruction, and developing a school curriculum. Working in terms of a budget imposes an important degree of realism and discipline on the process of developing a charter application, and an antidote to what can become endless philosophical discussions over issues related education, governance or personnel policies. Financial planning is concrete and practical; if the budget does not balance expenses and revenues, or generate a surplus, the applicant group will not receive a charter.

Financial planning for a charter school is complex and iterative. An extended review was beyond the scope of the workshop. To illustrate the general process, participants discussed interrelationships among the charter school's educational program, student enrollment, revenues, building, special education needs, and staff.

•The educational program, the core of the charter school operation, should be designed with a potential student market in mind, including a particular kind of student and a particular number of students. The program and the kind and number of students will generate requirements for particular materials and teachers, and possibly particular kinds of space.

•Student enrollment will determine the revenues generated by the school. Those revenues must be sufficient to pay for the building space chosen as the school's location (including any renovations that may be needed to make the space suitable for use as a school, as well required furniture and equipment), and to pay the staff required to carry out the chosen educational program and operate the charter school.

•The building should be located somewhere safe and convenient to attract the required enrollment and desired staff.

•The building, the staff, and the educational program will also have to accommodate students with special education needs. Some -- but by no means all -- of the additional costs of these students will be offset by revenues received for these students, so the school's general revenues must be sufficient to accommodate special education.

The proposed budget must assure that the financial aspects of each of these factors add up to an economically viable charter school.

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4. MOVING FROM VISION TO REALITY

This section covers issues that arise when charter applicants attempt to implement their plan for a new school, including:

- Negotiating the charter
- Legal representation
- Getting the loan
- Governance
- Business management
- Conflicts of interest
- The Board of Trustees
- Preparing for the first day of school

NEGOTIATING THE CHARTER

> *The single most important factor to a successful charter negotiation is an agreement in principle among the players around the table that this is supposed to happen and all that's open for discussion is how it's going to happen and what the arrangements are. Everyone at the table has to agree that this is going to happen and their job is to make it happen.*
>
> John Cairns, Law firm of Briggs & Morgan

The extent to which chartering agencies will actually engage with charter school applicants in something like the "give and take" negotiations that take place between buyers and sellers in the market depends on the charter school statute, the attitude of the chartering agency, and the politics of charter schools where the applicant is located. Those negotiating on behalf of the charter school need to understand the positions of the individuals who will decide the fate of the application, and the history of prior negotiations. Acquiring this information can be left to a committee of the applicant team. But the terms of the charter go to the heart of the school's educational program and financial viability. For these reasons, charter negotiation is not something the core team can delegate to a committee. It must exercise direct control of the applicant's side of the bargaining table.

Where the sole chartering agency is the local school board, disappointed applicants lack the right of appeal, and a majority of the board is suspicious of charter schools, the "negotiation" is more likely to consist of discussions where applicants are in effect directed to change their applications if they wish to receive a charter. But the fact that an applicant may only apply to one agency and lacks the right of appeal does not necessarily mean the agency's position will always be "take it or leave it." If the chartering agency considers

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implementation of charter school legislation an important part of its mission, agency personnel are more likely to listen to applicant's explanations, reconsider objections, and work with applicants to arrive at mutually acceptable solutions. Nevertheless, where a single agency controls the application process, discussions will revolve around actions the applicant must take to comply with conditions enforced by the agency.

Where a right of appeal exists, chartering agencies must consider the circumstances under which their denial of an application is likely to be overturned by higher authority. Similarly, when several different chartering agencies have been authorized and are willing to consider applications, a given chartering agency must consider when a second agency will be likely to accept an aspect of the application the first agency does not favor. Although the novelty of charter school legislation means that both applicants and agencies will have an incomplete understanding of such situations, the right of appeal or the option to approach alternative chartering agencies gives the applicant the kind of bargaining leverage that provides a basis for real negotiations.

Experts suggested that in their own varied experience with the different state approaches to chartering, what matters most is the agency's attitude toward the charter school concept. Even where the attitude is favorable, applicants are likely to find that the scope for negotiation is quite narrow, regardless of whether or not applicants can appeal or approach multiple agencies. Applicants need to know which aspects of their proposal cannot be altered without negating the common vision and where changes to the design are possible. Whether the negotiation is characterized by "give and take" or "take it or leave it," applicants must be able to determine when compromise is no longer possible without fundamentally undermining their charter school concept. Experts agree that at some point, applicants must be prepared to "walk away" from talks with chartering agencies, even if it means they will never open a school. In their view, a charter proposal that can be amended infinitely lacks a common vision worthy of implementation.

