

**TOWARD UNDERSTANDING GOVERNANCE IN HYBRID ORGANIZATIONS:  
THE CASE OF MINNESOTA'S CHARTER SCHOOLS**

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## **Abstract**

This paper presents results from a research study on charter school governance in Minnesota, the first state to enact charter school legislation in 1991. The paper examines the effects of the political and institutional environments on charter school governance, pays particular attention to how charter school boards navigate their legally mandated hybrid status, and analyzes the effects of hybridity on governance practices and school performance. The paper makes theoretical and empirical contributions to our understanding of governance in strong institutional environments and the implications of hybridity for governance practices.

## **TOWARD UNDERSTANDING GOVERNANCE IN HYBRID ORGANIZATIONS: THE CASE OF MINNESOTA'S CHARTER SCHOOLS**

The critical role played by the external environment in the governance, operations, and sustainability of nonprofit organizations has been well established. In the past, dominant features of this environment, especially regarding nonprofit governance, have revolved around resources and resource acquisition including funding streams, reputation and legitimacy (see, for example, Provan 1980; Gronbjerg 1993; and, Saidel 1991). Less attention has been paid to how legal, policy and political environments have affected governance; yet, in practice, these environments grown increasingly important, including for example, the Sarbanes-Oxley Act of 2002, various policy reform initiatives at the federal level, and state legal regulations (Ostrower & Stone 2010). In response to some of these external changes, new types of hybrid entities have been created, entities that combine features of public-nonprofit and for-profit- nonprofit organizations (Smith 2010; Billis 2010).

Now is an important time to bring several of these trends together, both empirically and theoretically, to examine the influence of different types of environments on the governance of hybrid nonprofits. To do so, it is helpful to view “governance” as operating at institutional, inter-organizational, and organizational levels of analysis (Kooiman 1999; Stone et al, 2010) so that relationships among the layers can be conceptualized as well as examined. The purpose of this paper is to examine the effects of the political and institutional environments on charter school governance in Minnesota, the first state to enact charter school legislation in 1991. The paper pays particular attention to how charter school boards navigate their legally mandated hybrid status, and analyzes the effects of hybridity on governance practices. Charter schools are *public* schools but must be incorporated in Minnesota as nonprofit organizations.

In general, the research finds that charter school governance practices differ in important ways from a national profile of nonprofit boards and directly reflect institutional mandates through their boards' composition, activities, and perceptions of accountability. The paper makes theoretical and empirical contributions to our understanding of governance in strong institutional environments and the implications of hybridity for relationships between contextualized governance and performance.

The paper is organized as follows. The first section includes a literature review of research on governance in nonprofit organizations with special attention to the influence of the external environment. This section also includes research pertaining to charter school governance and hybrids. The second section provides an overview of charter schools in Minnesota, including a brief legislative history, in order to provide the context for understanding connections among institutional, inter-organizational, and organizational governance features we examine in more detail in the study. The third section presents the study's methodology and the fourth presents study results. The fifth section discusses these findings and generates several testable hypotheses. The final section points to important future research directions.

## **MULTI-LAYERED GOVERNANCE**

In the last two decades, the term "governance" has described many issues in the public and private spheres. For example, common uses of the term include "governance not government" as the critical emphasis in public management (Frederickson, 1997; O'Toole, 2000); governance as international order as in the need for global governance (Kooiman 1999); governance mechanisms that distinguish markets, hierarchies, and networks (Powell 1990); network or collaborative governance as part of the New Public Management (Goldsmith & Eggers 2004; Agranoff 2007); and, corporate or organizational governance. However, while

definitions of governance are many, some central concepts exist (adapted from Kooiman 1999 and Cornforth 2004):

- Collective action and decision-making aimed at furthering overall collective goals;
- Processes, structures and rules that shape and are shaped by collective actions;
- Underlying systems of accountability to enhance legitimacy, effectiveness and/or efficiency.

Scholarly attention to governance has also begun to highlight its multi-layered nature (Cornforth 2010; Hughes 2010; Kooiman 1999; Stone, Crosby & Bryson *et al.*). As the uses of the term governance above suggest, governance occurs at institutional, sectoral, interorganizational, and organizational levels of analysis. In keeping with line of thought, we suggest that in order to fully understand charter school governance, one must view governance as a system that crosses levels and includes: institutional and political actions through legislative maneuverings and mandates and executive branch policymaking; interorganizational relationships between intermediary overseers, or authorizers, and charter schools; and organizational governance conducted by charter school boards of directors. While these different levels can be studied separately, and in much of the charter school literature they are, our guiding premise is that the levels interact in significant ways and, therefore, necessitate establishing whether, where and how clear linkages exist among and between institutional, interorganizational, and organizational governing behaviors and activities.

In the literature on nonprofit governance, these connections have most often been expressed by viewing boards as an interface or boundary spanner between internal and external environments (Middleton 1987; Pfeffer & Salancik 1978), using resource dependence,

institutional theories of the environment or principal/agent theories (Miller-Millesen 2003). For example, early studies focused on how the selection of certain types of board members may enhance the legitimacy and reputation of a nonprofit and thus its fundraising potential (Provan 1980) and contribute to the solidification of community elites (Perucci & Pilisuk 1970). More recent studies have often concentrated on the funding environment, and, more specifically, the extent to which government contracting influences board functions, power and composition (Harlan and Saidel, 1994; Grønbjerg 1993; Kramer, 1981, 1987; Saidel and Harlan, 1998; Smith & Lipsky, 1993; Stone, 1996).

These kinds of interactions between boards and their external environments are important, but the environment of the last two decades includes far more. Government regulations, key legal cases, and institutional pressures for legitimacy can influence board composition, roles, and policies (Abzug & Galaskiewicz, 2001; Goes & Zhan, 1995; Molinari et al, 1995; Ostrower, 2007; Weiner & Alexander, 1993). For example, the passage of the Sarbanes-Oxley Act in 2002 has had a profound impact on nonprofit board roles and policies. Recent studies find that environmental influences, including both state law and nonprofit funding streams are important for understanding variations in the adoption of accountability-related practices and externally oriented stewardship roles, such as fundraising and community relations (Ostrower and Bobowick, 2006; Ostrower, 2007; Ostrower and Stone 2010).

