

Why the Revised Charter Bill Should Be Vetoed

Good charter school laws guarantee that charters have fair funding, freedom to operate, and a fair appeals process. The revised version of this bill moves backwards, and should be vetoed. It is one thing to compromise to move good language forward, but not at the cost of making matters worse overall. This analysis is based on the version of the bill posted online as the third reading.

The appeals process was explicitly made non-binding, which means charters can be mistreated by local Boards of Education with no ability for MSDE to overturn bad decisions.

- The previous language left open the possibility that MSDE could overturn a local Board decision.
- For this to work, local Boards would have to be perfect decision makers in every case.
- Everyone deserves the right of a binding appeal, as is the case in our legal system.
- This will give local Boards of Education, who are often hostile to charters, the license to repeatedly deny good charter applications with no chance of appeal.
- If Governor Hogan appoints charter-friendly State Board members, under this revision they won't have the authority to ensure that charters get fair treatment.
- Of all the revisions, this is the worst change to the current law.

The language supposedly providing “a path to autonomy” actually is worse than the current law.

- Under the current law, charter schools can already negotiate for greater autonomy from the first day they open. This revised law establishes a statewide waiting period of half a decade before this negotiation can begin.
- If adopted, this section of the bill will be read as a de facto statewide ceiling on the amount of autonomy that can be granted to a charter school. Under the previous law, local districts that wanted to offer more autonomy from the day charter schools opened were permitted to in all of the listed areas through their charter school contract, with the exception of the prohibition against charter school operators having their own employees, which is illegal in Maryland under the current law.
- Schools that qualify under this section still will not be permitted to be the employer of their staff, which is the most important element of charter school autonomy, and available in 90% of charters nationwide.
- This would be the only law in the country with a five year waiting period, and offers less autonomy than most charters have when they open, moving Maryland's low-ranking law even further out of the mainstream.
- The most important period in the life of a charter to have autonomy is during the first five years when it is getting established. After five years, it will be difficult for the founders of the school to get the school to return to its original vision and mission after it has been compromised by the local district operating the school for such a long period of time. (This has happened to every charter in Frederick County.)
- Because some counties have four year charter terms instead of five year terms and the law requires that the request for autonomy to be a part of the renewal application, **charters in those counties won't be able to apply for autonomy until eight years of operation.**
- The supposed “autonomy” isn't actually granted to charter schools, but is subject to negotiations with the local Board and is not allowed to conflict with the collective bargaining agreement. This could nullify most if not all provisions of this section. For example, most collective bargaining agreements give local Superintendents the right to assign the Principals and other staff as they determine, not as charter schools need. It is difficult to see how charter schools could actually get the right to give written consent to staff assignments, since most collective bargaining agreements will supersede this section's provisions.
- The supposed “autonomy” to choose one's curriculum and class size are irrelevant, since charter school applicants already include this as a part of their application.
- In practice, local Boards and the State Board do not approve waivers from policies. For instance, the Frederick Classical Charter School was blocked from using Maryland's approved alternative certification program by its local Board.

Online schools would become illegal.

- Under the current law there is no language prohibiting this.
- Maryland has the state-run “Maryland Virtual Learning Opportunities” program, which offers high school credit through online teaching
- Since Maryland already has online learning, there seems to be no reason to not to allow virtual charter schools to start, as 28 states allow as of 2013¹. In the age of the internet, does it really make sense to deny children the opportunity for online learning?

Moving backwards further hurts charter schools’ finances and ability to operate

- Because these revisions move our law backwards, charter schools will be at even more of a disadvantage when applying for federal grants. Federal reviewers have marked down Maryland charter grant applications since our law doesn’t meet federal criteria.
- Maryland charters don’t qualify for grants from some private foundations that will only consider applicants who have the ability to actually operate the school. Since by law local districts in Maryland act as both the authorizer and the operator, which is highly unusual, our schools are disqualified.
- Maryland charter schools have difficulty getting assistance with facility financing from charter school financing companies, since these companies are typically not interested in Maryland due to our law.
- Since Maryland has not provided charters with the opportunity for facility funding through its capital program, and since its law makes it difficult to get grants and financing through outside organizations, charter schools in Maryland have to pull a disproportionate amount of funding out of their instructional budget just to have a facility.
- Maryland’s charters only get around 68% of the operating funds that the regular public schools get. In the case of the Frederick Classical Charter School, after we pay for rent, we only have 57% of the funds left over. The figure is even lower if you factor in capital expenses that come out of the operating budget

In summary, these revisions don’t address the real issues facing Maryland charters

- Because we don’t have multiple authorizers, charter school applicants face an uphill battle getting approved by local school Boards, who are often hostile to approving their competition.
- Because charter schools aren’t permitted to be considered for facility financing by the state, our law prevents us from being considered by outside financing organizations, and local zoning ordinances make it difficult to find a location where charter schools are allowed, charter applicants have enormous difficulty finding a facility that satisfies the local Board. A charter applicant that wanted to respond to the challenging of finding a facility by pursuing an online learning education model isn’t permitted to, since online schools are illegal.
- If a charter school is approved, it immediately falls into the control of the local school Board to operate. The applicants, who have the expertise in the approach to education they envisioned, are immediately sidelined and not permitted to make decisions for the school.
- Because the local district controls the hiring process, the charter schools may not be permitted to conduct interviews as they need, on a timeline they set, and are not allowed to consider both internal and external applicants. Their choices of who to hire can be vetoed by the local district.
- Because teachers in Maryland are required to be certified, charter schools are limited to applicants who aren’t usually trained in the specific educational approach that the school was started to pursue. This is especially true of classical schools and other more traditional models that are nearly the opposite of the educational approach taught in most education schools.
- Once the staff is hired, a charter school can offer professional development to teachers to try to mitigate the fact that most of its teachers may not be well-versed in their educational approach, but collective bargaining agreements allow staff to not attend this training. Yet the local district can require its employees to attend training that is applicable to its schools and irrelevant to the charter school.

¹ <http://nepc.colorado.edu/files/nepc-virtual-2013-section-1-2.pdf>

- Since the charter school isn't the employer and doesn't set the salary scales, it has to balance its budget based on what others (the union and the local district) decide. This means the charter school has no say in its largest expense, and has no ability to set higher salaries or other benefits to retain its staff. Yet it is held responsible for budgetary decisions it cannot control.
- If issues arise at the school, the charter school operator has no say in how these issues are resolved. The charter school operator does not have the right to direct the staff, since they are the local Board's employees. The charter school operator is held accountable for achieving results—and could lose its charter if it doesn't—even though the local district is the one making decisions for the school. This is completely contrary to the concept of a charter school, which should receive freedom to operate and are held accountable for their own decision making.
- These are just a few of the many problems created by Maryland's law.
- **The bottom line is that charter school operators in Maryland are “operators” in name only, are underfunded, and have no substantive appeals process. The revised bill makes matters worse and fails to address the key issues of fair funding, freedom to operate, and a real appeals process. As such, it should be vetoed.**