LEGAL REPRESENTATION

> *It [the charter negotiation] can be a real strategic process and that's where it really helps to have people on your side who understand the substance of the [application's] details. And this is where I come to the issue of representation by an attorney at the negotiation. If you don't have an attorney who understands the details, they may trade away cards on your behalf that you did not want traded away, They may not know that the card was crucial to your school's success, particularly if it's a card that other schools gladly trade away because they're different from you.*
>
> Eric Premack, Institute for Education Reform

The importance of understanding the common vision and its relationship to the various aspects of the charter application in any charter negotiation have an important bearing on the potential role of attorneys in charter negotiations. Most experts favored legal representation in the negotiation. They argued that a charter

is a legal document with important consequences for charter school operators in the real world, that the chartering agency will have legal representation, and that most applicants are not qualified to represent themselves in this setting.

Assuring adequate representation at this crucial juncture was considered a good reason to have a lawyer on the core team and include her in the process leading to creation of the common vision. Most experts agreed with Jim Peyser's essentially defensive rationale for a legal representation: "If you've got a lawyer who knows charter school law and education law, who has been advising you and cooperating in this venture, (that lawyer's presence) gives me comfort that you haven't left some important issue unturned that's going to come back and bite you a year from now." But the experts also conceded that the lawyers Jim had in mind are scarce. The consensus view was "no lawyer is better than a bad lawyer."

GETTING THE LOAN

> *If you're looking for someone to loan you money for a charter school, they've got to be relatively progressive, even an innovator in the field. The banker is important to the success of your efforts. You should take the advice of your financial advisors about potential bankers. You should visit with them to see which are more involved in your community. Basically, the banker's a risk assessor. He wants to assure there's a pretty good chance the money's going to be paid back with interest in a reasonable fashion.*
>
> *Poor planning on your part does not create a crisis on the banker's part.*
>
> Chuck Watts, Old Kent Bank

A charter schools' legal authority to borrow money from private lenders depends on the individual state's charter school law. The experts recommend that applicants choose their banker as carefully as they choose their school's staff. Once a banker has been chosen, applicants should prepare to answer a host of questions about the proposed school.

The time it takes for a loan to be approved will vary depending on the institution and the amount of money requested. For example, under ideal circumstances, it might take six to eight weeks to process a loan of a million dollars. It is to the borrower's advantage to engage the lender in some of the preliminary discussions of the applicant group to get a sense of the approval process and identify potential problems. It's important to pay attention to the lender's schedule and to respond to requests for information as quickly as possible. Chuck Watts warns applicants not to wait to the last minute to apply for a loan. Bankers do not like surprises or crises.

The banker's job is to assess risk, and applicants should come to meetings prepared to make the banker's job easier. The applicant's job is to reassure the banker that the school will be a good risk. Anything that can assure the banker about the potential risks of charter schools will help, including evidence of community

support for the proposal and legal opinions concerning charter school's borrowing authority. Of course, the banker will be most interested in financial information. Applicants can expect to prepare three-year projected balance sheets, income statements, and a month-to-month operating cash flow budget for the first year.

Assuming that these hold up to analysis, the banker will focus on what Chuck Watts calls the "three C's". **1) Character:** the background and experience of the founders and the proposed school's specialties. The banker will be interested in details about the proposed school's operation and location, including the site plan and zoning considerations; the chartering authority and its attitude towards the applicant; and the background of the proposed school management. **2) Capacity:** The founders' ability to pay back loans and generate a cash surplus. Applicants should be prepared to answer questions about the legal status of the school and whether any other government agencies can serve as guarantors of the loan. **3) Collateral:** It may be necessary to prepare a list of all the items founders are able to "put up" for the loan, so that the bank can establish their value.

Are there things about a borrower that set off alarm bells in a banker's mind? Yes. A lack of preliminary financial information, a lack of a business plan, discord among the organizing group, and a lack of professionalism are all "red flags" to a loan officer. An applicant's loan will be in jeopardy if the group the banker meets with does not appear professional, organized, and competent.