One organizational response to the increasing complexity of external environments for nonprofits has been a rise in number and type of hybrid forms. Stimulated by changing government policies, policy implementation and funding preferences in the US and around the globe, hybridity is one solution to institutional pressures faced by many nonprofit organizations. The often-used phrase, “blurring of sectoral boundaries,” may be inadequate to explain the

upsurge in many types of hybrid entities and organizational forms that combine significant attributes of more than one sector (Billis 2010). Hybrid entities exist along a continuum and include both formal and informal arrangements, for example, those under the banner of social enterprise or social entrepreneurship, public-private partnerships, and complex but informal networks (Skelcher 2011; Smith 2010). There is not a common definition of hybridity – for example, some emphasize hybrid characteristics of an organization’s mission (Minkoff 2002), the mix of resources (Borys & Jamison 1989), core structural elements (Billis 2010), or public and private orientations (Skelcher 2011). Overall, however, and questions remain regarding the extent to which hybridity is spawning new governance practices (Smith 2010).

In this study, we pay attention to the needs for a multi-level and hence deeper conceptualization of governance, an expanded and differentiated view of the environment, and attention to hybrid organizational forms especially regarding their governance. Charter schools provide excellent sites from which to address these trends. First, charter schools exist in complex political and institutional environments that have the potential to significantly affect their governance practices. Charter schools provide an opportunity to research how macro-environmental forces affect micro-organizational governance. Second, in response to these politicized environments, charter schools are often established by statute as hybrids. In many states, including Minnesota, charter schools are public schools and must serve all the functions of an independent school district but must be incorporated as nonprofit organizations. Third, little is known about governance practices of charter school boards and how those practices compare more broadly to those of other nonprofit boards. In particular, this paper addresses the following research questions:

1. What is the profile of governance characteristics of Minnesota's charter schools and how do these relationships compare with the results from the Urban Institute study (Ostrower 2007)?
2. Under what conditions does the relationship between a charter school and its authorizer affect its governance?
3. How does the institutional environment influence charter school governance? In particular, how do individual charter school boards respond to legal mandates that incorporate both public and nonprofit (hybrid) organizational qualities?

In the next section, we describe in general the governance environment for charter schools and then look more closely at the Minnesota context.

## **THE CHARTER SCHOOL GOVERNANCE ENVIRONMENT**

At the core of the argument for charter schools, or the “horsetrade” as some term it (Manno et al. 2000), is the agreement that charters will be granted autonomy from bureaucratic regulation in exchange for results-oriented accountability. The argument is that if charters are free from regulatory burden and compliance-focused accountability and are granted more autonomy, then accountability to parents and students for academic results will increase and will improve overall educational standards (Manno et al, 2000; Finnigan 2007; Shober et al. 2006). Those schools that demonstrate effective results will thrive while those that do not will close. However, the autonomy-accountability trade-off reflects value commitments that are broadly contested in the US political environment and go beyond the education policy domain (Shober et al 2006). It should not be surprising, therefore, that the context within which charter school governance and financial management takes place is complex and dynamic, encompassing legal,

regulatory, funding, policy and political environments. Figure 1 provides a policy fields map of this context for Minnesota charter schools.

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From this map, one can readily see that individual charter schools must deal with legal and regulatory mandates at both federal and state levels. For example, charter schools must comply with No Child Left Behind testing and performance standards as well as those required in state law. In terms of governance, if incorporated as nonprofit entities, charter schools must comply with federal requirements imposed by the Internal Revenue Service on all tax-exempt entities, state nonprofit corporation law and state charter school governance law. Until recent changes to the Minnesota charter school law, federal and state regulations concerning conflicts of interests contradicted the legal requirement that charter schools maintain teacher majority boards.

Funding flows are similarly complex as charter schools receive a mix of public funding sources from federal, state, and/or local governments as well as private sources such as foundation and individual donors. State allocations through per pupil reimbursements are the major funding source for K-12 education in Minnesota and these allocations flow from schools districts that in turn receive funding from the state as well as local sources. The recent state's financial crisis and political/policy decisions of the previous and current administrations (unallotments of state appropriations to school districts) put substantial strain on both traditional public schools and charter schools. Charter schools, however, face additional challenges because they tend not to have local revenue support, lack state funding for school capital outlays, and have minimal expertise in private fundraising.

The political environment surrounding charter school legislation is a critical aspect of their context and includes many interest groups and constituencies as well as the roles of the governor and legislature involved in charter school issues (Vergari 2000). For example, in Minnesota, opposition to the original charter school legislation by the state teachers' union stimulated policymakers to include the "teacher majority" provision in charter school governance (Reichgott Jung 2012). The overall state political ideology also plays a role -- Bulkey's 1999 study found that authorizers in Arizona differed significantly from those in Michigan due largely to differences in the states' political environments (Bulkey 1999).

In much of the academic literature, charter school governance is equated with the roles that authorizers play. Authorizers are the entities legally responsible for oversight and accountability of charter schools and may include institutional entities such as local school districts or state education agencies or more independent entities such as higher education institutions or nonprofit organizations. They authorize schools to operate for a certain number of years under a contract or "charter" regarding school mission, curriculum, student demographics, evaluation of academic progress, school governance, and financial management. In fact, some claim that, through the use of authorizers, the charter school movement itself is a "governance-based reform" (Carlson et al., 2011): as intermediaries between public authority and independent, private organizations, authorizers can be viewed as a governance structure that attempts to resolve the principal-agent problem facing charter schools and the competing public values concerning accountability and autonomy. They are often seen as a medium through which policy and legislatures interact with schools themselves (Bulkley 1999; Vergari 2001), or as Vergari (2001) states, "shaping the regulatory boundaries of a policy reform based on deregulation." Given the contested nature of autonomy/accountability trade-off, it is not

surprising that considerable variation exists regarding the policy environments in which authorizers operate, including the types of authorizers permitted by each state.

Within these contexts, various types of authorizing entities have received significant attention. The literature breaks the various types of authorizing entities into ‘traditional’ and ‘alternative.’ Traditional authorizing entities are authorizers that are located within the institutional structures of public school governance, primarily local school districts and state education agencies or SEAs and, more infrequently, municipalities and county/regional boards. While local school districts are the most common authorizers, they are often seen as one of the least effective due to their lack of resources and the politicized environments in which they operate (Palmer & Gau, 2005; Palmer, 2007). Some also claim that they offer the least independence for charter schools, missing a necessary element for overall systemic reform (Carlson et al. 2011). Alternative authorizers mainly include separate state-level charter boards, higher education institutions, and nonprofit organizations. While these entities are often larger and better insulated from politics, their ability to serve as good authorizers is highly dependent on state charter law and policy as well as the nature of the authorizer itself (Palmer, 2007). For example, a recent 10-year panel study of authorizers and student performance in Minnesota (Carlson et al. 2011) found that there was no statistically significant relationship between charter school authorizing type and achievement, although nonprofit authorizers were related to more variability of results than local school districts.

