



2010 Legislation Concept Paper In Response to the Federal Race to the Top Grant Program

The purpose of the Race to the Top Fund, a competitive grant program, is to encourage and reward States that are creating conditions for innovation in education and reform and implementing ambitious plans in four core education reform areas:

- Adopting standards and assessments that prepare students to succeed in college and the workplace, and to compete in the global economy;
- Building data systems which measure student growth and success, and inform teachers and principals about how they can improve instruction;
- Recruiting, developing, rewarding, and retaining effective teachers and principals, especially where they are needed most; and
- Turning around the lowest-achieving schools.

If Maryland successfully competes for the grant Maryland would be eligible for up to \$250 million for all Maryland public school students.

Charter School Provisions within the Race to the Top Grant Application

Ensuring a salutary landscape for high-performing charter schools and other innovative schools accounts for eleven percent of the total points on the Race to the Top Grant Application.

Specifically, Race to the Top calls on States to ensure that each State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools. The criterion focuses on charter school accountability, funding, facilities and autonomy.

To remedy the challenges that Maryland charter schools currently face and to increase Maryland's competitiveness for Race to the Top funds, we propose the following solutions.

Race to the Top Charter School Facility Question and Maryland Charter School Network's First Legislative Priority:

Does the State provide charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports?

Current Practice:

Charter Schools in Maryland have faced a myriad of facilities challenges including having to use precious operational dollars to pay property taxes, the inability to find a location for the school especially without startup capital, having to use classroom dollars to provide for renovations, and bonding for capital improvement dollars for much higher rates of interest than other public school students enjoy.

Proposed Maryland Legislative Action:

To remedy a broad spectrum of charter school facilities challenges and to facilitate greater points toward Maryland's competitiveness for Race to the Top Maryland should consider the following legislative changes and creation of programs to benefit public charter schools.

- a. **Allow property tax exemptions for charter schools irrespective of whether the landlord is nonprofit or for-profit.** A non-profit public charter school located in a for-profit building currently has to pay property tax (directly or indirectly). MCSN is seeking a change to property tax law that would either make a public charter school exempt from property taxes or allow it to seek reimbursement for any property tax that it pays. In other words, the legislation would make a building being used by a public school exempt from state and local property tax irrespective of the tax status of the landlord,
- b. **Give Charter Schools an opportunity to locate their schools in unoccupied public space.** Compile and publish an annual list of vacant and unused buildings (or portions of buildings) or land owned by the state, counties and city or school districts that may be suitable for the operation of a charter school. The list, which would be compiled by Maryland Public School Construction Program in conjunction with the Department of General Services and LEAs, would include the address of each building, a short description of the building, and the name of the owner of the building. However, if a school district declares a building surplus and chooses to sell or lease the building, a charter school's board of directors or founding group applying to a public chartering authority to operate a charter school within the district must be given the right of first refusal to purchase or lease the property,
- c. **Give charter schools the opportunity for conditional approval without a facility.** Under certain circumstances a Charter School Operator may need to show charter approval by the LEA in order to secure a facility. Under such circumstances, a charter operator whose application satisfies all other requirements except for facilities should be granted conditional approval, with

full charter approval contingent upon securing a facility by a mutually agreed upon date,

- d. **Create a bond insurance program for charter schools operators seeking bond financing to improve their facilities, and**

- e. **Provide capital bond financing for charter schools in public school buildings.**

This would be a separate program, for project specific charter school proposals, that is managed by the Maryland Public School Construction Program. The funding amount will be \$10 million, and it will be disbursed through a competitive application process.

Race to the Top Charter Innovation in Public Schools Question and Maryland Charter School Network's Second Legislative Priority:

Does the State enable LEAs to operate innovative, autonomous public schools other than charter schools?