Although a banker will be willing to explain and explore loan options, it is up to the applicant to decide the type and amount of loan that will fit the school's needs. Bankers are limited by the doctrine of "lender's liability," which says that they assume the risks of decisions they make for a borrower. Prudent lenders will not tell borrowers how much to borrow or on what terms; prudent bankers respond to borrowers' proposals and negotiate terms. Charter applicants should seek independent advice on their loan requirements.

GOVERNANCE: BOARD AND CEO

> *Bringing them [those who will actually operate the school] in early makes them part of the team, part of the culture, part of the process. It is advantageous. If you can't do so then you need to spend a whole lot of time in the screening process making sure that person fits your vision and has the capability to carry it out.*
>
> Tom Watkins, Economic Council of Palm Beach County

> *Don't worry so much about what the person you hire will be in the end as you worry about the capabilities and competencies so that person can help you make all the things you have to do happen...[T]he person has to have the confidence, has to understand the mission and the purpose of the charter and then has to start spending full time attention on it.*
>
> John Cairns, Law firm of Briggs & Morgan

The transition from charter applicant to school operator truly begins when the people who will operate the school are hired. The experts stress that all of a school's hires, including the principal and staff, must flow from the school's mission and educational program. It is important for founders to decide well ahead of time what qualifications and characteristics the school needs, and to find the people who will fit those needs as soon as possible.

With the hiring of paid staff, governance of the charter school shifts from a more or less consensual arrangement between members of the core team and other volunteers to a series of hierarchical and contractual relationships between the chartering agency and the school's board of directors, the board and those hired to manage the schools' daily operations, the school's managers and staff, and the students and their parents.

For the most part, the experts favor a governance structure based on a chief executive officer (CEO) who reports to the school's board of directors. Although meaningful parental and staff involvement in policymaking processes are often important features of charter school designs, experts believe charter schools need an "identifiable head of school." Bankers and the approving authority will want to know that there is one identifiable person who is in charge of the school's day-to-day affairs. The experts also believe it is important for the organization to have a "face" -- someone who can speak for the school and give it an identity in the eyes of the media and the public.

Under the board/CEO arrangement, the CEO is that face. The CEO is responsible for the overall operation of the charter school. All staff report to the CEO. Normally, a parent or staff matter would not come to the board of directors with a complaint or problem until after it had been addressed by the CEO.

The board of directors is responsible for the school's financial viability and its fidelity to the vision on which the school was founded. Boards make decisions only where these values are at stake, CEO's rule on everything else. It is for the board to determine whether the CEO's approach supports the school's mission, and to replace the CEO if her management is not consistent with the vision. But until such a determination is made, the board should not interfere with particular decisions made by the CEO.

The experts agree that the board's ultimate challenge is to find a way to exercise sufficient oversight without intruding into the daily management of the school. As Barbara Buell put it, "I think a board that merely rubber-stamps a head of school will start to rot. But a board that opposes its head on every issue won't last either, and that school will implode."

Experts favor hiring the CEO as soon as possible. Because the business of schools is learning and teaching, he or she should be an educator. Because charter schools are often independent economic entities, the experts also favor a CEO who understands business, or is willing to learn. As Tom Watkins said. "Do not assume that somebody who's been successful in an educational bureaucracy necessarily has the skills that will make them successful as your charter school's leader."

BUSINESS MANAGEMENT

After the charter is granted, the new charter operator will begin to execute the financial plan. Leases for school facilities and perhaps equipment (e.g., copy and fax machines, computers, telephone systems) must be negotiated and signed. Contracts may be let to install fixtures, paint classrooms and hallways, purchase books and classroom materials, and to provide for accounting, meal and payroll services. Staff must be hired. Transportation schedules must be established.

One of the CEO's first hires should be a business manager to administer the school's finances. The business manager position might be part-time -- or even contracted out, depending on the size and needs of the school. Regardless of whether a school has an alternative governance model (such as consensus decision-making) or a more traditional management structure, at least one person should have an accurate picture of the school's financial situation at all times.