At the level of the individual charter school, research on their governance is nearly nonexistent. One chapter in a report, based on a study conducted between 2006-2009 that included a survey of 400 charter school leaders and interviews in 24 charter schools addresses governance challenges facing schools (Campbell 2009). Its principle finding is that charter

boards, while critical to the overall charter school reform movement, are underutilized, especially with regard to more strategic-oriented issues. Other materials on charter school governance are oriented toward practitioners and often look strikingly similar to those developed for nonprofit boards more generally (see, for example, Carpenter 2011; Cornell-Feist nd).

### ***History of Charter Schools in Minnesota***

Ideas about open enrollment and school choice, new accountabilities focused on results, and the need for broad reform of the nation's (and Minnesota's) public education system came together in 1989 when the first chartered schools (then called "outcomes-based schools") legislation was proposed in Minnesota. By the time this groundbreaking legislation was signed into law in 1991, stiff opposition from the state's teachers unions, some members of both parties, and local school officials had whittled down these big ideas into a much smaller innovation: the number of charter schools was capped at eight; only licensed teachers could form and operate charter schools and they must comprise a majority on charter school boards; and, a new school must be "authorized" or gain the approval of both the local school district and the MN State Board of Education. Despite these significant compromises, Minnesota's charter law laid the groundwork nationally for broader interest and legislation. Presidential candidate Bill Clinton made charter schools a centerpiece of his campaign and later his administration, and California passed charter school legislation in 1992. Eventually in Minnesota, the cap on the number of charter schools was eliminated and the range of authorizers (then called "sponsors") was broadened to include colleges, universities and nonprofit organizations.

Significant revisions to Minnesota's charter school law occurred in 2009 after a series of widely publicized school scandals and two critical reports by the Office of the Legislative

Auditor (OLA)<sup>1</sup> in five years. Revisions primarily concerned the governance and financial management practices of charter schools themselves and the roles and responsibilities of authorizers. For charter school boards, the teacher majority mandate was lifted but in its place, schools were required to have at least one teacher, parent, and community representative as board members. Board members were mandated to undergo Department approved board training focused on financial management and oversight practices. In terms of authorizers, the 2009 revisions were substantial. According to interviewees in Minnesota, charter school law and policy had, until 2009, emphasized more of a hands-off role for authorizers with few regulations or guidelines related to authorizer roles and responsibilities. In response to growing accountability problems within charter schools, the 2009 legislative changes emphasized authorizers as the primary intermediary bodies (between the state and the schools themselves) responsible for oversight of charters. The new legislation mandated that authorizers oversee all financial, operational, and student performance activities of their charter schools and receive annually from the schools a report that details student enrollment and performance data, governance, staffing, operational, and financial management practices, and future plans. Changes to the law also tightened up the processes by which authorizers would be approved and overseen by the state Department of Education.

The history of charter schools legislation in Minnesota<sup>2</sup> illustrates many tensions embedded in current institutional and political environments over public v. private approaches to solving public problems. From the beginning, the idea of chartered schools was one that

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<sup>1</sup> Office of the Legislative Auditor (2008) Evaluation Report: Charter Schools.

<http://www.auditor.leg.state.mn.us/ped/pedrep/charterschools.pdf>

Office of the Legislative Auditor (2003) Evaluation Report: Charter School Financial Accountability.

<http://www.auditor.leg.state.mn.us/ped/pedrep/0306all.pdf>

<sup>2</sup> This historical summary is drawn from Ember Reichgott Junge, 2012, *Zero Chance of Passage: The Pioneering Charter School Story*, draft manuscript and Joe Nathan, 1995, *Charter Public Schools: A Brief History and Preliminary Lessons*, Humphrey Institute of Public Affairs, University of Minnesota: Center for School Change as well as interviews with several key informants.

challenged much of the prevailing institutional environment of public education, including the teachers' unions, local school boards, and superintendents because its focus was on systems change from within public educational institutions.<sup>3</sup> The idea of chartering emphasized the ability to innovate and be accountable in new ways. Ember Reichgott Junge, the state senator who proposed the initial charter legislation, saw charter schools as “R & D labs” within public education where teachers and parents could innovate and be autonomous from existing public school bureaucracies. They would be *new* public schools, in the words of Joe Nathan who formed the Center for School Change in 1988 at the Humphrey Institute of Public Affairs. Public accountability of these schools, as proposed by Ted Kolderie and co-authors of a 1988 Citizens League report, would be different because accountability would focus on school outcomes rather than compliance with bureaucratic rules. Teachers in particular would have both the freedom and the responsibility of designing educational programs that would deliver results in terms of student performance. On the other side of the debate, however, teachers' unions, some members of both the DFL<sup>4</sup> and Republican parties, and local school districts saw charter schools as undercutting funding to traditional public schools, thus placing teachers' jobs at risk. Some claimed that public dollars would go to these “private,” charter schools, and they closely aligned charter school initiatives with the school choice and voucher movements that advocated public education dollars follow students who chose private, parochial, or alternative schools. These were false claims as Minnesota charter school proposals were always for public not private charter schools. In the end, and as a result of hotly contested debates about the autonomy and

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<sup>3</sup> Ironically, this idea of an independent public school cut loose from myriad educational requirements and regulations, came from Al Shanker, then head of the American Federation of Teachers, the powerful national teachers' union.

<sup>4</sup> Minnesota's Democratic Party composed of a historical coalition of Democrats-Farmers-Labor constituencies.

accountability aspects of charter schools, legislation in Minnesota emphasizes both the public and nonprofit, independent aspects of charter schools.

## **METHODOLOGY**

The research study employed a mixed methods research design. Components included case studies of four charter schools and a governance survey of the population of MN charter schools. The cases included schools with different types of authorizers and different mission foci. Interviews were conducted with the school leader and members of the board, including parent, teacher, and community representatives. Data from these interviews were entered into NVivo 9.0, a qualitative analysis software program, and coded according to major question categories, school, and interviewee roles.

