



EDUCATION SERVICE PROVIDERS POLICIES

Recognized Best Practices

Regulatory Framework

Authorizers have a legal obligation to carefully review any agreement that the board of a charter public school they authorize plans to enter into with an educational service provider (ESP). Specifically, the Revised School Code (MCL [380.503](#), [380.523](#), [380.1311b](#) and [380.1311e](#)) requires authorizers to review or disapprove any agreement between the charter public school board and an ESP before the agreement is finalized and executed. Authorizers may only disapprove an ESP agreement if the agreement violates some portion of the charter contract or law.

MCCSA Guiding Principles and Standards

MCCSA has adopted Principles and Standards (Standards) that guide authorizers as they develop strong authorizing practices. Focusing on performance and accountability ensures that student success remains paramount to authorizing decisions. MCCSA Standards include Overseeing and Evaluating a Charter Public School which states, “Excellence in authorizing means understanding the responsibility of establishing a comprehensive system that monitors and evaluates school performance and compliance. This system should provide the necessary information to oversee, evaluate and periodically report the performance of the charter public school. An authorizer’s oversight system should preserve and protect the autonomy of the school while minimizing its compliance burden.” The standards state that one of the components of an authorizer’s comprehensive oversight system should include ESP accountability.

What is an Educational Service Provider?

ESPs, sometimes also referred to as charter management organizations (CMO) or educational management organizations (EMO), are organizations that receive public funds to help manage and operate a charter public school. ESPs can be for-profit or nonprofit organizations. They contract with charter public school boards to provide services such as accounting, payroll and benefits, transportation, financial and legal advice, marketing, facility management, personnel management, developing curriculum, and/or special education services for a fee.

The majority of charter public schools in Michigan are operated by ESPs. The contract is often referred to as the ESP agreement or charter management agreement. There is great diversity in how charter public school boards engage ESPs. Some boards only contract with an ESP for one or two services,

such as payroll and personnel management, while other boards contract with an ESP to provide all educational services. Some ESPs only work with a single school while others work with multiple schools.

What are Educational Service Provider Policies and why are they important?

ESP agreements are critical to a school's success or failure as they represent the school's ability to contract for critical organizational and educational services. In order to be successful, a charter public school board must ensure that the ESP they contract with is able to deliver high quality services that will meet the unique needs of their school. They must also ensure that the ESP is willing to provide services in a cost-effective manner that will allow the school to remain financially solvent.

While the management agreement establishes the relationship between the charter public school board and the ESP, the law requires that authorizers review or disapprove any agreement that a charter public school board enters into with an ESP. Therefore, it is imperative that authorizers develop policies that outline requirements that must be satisfied before charter public school boards and ESPs enter into a final agreement. The policies will guide the authorizer's review of ESP agreements.

ESP policies play an important role in safeguarding boards from entering into service agreements that could be detrimental to the school's health. They provide a checklist of items that a charter public school board should carefully consider when entering into an ESP agreement. Some of these important issues include ensuring that the ESP agreement is in the best interest of the school, the board will maintain its independence from the ESP, and conflict of interest and duty of loyalty laws are not violated.

ESP policies should also provide a process by which charter public school boards perform due diligence before they enter into a contract with an ESP. Performing due diligence includes ensuring the ESP has appropriate educational and managerial expertise and is financially solvent. It is also important for the charter public school board to make sure that they can meet the financial obligations of the agreement and that the agreement has undergone a thorough legal review by the board's independent attorney.

In general, ESP policies provide another layer of accountability for charter public school boards and help reduce the likelihood that a board will enter into an ESP agreement that could be detrimental to the success of the school.

Best Practices in Developing Educational Service Provider Policies

ESP policies should include requirements that must be met before a final agreement is reached and they should establish a process for how ESP agreements will be reviewed. Developing ESP policies allows Michigan authorizers to fulfill their statutory obligation to review ESP agreements in a uniform and consistent manner.

ESP policies should ensure that the charter public school board has conducted due diligence as it has developed the ESP agreement. The policy should include a list of due diligence steps that the charter public school board should have completed and a list of critical information that should be collected and reviewed. For example, ESP policies should require the charter public school board to obtain and review the following:

- List of ESP Owners and Officers
- Type or form of entity (for-profit corporation, non-profit corporation, limited liability company, etc.)
- Name of ESP's primary banking institution
- Legal counsel for the ESP including contact information
- Accounting or auditing firm for the ESP including contact information
- A written statement regarding the ESP's experience in providing services and the types of service(s) to be provided for the charter public school

ESP policies should also articulate the charter public school board's responsibilities, such as their administrative and fiduciary responsibilities and their responsibility to ensure that the charter public school is in compliance with all applicable state and federal laws. The language of the policies should clearly outline for the board that they must remain an independent, self-governing public body that provides proper oversight, including ensuring the terms of the ESP agreement are being met. ESP policies should be designed so that they serve as a reminder to boards of the critical elements that must be included in an ESP agreement. ESP policies help to protect boards from entering into agreements with service providers that are not in the best interest of the school.

ESP policies should also describe the process the authorizer will use to review the ESP agreement. Included in the process should be a description of the review timeline. The charter public school board should clearly understand the timeline for the agreement to be submitted to the authorizer for review prior to execution, and the timeline that they can expect for receiving a response. The ESP policy should also include a description of the process that will be used if revisions need to be made to the ESP agreement before it can be executed.

Reflective Questions

How can ESP policies help a charter public school board?

Why is it important for an authorizer to review the ESP agreement before it is finalized?

Resources

[ESP Policies](#)

[ESP Agreement Due Diligence Questionnaire](#)