Experts recommend that the board maintain working responsibility for the school's finances until major capital expenditures have been made, the operating costs are well understood, and fiscal procedures are well-established. The board should form a finance committee to define the school's business plan and budget and take responsibility for financial oversight. Because budgets are generally tight during start-up and an error in business judgment could lead to insolvency, the board should watch finances closely at the start, ceding control as the CEO and staff become more competent and comfortable with the responsibility. The board should gradually move from weekly budget meetings to annual sessions where they approve the following year's budget, while retaining approval authority for large expenditures. In addition, every employee should be made aware of (and become responsible for knowing) how the charter school's budget works, where the money comes from, and where it goes.

CONFLICTS OF INTEREST

In most cases, the experts tend to favor the core team becoming members of the school's board of directors. These are the people who created the vision and the individuals whose leadership and managerial qualities the chartering agency assessed in considering the charter application. But should those who worked on behalf of the application, particularly members of the core team, become employees of the new charter school?

Although it often happens and often works, the experts are wary of applicants and organizers becoming employees of the charter school. It is hard to be objective about the qualifications and performance of founders, even harder to discipline or fire them, and their place in the history of the charter school can

undermine the CEO's position. On the other hand, their familiarity with the common vision and the evidence of their commitment to the hard work of starting this new enterprise argue for hiring founders.

To make sure that those hired as employees of the charter school are the applicants best qualified for their positions, the hiring process should be developed by an independent committee of the applicant team as one part of developing the application and planning for the charter school. As Barbara Buell suggests "you ought to have more input than that from those who want the job." Job descriptions should be developed by the applicant's education committee with the assistance of outside expertise and based on qualifications that follow from the school's educational program. Job notices should be advertised in media likely to generate the most qualified applicants; and every qualified applicant should be interviewed by a panel with a majority that has no personal interest in the ultimate hiring decisions. Finally, but perhaps most importantly, after the CEO has been hired (and the CEO should be the first person hired), he or she should have the final say in subsequent hiring decisions.

THE SCHOOL'S BOARD OF TRUSTEES

> *You made this transition from "the four of you" [applicants] to now having a constituency...and it is as if you were an elected official...your board meetings have to be open. They not only have to be open, you have to let people know when they're going to happen. And you have to have them in a public place and keep minutes.*
>
> Barbara Buell, Law firm of Bloom and Buell

> *The Board needs to focus its attention on whether the kids are learning what the plan says they should be learning.*
>
> John Cairns, Law firm of Briggs & Morgan

As a charter school moves from concept to reality, the work of the core group will transition from planning to policy making. Some members of the original group may lose interest, others may try to dominate the new enterprise, and group dynamics will change. This transition period is an especially important time to establish stakeholders' roles, define the culture of the school, and maintain a focus on student achievement rather than adult politics.

As the needs of the school change from design to implementation some of the original planning group may not be suited for or interested in managing the school, and it may be necessary to bring in new people. This transition is not always easy. Shared decision making models that worked for a small founding group, for instance, are not necessarily appropriate once the school is up and running, has money coming in and has more of a need for quick decisions on priorities.

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Peggy Hunter warns that the original core team should be prepared for the likelihood that once the board begins to grow and as its responsibilities change, "It's going to start taking directions you hadn't anticipated or you're not even altogether enamored with." As the founding group begins to decide who will constitute the governing board, it will have to decide whether they want a board that will surely represent their views or whether they are willing to tolerate diversity of opinion and risk losing control over the direction of the school. There was some agreement among participants that an ideal balance of board characteristics consists of a motivating force, the person(s) with the idea for the school; legitimized opposition; and a mediator. As with any group, potential turf disputes or de facto dictatorships can be expected among the board. To some extent, clearly defined roles such as committee assignments and an atmosphere based on mutual respect (but not necessarily mutual agreement) can foster a productive "creative tension" in the group.

All board members must understand that they have acquired a fiduciary responsibility towards their school, including responsibility for its integrity, viability and reputation. As a result, members should be careful to follow procedures outlined in the school's by-laws or manual for things such as bidding, accounting and meetings. Board members are also well advised to be aware that they are speaking for the school even when voicing personal opinions and to think carefully about potential conflicts of interest through other affiliations that may not be consistent with their public role.

PREPARING FOR OPENING DAY AND BEYOND

One of the best ways to prepare for problems that will arise once the school is up and running is to develop a thorough policy handbook that clearly outlines personnel policies, the discipline code and other potential sources of confusion or problems.