The governance survey was administered to all MN charter schools (N=150) via their school leaders through an online survey mechanism.<sup>5</sup> The overall response rate for the survey was 50% of the population of MN charter schools, and an analysis of respondent bias determined that these respondents were very similar to the population overall of charter schools in terms of geographic location, size, and age. The survey asked basic information about board size, composition, meeting frequency and so forth but also asked school leaders to assess board recruitment issues as well as board activity levels in a variety of common board roles.<sup>6</sup>

In conducting the initial analysis of survey data, we did a basic profile of all survey respondents and then broke responses down by authorizer type, school mission, school age and student enrollments (a proxy for “size”). Authorizer types included nonprofit, higher education,

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<sup>5</sup> Survey available from the authors.

<sup>6</sup> Parts of the survey replicated the national, representative survey of nonprofit boards conducted by the Urban Institute in 2005.<sup>6</sup> By replicating the Urban Institute survey, we are able to compare various facets of MN charter school governance with their results. We received permission from the Urban Institute to proceed with such a replication.

MN Department of Education, and local school district authorizers.<sup>7</sup> For school mission, we relied on a 2009 report on New York City charter schools<sup>8</sup> that categorized schools' missions as follows: child-centered, traditional/general, rigorous academic, targeted student demographic, and targeted curriculum.

## **FINDINGS**

In this section, the paper first presents a summary of the profile of charter school boards in Minnesota drawn primarily from survey of all charter boards and interview data. Following this subsection, the paper compares this profile of Minnesota charter school boards with findings from the Urban Institute governance survey. The final subsection presents the results relative to the influence of the institutional and political environment on charter school board governance which may help explain some of the differences between charter school boards and nonprofit boards more generally.

### ***Profile of Charter School Governance Characteristics and Practices***

This subsection presents data on board composition, structure, recruitment, board activities, and perceptions of accountabilities from survey respondents and interviewees. Each subsection also includes discussion of any substantial differences that appear by authorizer type, mission, school age, and student enrollments. Data from the four mini-case studies are included where appropriate.

Board Composition and Recruitment. In general, charter school boards are small (5-9 members) and composed of relatively young (under 50 years of age), white, female members.

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<sup>7</sup> We did not code for “sole purpose” authorizers because these are new authorizer types that only began in 2011-2012.

<sup>8</sup> Hoxby, Caroline M, Jenny Lee Kang, and Sonali Murarka. 2009. “Technical Report: How New York City Charter Schools Affect Achievement.”

The largest group on boards is teachers (42%), most of whom are employed by the charter school. Board member expertise is primarily in education (60%).

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Meeting the statutory requirements for board composition is most difficult when it comes to recruiting community representatives where 69% say it is somewhat or very difficult. It is somewhat less difficult to recruit parents (62% say it is somewhat or very difficult), and it is not difficult to recruit teachers. When recruiting, executive directors report that knowledge of the school's mission and willingness to give time are the most important criteria (73% and 70% respectively); recruiting for racial and ethnic diversity and ability to fundraise or donate are not important (only 9% and 3% respectively report these are very important criteria).

There do not appear to be significant differences in these composition characteristics among schools based on their type of authorizer. School age and student enrollment do show some significant differences where older schools are positively related to larger board size and more members with an educational background. Older schools are negatively related to having board members with a management or financial background and percentage of community representatives. Schools with larger enrollments are also associated with larger boards.

Some significant differences ( $p < .05$  or better) appear when schools are categorized by their missions. For example, those that targeted a specific student demographic (such as an ethnic or racial group), had a significantly higher percentage of Hispanics and community representatives on their boards than did schools with a rigorous academic mission, and a

significantly higher percentage of African Americans on their boards than did schools with a student-centered curriculum.

Board Structure and Activities. Boards are most active in internal functions, including financial oversight (87% report very active), setting policy (83%), planning for the future (73%) and evaluating the executive director (69%). They are not very active in common external functions of the board, including fundraising (11% report their boards are very active), influencing public policy (8%) or community outreach (11%). In line with these findings, executive directors report that the top two priorities for their boards are financial oversight and planning for future (86% and 44% respectively); the bottom two priorities are fundraising and community outreach (0% and 5% respectively).

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Boards have committed members (95% of all board members attend at least three-quarters of all board meetings) who are focused on the mission of the school, financial management and setting policy. Schools leaders report that their schools review their missions annually (69%) and most have active Finance Committees (86%) while far fewer have active committees for human resources (34%) or fundraising and development (29%).

Almost all boards exclude the school's executive director from being a voting member of the board (98.5%) and have a written conflict of interest policy (97%). However, interviewees expressed concerns over the extent to which board members, especially parents and teachers, face challenges over their roles in "representing" constituencies versus governing for the good of the whole school. Parents may run for election because of a passionate interest in a single issue

and teachers encounter inherent conflicts when dealing with certain board topics such as salary and benefits, scheduling, and curriculum issues.

Few differences in board activity level were found when schools were broken down by authorizer type, mission focus, school age and enrollment size.

Accountability. Overall, accountability reflects attention to formal authority where, when asked to choose two groups to whom their boards and they feel most accountable, EDs report that their boards feel most accountable to authorizers (56%) and executive directors feel most accountable to their boards (67%). At the bottom of both lists (under 20%) were the public at large, taxpayers, MDE, and teachers.

No substantial differences exist among categories of charter schools regarding most questions of accountability. There is a negative relationship between larger schools and accountability the school leader feels toward the authorizer but it is barely at a statistical level of significance. Among older schools, school leaders also feel less accountable to taxpayers and the public at larger.

Public v. Private Dollars. 73% of all survey respondents reported that their school's annual revenues relied on 5% or less of dollars raised from private or philanthropic sources.

Relationship between Governance and Student Performance and School Sustainability. Data for this category come from interviews with school leaders and board members of four charter schools.<sup>9</sup> Overall, interviewees did not believe that board governance directly affected school performance. More important influencers of student performance included the home environment and parents, teachers and school leader. In one school, interviewees also spoke about student relationships within the school. Interviewees felt that if the board had a role in student performance, it was through hiring the right ED. Some felt that they appreciated another

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<sup>9</sup> The next phase of this study will link student performance data for each school to the survey data base.

perspective on their work – as one stated, “nice to have an outside perspective.” Interviewees did think board governance was important to the overall sustainability of the school, especially in terms of financial soundness and stability.