Current Practice:

The vast majority of autonomous contract schools exist in Baltimore City however other LEAs are able to create autonomous schools other than charter schools if they decide to do so. The challenge with this provision of Race to the Top is that it seems to assume that charter schools in Maryland already possess the kind the autonomy that should be experienced by public charter schools. However in Maryland there is a broad range of autonomy experienced by charter schools. For example in Baltimore City charter school and other autonomous contract schools enjoy the right to hire their school based staff however in other counties central offices of school systems frequently assign staff to a charter school. The inability of a charter school to determine school based hiring seriously undermines the ability to implement their charters. Eighty percent or more of a school budget is staff, whose in the school building significantly impacts the implementation of the vision and program of a public charter or public autonomous school.

Proposed Maryland Legislative Solution

Given the lack of guaranteed autonomy over the most basic functions of the public school the Maryland Charter School Network proposes that the Maryland legislature use this provision of Race to the Top to provide statewide innovation and autonomy opportunities to both public autonomous and public charter schools.

- a. **Give charter school and other autonomous school operators control over the hiring and removal of school based staff**

School based hiring decisions is the current practice in Baltimore City through contractual agreements for both charter and transformation schools however in other jurisdictions charter school operators have found themselves assigned both principal and teaching staff,

- b. **Provide school-level flexibility by granting charter schools and other autonomous operators automatic waivers from non-educational LEA's rules,**

regulations, policies or procedures, such as uniform and school governance policies, and

Charter schools and Transformation schools have to define their governance structure, school program, academic program, their uniform and many other policies when the application is developed. However once open autonomous schools such as transformation and charter schools find they are being required to adhere to non-educational policies and procedures that are frequently duplicative of their own program.

- c. **Provide charter schools and other autonomous school operators the right to opt into and out of purchasing centrally provided services at a mutually agreed upon price.**

Race to the Top Charter School Funding Question and Maryland Charter School Network’s Third Legislative Priority:

Do the State’s charter schools receive equitable funding compared to traditional public schools, and do they receive a commensurate share of local, State, and Federal revenues?

Current Practice:

There is a funding formula described by the Maryland State Board of Education that is affirmed by the Maryland Court of Appeals. The implementation of the formula is irregular from LEA authorizer to LEA authorizer. In certain LEAs charter schools receive no cash disbursement and all purchasing is done through a procurement process. Other LEAs require the in-kind purchases of staff and services that charter schools may want to pursue independently. These and other budgeting practices overly restrict autonomy and diminish the ability for Charter Schools innovative and flexible.

Proposed Maryland Legislative Action:

To ensure that Maryland public charter schools receive equitable funding as compared to traditional public schools the Maryland State Department of Education should complete an annual audit of revenues and applicable expenditures for each LEA to ensure the proper implementation of the charter school funding formula consistent with the commensurate per pupil funding requirement.

Race to the Top Charter School Accountability Question and Maryland Charter School Network’s Fourth Legislative Priority:

Does the State have laws, statutes, regulations or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize and close charter schools; in particular, do authorizers require that student achievement be one significant factor in the decision making process?

Current Practice:

Maryland has a state law and State Board regulations that govern the charter school approval and renewal process. Local Education Agencies (LEAs), school districts, are responsible for the creation of their charter school authorization and reauthorization process. MSDE has created and published model application and reauthorization guidelines.

Proposed Maryland Legislative Action:

To ensure a thorough implementation of the Maryland Public Charter School Law the Maryland State Department of Education should monitor and report on the approval and reauthorization of charter schools on an annual basis and LEAs should provide specific information to the Maryland State Department of Education.

- a. **Create an authorizer reporting requirement to create transparency and accountability in the charter school approval and renewal process.** LEAs should submit to the Maryland State Department of Education an annual report summarizing:
 - i. The academic and financial performance of all operating public charter schools overseen by the LEA;
 - ii. Identification of all public charter schools in each of the following categories: approved (but not yet opened), operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened; and
 - iii. For any charter schools that were revoked, denied, not renewed, voluntarily closed, never opened and transferred there should be a report detailing the reason why.
- b. **The Maryland State Department of Education should add this information to their Annual Maryland Public Charter Schools report.**