Because funding will be an immediate and constant concern and most funds will be allocated on a per-pupil basis, the school should be prepared to pay close attention to admissions and enrollment by monitoring attendance and enrollment carefully and filling vacancies quickly.

Public relations campaigns should not end with full enrollment. The school will need to find ways to maintain consumer confidence through monthly community meetings, mailings, phone contact, and whatever other means it can find.

Perhaps most important, the school is now a public entity and is subject to rules governing public bodies. Board members will be expected to abide by those rules and will ultimately be held accountable for results.

5. RECOMMENDATIONS FOR CHARTER SCHOOL FOUNDERS

1. Start with a strong team that holds a common vision and diverse expertise.

Starting a charter school takes the practical expertise needed for a well-run business enterprise and the commitment and fortitude of a successful political campaign. Charter schools often start with little more than good will and the determination to run a "good school", but in the long run a charter school must have a defined and readily understood approach to instruction. A successful charter school is well-grounded in a common vision -- what it means to be educated and how one becomes educated. All of the group's decisions about curriculum, hiring, admissions, and evaluation and assessment should flow from that vision, drawing on members' varied technical expertise and opinions. The group must agree on common principles, and must not require consensus on every issue.

2. Use outside experts.

No matter how strong a core group is, at some point every charter school will need some type of outside expertise in developing the plan, or getting the school up and running. The group must be willing to ask for assistance or advice and then know where to find it. As a business, charter schools usually need help from technical support organizations and professional business and legal assistance as well as educational expertise. Donated legal and other professional help is too often worth what you pay for it.

The core of the applicant team should consist of generalists with operational experience in education and business, aided by an attorney prepared to develop an expertise in charter school law. The core members should know enough about their areas to know what they do not know, to find experts, and to ask the right questions. This core team should recruit experts in such areas as commercial real estate, special education, accounting and financial planning, insurance, and all the other special problems discussed in this report, and integrate their advice into the charter application.

3. Be willing to adapt to changing needs.

Applicants should realize that the skills required of the group will change as the applicant moves through the process of starting a charter school.

The first phase is one of **"team building."** The potential applicant must find the right people for the Core Team; persuade them to participate; and "network" to identify potential sources of political, monetary, and technical support. The core team and its key supporters must build a shared vision of the school's mission, including who it will serve, how it will approach learning and teaching, and the process of self-governance.

The second phase involves **planning and writing** the charter application. It is during this phase that the school's management structure will begin to take form. Leaders of the applicant team must manage an organizational structure dependent on consensus to accomplish its goals, yet they must propose a new

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management structure based on legal responsibility and some degree of hierarchy and role specialization that will assure the smooth operation of a real school. They must understand how to build individual commitment to the school and learn how to accept and use outside help. At the same time they must keep to deadlines, incorporate good management practices into the school's design, and make effective use of specialized expertise.

The third phase involves **politics and public relations**. Applicants must take the proposed school to chartering agencies and the public. They must be prepared to negotiate with government agencies and deal with political opposition. They will need to deal with the press and the local political establishment. The applicant group will need a spokesperson and a way to develop common positions on controversial matters, and the group's members will need to exercise discipline in making their own remarks.

The fourth phase is one of **business management**. After the charter is approved but before the school is financially viable, resources must be employed with great prudence. Someone or a small group will have to make crucial economic decisions about a school building, staff hires, purchases, loans, and contracting for support services. Clear lines of financial authority must be established, and responsibilities delegated with care.

The final phase is one of letting go. The applicant's leader and core team can't do it all. They need to recognize their skills and expertise, and limits. Above all leaders need to be able to distinguish those areas that can and should be controlled from those that can and should be delegated. Founders can never give up control where decisions have a direct influence on the school's mission or financial viability. All else should be delegated. As the process continues and as the school and its staff matures more decisions can be given over to others.

4. View the charter application as a planning tool rather than a "hurdle" on the way to obtaining a charter.

The charter application covers the major planning issues facing the applicant. It provides the basis for identifying requirements for specialized expertise, organizing working groups, and developing a work plan and timetable. The charter application should not be approached like a grant application. The minimum that needs to be said to obtain a charter might fall short of what needs to be considered to assure a viable school. And applicants should not simply promise more than they know they can reasonably deliver, although a certain amount of hyperbole is inevitable and perhaps even useful as a prod once the school is up and running. Applicants should spend time considering the principles, philosophy and goals guiding their school but they should also delve deeper. Practical matters of cost and feasibility should be considered seriously, and the application revised accordingly.