***Comparison of MN charter school board characteristics with Urban Institute national sample of nonprofit boards***

Table 1 provides a detailed summary of our data on Minnesota charter schools when compared with the Urban Institute’s data on its national survey of nonprofit organizations. In general, Minnesota’s charter school boards differ substantially from many US nonprofits: they are smaller boards, composed of younger and more female members, have less business expertise among board membership, are far less active in terms of fundraising, and demonstrate more accountability (for example, by having a written conflict of interest policy, and excluding the ED from being a voting board member). They are similar to the national sample in terms of being predominantly white, non-Hispanic and emphasizing internal governance activities over more externally focused activities.

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***Effects of authorizer type on charter school board characteristics***

As can be seen from the data presented above, the type of authorizer (including school district, state Department of Education, institutions of higher education, and nonprofit organizations) did not have a significant effect on any board characteristics. Interviewees consistently stated that their authorizers were helpful resources when governance problems arose but removed themselves from any direct involvement in governance. Authorizers were seen as

part of a larger compliance system and may, therefore, have had more indirect effects on particular aspects of charter school governance, such as board attention to financial and student performance oversight activities.

### ***Effects of the institutional environment on charter school governance***

As stated earlier, while Minnesota’s charter schools must be organized as nonprofit entities under 501©3 of the Internal Revenue Service code, they are also designated as “public schools” and part of the state’s public education system. Furthermore, they must serve all of the functions of independent school districts among others. As such, they must comply with a host of regulations not faced by the state’s other nonprofit corporations, including a designation of electors of the board, specific board composition requirements, mandatory state board training, an inability to charge tuition, and a mandate to comply with the state’s Open Meeting Law, fulfilling school district administration and reporting requirements, providing extracurricular activities, and bussing (see Table 2).

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The tensions these mixed statutory requirements place on the boards of charter schools was expressed through survey responses and several themes in the case study interviews.

Board composition – Recruitment in general: Interviewees reported that meeting some board composition requirements was difficult, especially when boards tried to recruit for the community representative position. As one board chair reported,

[The] community member is hardest to recruit. Parents and teachers are really passionate. The challenges are that they have to run for elections (and they don’t want to compete); it is hard to sell them because people are so passionate, so it’s a

‘high drama’ board to be on; and open meeting law makes it hard to make decisions outside of board meetings.

This dilemma was verified in the survey where 68% of all respondents reported that it was somewhat or very difficult to recruit a community representative to their boards. Interviewees also reported that it was difficult to recruit people who were not directly related in some way to school staff, students, alumni, or current board members.

Board composition – Recruiting for expertise: Findings from the survey and case studies indicate a lack of non-charter school experience and skills on their boards due, at least in part, to difficulties recruiting people to fulfill the legally designated roles. Survey findings show that the vast preponderance of board members are employed in their charter schools (more than 40%) while far few are employed by business (30%). This is in sharp contrast to national data where 55% of nonprofit board members are employed by business. Several schools reported that they were now trying to recruit more broadly for non-education-related expertise but that it was difficult. As one interviewee reported, “we get a lot of folks who are passionate about a single issue.” Another from the same school said, “The challenge is finding the right kind of expertise, so not just a parent.”

Board Composition – Role conflicts: Interviewees expressed concerns over the extent to which board members, especially parents and teachers, face challenges over their roles in “representing” constituencies versus governing for the good of the whole school. As expressed in the quotation above, parents may run for election because of a passionate interest in a single issue. Some teachers on the board, even with the elimination of a teacher majority mandate, reported that they encounter inherent conflicts when dealing with certain board topics such as salary and benefits, class scheduling and class size, and some curriculum issues. For example, one teacher representative stated in an interview that there is tension between whether “teachers

[on the board] represent the teachers or, as a board member, may have to vote ‘for the good of the school’” and against teacher wishes. She went to state that she has “figured out how to compartmentalize” between her teacher and board role. Another teacher on a board underscored the need to separate out these roles.

[I] never felt challenged by conflict between being an employee and board member. I don’t let my emotions guide my decisions. I may come across as cold and impersonal. How [is a decision going to ] affect everyone else in the building? Teachers? Children? Parents? Other staff? Community? Is it going to be better for the whole?

Some also said that it was difficult to be the school leader’s “boss” during a board meeting and then be his or her employee the next morning at school. As one teacher representative reported,

[Once] there was a problem with one [teacher on the board]. She was concerned with how she would be perceived by other teachers for the decisions she made as a board member and fear of reprisal by administrations. That fear wasn’t grounded but can be hard to be a supervisor during the day but not at the board.

Open Meeting Law: A few interviewees spoke about difficulties complying with the Open Meeting Law. Interviewees from two charter schools gave examples of parents organizing protests at board meetings to oppose specific curriculum issues and another spoke of difficulties holding open meetings when discussing sensitive personnel issues not covered under the law’s executive session parameters. As one board chair stated, board meetings become a “private meeting in a public space.”

Fundraising: Fundraising by their boards of directors is not a current priority for charter schools. School leaders report that they do not recruit for this expertise (only 3 % say that it is an important recruitment criterion) and that their boards are not active in this arena (0% say it is one of their top two priorities). Additionally, private dollars account for less than five percent of revenues for 87% of the charter schools, again as reported by their school leaders. However,

interviewees suggested that, because of recent substantial state holdbacks of revenues, they may need to increase both their board's fundraising expertise and activities.

## **DISCUSSION**

In this section, we return to our three central research questions to present initial conclusions from both the interview and survey data on charter school governance in Minnesota.

The first research question addressed the basic profile of charter school boards in Minnesota and asked how this profile compared with the Urban Institute's national, representative survey of nonprofit boards. Charter school boards in Minnesota are small, relatively homogeneous boards, especially regarding age, gender, race, and professional background. They are largely insider boards that report having the most difficulty recruiting outsiders, including community representatives and even parents. When compared to their national counterparts, they are smaller, younger, have more female members and less business expertise but are not more racially diverse. They are far less active in terms of fundraising but are similar to the national profile in their emphasis on internal governance activities over more externally focused activities. The boards of charter school more frequently maintain more accountability-related policies related to conflicts of interest and the CEO being a voting member of the board.

Regarding the second question on the effects of different types of authorizers on board characteristics, our research suggests that these are not associated with substantially different governance practices at the school level.<sup>10</sup> As described earlier, much of the prevailing literature

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<sup>10</sup> Our analysis of authorizer influence on board characteristics and activities is only an initial analysis and warrants some deeper analysis. For example, the types of authorizers included in the category "nonprofit authorizers" are quite varied and include many different kinds of nonprofits. Furthermore, there is an increasing number of sole purpose authorizers that were not included in this survey and it is possible that these types of authorizers are associated with particular governance characteristics and activities.

on charter school governance equates “governance” with the roles and practices of different types of authorizers. Our research took a different approach by examining more directly authorizer influence on school-level governance. While direct effects of authorizer type on school governance are absent in our study, the roles of authorizers as part of the broader regulatory (and institutional) environment do seem to be important as described below.

One answer to the question concerning the influence of the institutional environment on school-level governance is that these are very accountable boards (more so than the national average). They are especially accountable “upward” to meeting the demands of their institutional environments, in terms of having a written conflict of interest policy, emphasizing financial management activities, and feeling accountable primarily to authorizers. They demonstrate far less “outward” accountability to the public at large and communities beyond the school. They are not actively engaged in community outreach and that is not a priority. Most are not actively engaged in fundraising and when recruiting, do not put an emphasis on fundraising ability, business connections, or racial/ethnic diversity. When asked how they defined “community,” most interviewees said their communities included teachers, parents, and students. Important differences may exist, however, if charter schools are broken down by their types of mission where the boards of charters whose mission target a particular student demographic generally have higher percentages of people of color and representatives from their communities.

What this set of findings suggest is most charter school boards are engaged in a kind of “compliance-based” governance that is focused on successfully meeting state and authorizer requirements for financial oversight. While survey respondents also indicate that “planning for the future” is a common board activity, it is not clear what this means in practice because few

interviewees mentioned long-range or strategic planning activities. This deserves further investigation because, on the surface, it appears that Minnesota charter school boards practice neither strategic nor generative governance (Chait, Ryan, Taylor 2005). An important question is whether governance practices focused on compliance with regulatory and legal mandates drives out practices that include long-range, school planning activities and/or activities that focus on big, new, and innovative ideas for meeting a school's mission.

## **CONCLUSIONS: PROPOSITIONS FOR FUTURE RESEARCH**

We have amassed a rich set of data that combines survey and interview data on governance. The pilot study focused on understanding the current state of Minnesota charter school governance and determining what relationships, if any, existed between governance and authorizers and the institutional environment surrounding charter schools. In this section, we pose initial propositions to guide additional research. We understand that not only is this study a pilot research project but is also situated in the somewhat unique context of Minnesota. We propose the following in light of an overall need to conduct a national, comparative study.

*Proposition 1: Legal mandates and policy requirements of the institutional environment are likely to stimulate compliance-based governance practices and may drive out strategically-oriented practices as well as attention to educational innovation.*

Much of the survey data point to a narrow band of board activity (financial oversight) and suggest strongly that boards fulfill this responsibility with members who, while meeting legislative mandates, have little experience or training (and, perhaps little interest) in such matters. By complying with these mandates, charter schools are missing opportunities to develop far more diverse boards in terms of demographic characteristics and professional backgrounds. They are also missing opportunities to develop diverse boards that could enhance

their schools' innovation and experimentation, two of the original founding claims for charter schools. Furthermore, to the extent that charter boards are composed of teachers at the school, schools may be adding to the already considerable educational responsibilities of these teachers and creating unnecessary role conflicts/conflicts of interest. An exception to this statement may be schools that are intentionally created as teacher co-operatives or teacher partnerships which offer an alternative model of charter school governance.

What is unclear from our data is just how charter schools are “planning for the future” and whether their boards are actually engaged in some strategic thinking and acting, innovating and experimentation. For example, several interviewees mentioned the need to begin to do substantial fundraising because of the devastating consequences of state holdbacks over the past several years. Some were considering a broader board recruitment effort focused on attracting people with fundraising expertise. Recruiting a new kind of board member and beginning to tackle fundraising as a serious activity could easily lead to much deeper thinking about long-range plans and innovations in programming. Future research needs to examine these kinds of evolving roles for charter school boards.

*Proposition 2: Differences in charter school governance characteristics are more likely associated with differences in school mission than differences in authorizer types.*

Based on interview data, schools seem to select authorizers based on fairly expedient criteria and perceive authorizers as playing primarily oversight and enforcement roles. Charter school missions, on the other hand, are an expression of the “private” nature of charter schools because schools are free to design their individual missions and enact this mission through a variety of practices related to educational and curriculum programming, staffing selections, and perhaps governance. As reported above, there are some significant differences in board

composition based on differences in charter missions especially among schools whose missions target particular student demographics, have student-centered, or rigorous academic missions. Future research should highlight the role of charter school missions in each of these areas of practice. In particular, future research should examine whether and how charter boards resolve conflicts and tensions between legal mandates concerning governance and mission-related imperatives.

A corollary to Proposition 2 is the possibility that some missions are aligned (either intentionally or unintentionally) with distinct models of governance. This may be most clearly seen in schools with student-centered curriculums who also maintain a teacher co-operative model or quasi-cooperative model form of governance. Further statistical analysis could point toward whether such distinct models exist among Minnesota charter schools.

*Proposition 3. There may be important, although indirect, relationships between governance characteristics and student performance.*

Analyzing relationships between governance characteristics and various measures of student performance was beyond the scope of this pilot study. However, based on interview data, most board members and school leaders do not believe that their boards play an important role in overall student achievement. It could be argued that their emphasis on financial oversight plays an indirect role in performance because a stable financial situation keeps the school focused on its educational mission and not mired in financial troubles. However, there are two problematic aspects to this argument. First, charter school boards are not recruiting for fundraising expertise or even for people with extensive external networks of resources. These are insider boards that are tightly connected to a school's very proximate community of teachers-parents-students. Additionally, a narrow focus on financial oversight may detract from a

school's ability to develop innovative programming that improves student achievement.

Examining this proposition should be a major thrust of a follow-up research project. While several types of student performance data are publicly available, there are significant problems associated with these data.