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5. Institute well-defined roles and processes.

Charter school founders need the protection of clear governance policies and a qualified Board of Directors. No one wants to bureacraticize the school structure all over again, but written policies and procedures explaining exactly how the school will operate go a long way toward avoiding confusion over roles and responsibilities and will allow decisions to be made more easily in crisis situations.

6. Be proactive: anticipate potential problems rather waiting to solve them as they arise.

Whether it is preparing for approval negotiations by researching the opposition, pulling together relevant facts to reassure a banker before the first loan meeting, educating local media in advance of an attack by charter opponents, or establishing a risk strategy to limit liability, a well-prepared applicant group will seem more professional to outsiders, prevent some problems, be better prepared to answer questions and limit the impact of potentially destructive issues when they do arise. Facilities and special education costs can be a significant portion of a school's budget and must be carefully understood and planned for.

7. Stay focused on the school's mission.

Over time and through transitions, it is likely that the founding group will change in composition as members move on to other projects and the needs of the school shift with maturity. These transitions can be extraordinarily challenging to the integrity of the school as new people bring in new ideas and priorities. While some of the above recommendations concerning clear leadership roles and policy guidelines can help address this issue, it is crucial that the mission remain of central importance to the founders and that it be inculcated throughout the school so that teachers, administrators, parents and students all understand the fundamental purpose of the school.

8. Act like a trustee of the state's responsibility for public education.

Charter schools are public schools operated by private individuals. Through charter school statutes, legislatures entrust private citizens and groups to carry out the state's constitutional obligation to provide public education. Charter school applicants should honor this public trust and recognize its special burdens. The applicant should act in the same way the law requires of the charter holder. Decisions should be made in the open and the applicant's records should be open to the public. Members of the applicant group should recognize and avoid potential conflicts of interest. Lawyers who help found the school should not become its counsel without an open bidding process. Teachers who found the school should not automatically become employees. Parents should not expect that working on the applicant group guarantees their child a place in the school. Charter schools are a public trust, not an opportunity for private advantage. Policy decisions should always be made in the best interests of the students and the future of the school, not the adults participating in the applicant group.

6. How to reach the conference participants:

Barbara Barrett
Executive Director
Michigan Partnership for New Education
4660 South Hagadorn Rd.
East lansing, MI 48823
(517) 432-2634

Linda Brown
Director, Charter School Resource Center
Pioneer Institute for Public Policy Research
85 Devonshire Street, 8th Floor
Boston, MA 02109
(617) 723-2277

Barbara Hayes Buell, Esq.
Law Firm of Bloom and Buell
1340 Soldier's Field Rd.
Boston, MA 02135
(617) 254-4400

John Cairns, Esq.
Law Firm of Briggs and Morgan
2400 IDS Center
Minneapolis, MN 55402
(612-334-8532

Jerry Christenson
2509 E. Calhoun St.
Seattle, WA 98112
(206) 325-2144

Christpher Delorey
President
Marketing Financial Services, Inc.
154 Wells Ave
Newton, MA 02159
800-852-3077

Peggy Hunter
210 West Grant Street, Suite 321
Minneapolis, MN 55403
(612) 297-2241

Don Jacobson
President
Stenmark, Inc.
2765 Oakgreen Ave N.
Stillwater, MN 55082
(612) 439-0062

Marc Dean Millot
Senior Social Scientist
RAND
1333 H Street NW
Washington, DC 20005
(202) 296-5000 x.5213

Jim Peyser
Executive Director
Pioneer Institute for Public Policy
85 Devonshire Street, 8th Floor
Boston, MA 02109
(617) 723-2277

Eric Premack
Director, Charter Schools Project
Institute for Education Reform
California State University
Sacramento, CA 95819-6018
(916) 278-4611

Tom Watkins
Executive Director
Economic Council of Palm Beach County
1555 Palm Beach Lakes, Blvd., Suite 400
West Palm Beach, FL 33401-2375
(561)684-1551

Chuck Watts
Sr. Vice President
Old Kent Bank
300 E. Mitchell, St.
Petosky, MI 49770
(616) 348-0217