To conclude, this research study finds evidence of substantive effects of political and institutional environments on Minnesota's charter school governance. The political environment includes long-lasting and strong opposition to these educational reform initiatives, while the institutional environment of laws and regulations reflect compromises made in the context of legislative debate. For Minnesota charter schools, "hybridity" of form was a political solution to some of these debates. The legal and policy mandates that charter schools were historically charged with meeting (e.g., teacher majority boards) and those they are currently required to fulfill (e.g., nonprofit-public school hybrid, Open Meeting Laws, board composition mandates) were created, in theory, with the intention of strengthening school-level governance capacity. However, the challenges faced by Minnesota charters as well as their boards' profile have demonstrated that these policies and the charters' hybrid organization form have, in practice, weakened their ability to deliver on their hallmark promises of local governance and innovation. Thus, while the hybrid public-nonprofit form characterizing charter schools was well-intentioned, the reality of its implementation has lead, in many cases, to weakened school-level governance capacity. It remains to be seen whether this conclusion holds in other states where the political and policy debates around charter schools have yielded different solutions and different types of hybrid schools.

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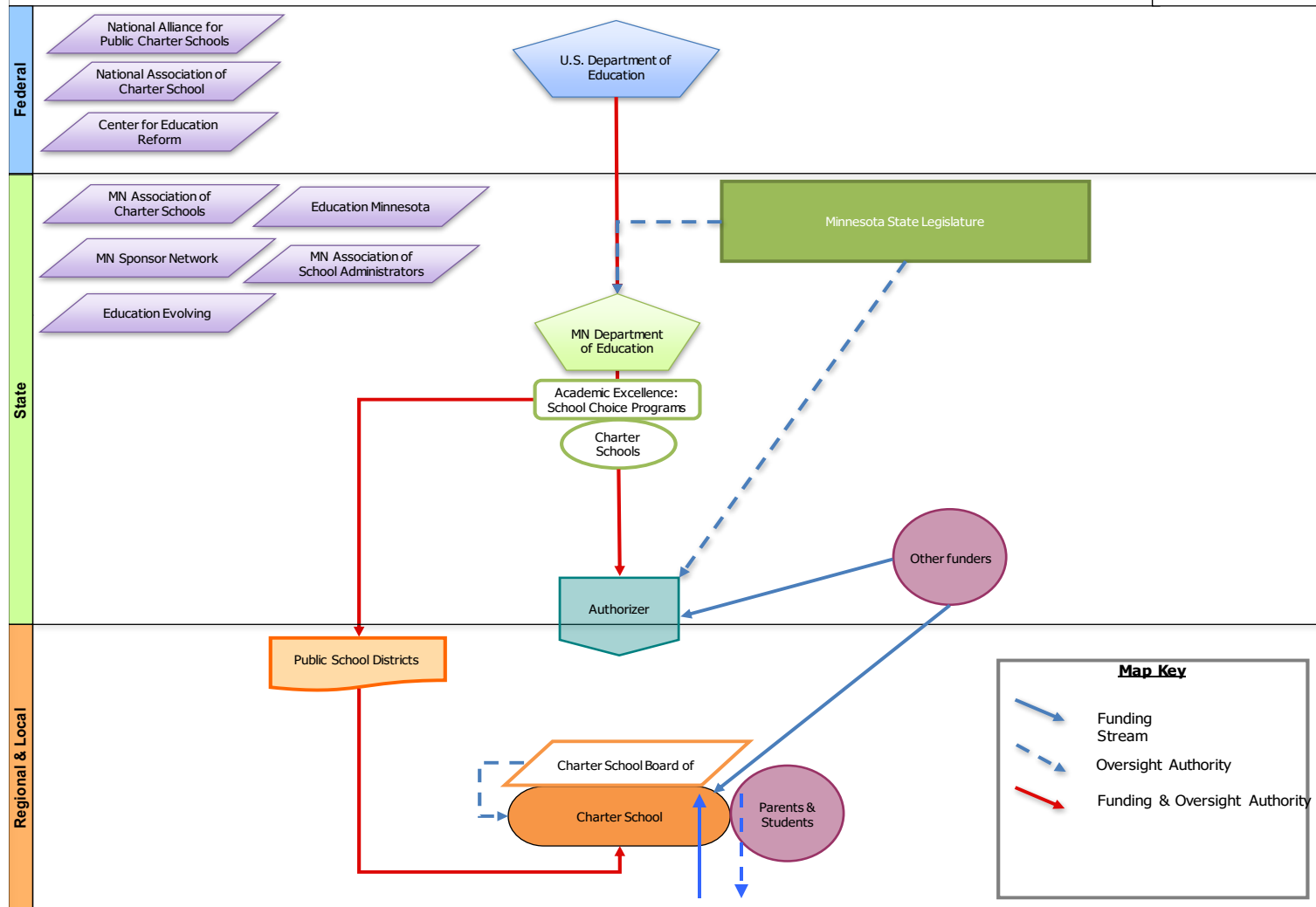
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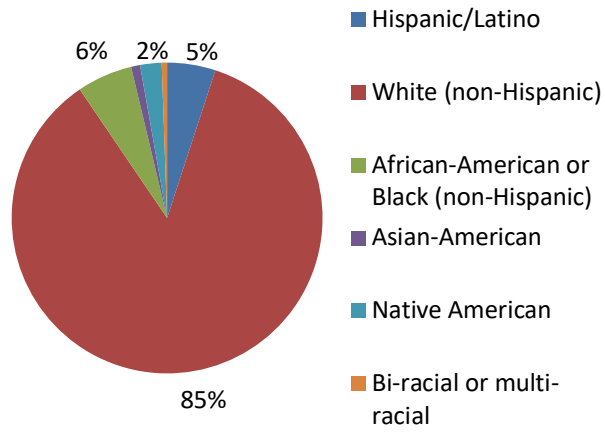
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# APPENDIX A: Charter Schools Policy Field Map

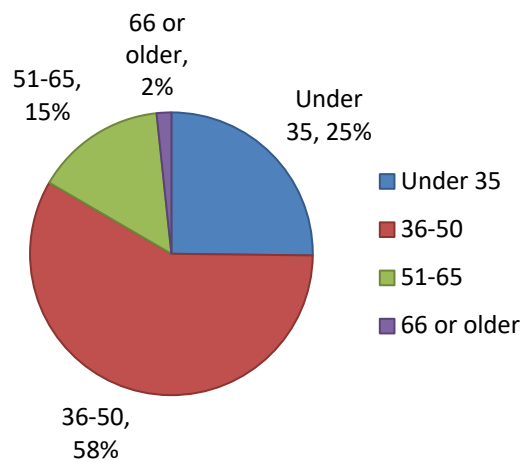
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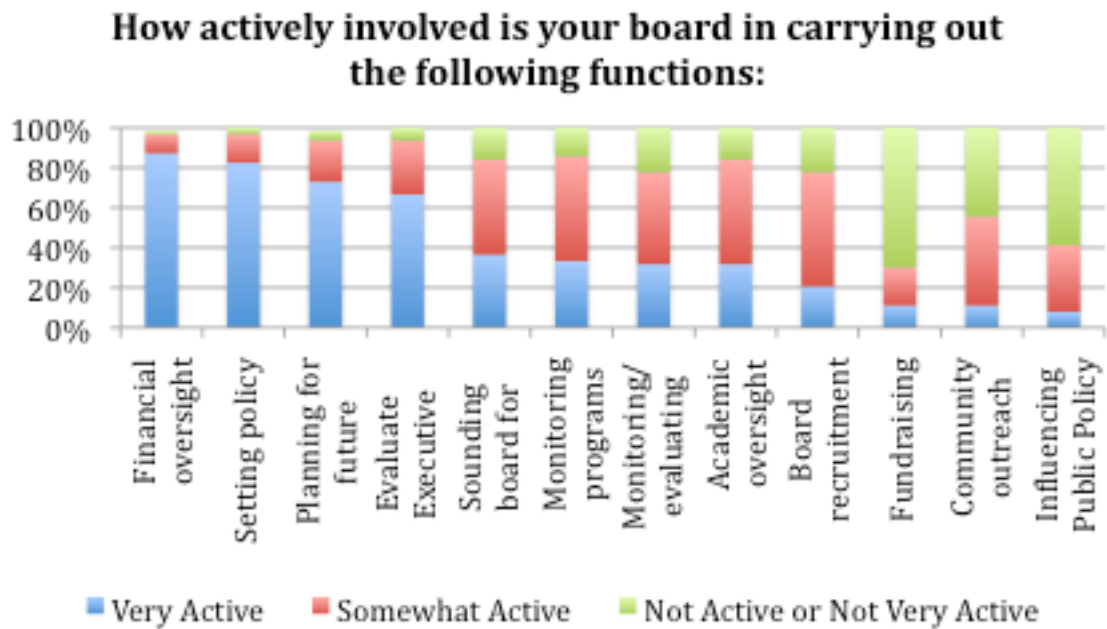
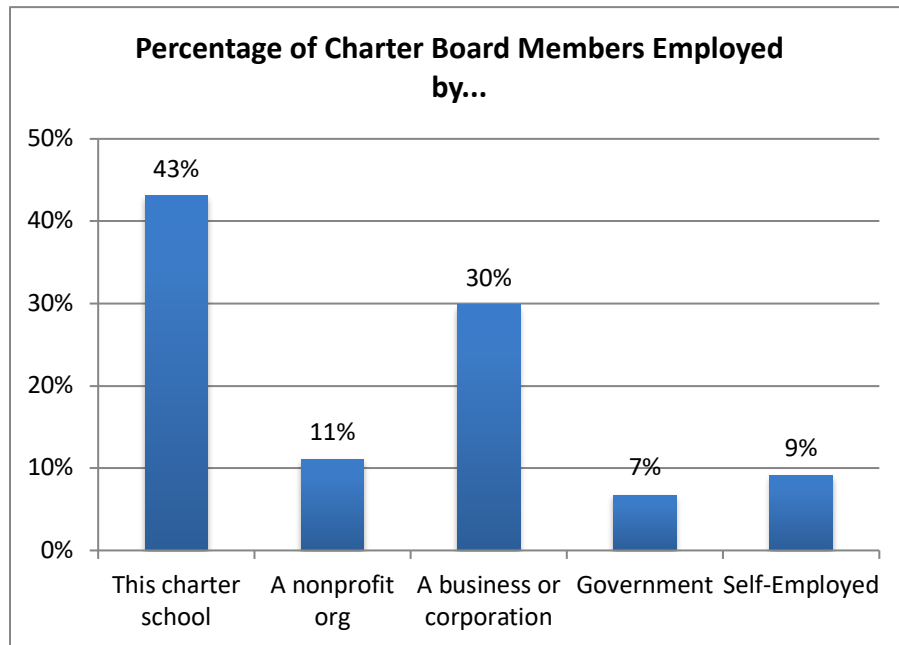


### How many board members are:



### Board Member Age





**Table 1. MN Charter School Profile Compared with Urban Institute’s Nation Survey of Nonprofit Organizations**

<b>Board Characteristic</b>	<b>MN Charter School Board Data</b>	<b>Urban Institute Nonprofit Board Data<sup>11</sup></b>
<i>Composition</i>		
• Size	82% have between 5-9 members	Average size is 13 members
• Age	83% under age of 50	44% under age of 50
• Gender	61% female	46% female <sup>12</sup>
• Race/ethnicity	86% white (non-Hispanic)	86% white (non-Hispanic) <sup>13</sup>
• Employment background	43% employed by “this charter school” 20% work for business	3% work for “this nonprofit” 55% work for business
• CEO as voting board member?	No – 98.5%	No – 67% Yes – 33%
<i>Recruitment Criteria</i>		
• Most important criteria	Knowledge of mission (73%) Willingness to give time (70%)	?? ??
• Least important criteria	Racial diversity (9%) Ability to fundraise, donate (3%) Business connections (5%) Friend of current board member (0%)	10% very important ?? ?? ??
<i>Difficulty recruiting(% “Very” difficult)</i>		
• In general	17%	20% very difficult
• Teachers	8%	NA <sup>14</sup>
• Parents	14%	NA
• Community representatives	31%	NA

<sup>11</sup> Ostrower, F. 2007. “Nonprofit Governance in the US: Findings on the Performance and Accountability from the First National Representative Study.” Washington, DC: Urban Institute; Ostrower, F. 2008. “Boards of Midsize Nonprofits: Their Needs and Challenges.” Washington, DC: Urban Institute.

<sup>12</sup> Smaller nonprofits have more women

<sup>13</sup> Smaller nonprofits are less diverse

<sup>14</sup> NA means question was not asked in UI survey

<i>Board Structure</i>		
• COI policy?	Yes – 97%	Yes – 50% No – 50%
• Board committees	Most active: Finance Others <40% active Fundraising/Development 29% active	No comparable data
• Agenda setting		70% board chair 85% CEO/ED 30% other board members <sup>15</sup>
• Meeting attendance	95% attend at least three-quarters of all board meetings per year	77% average attendance <sup>16</sup>
• Term limits	No term limits – 80%	
<i>Board Activities (% very active/% “top two priorities”</i>		
• Financial oversight	87%/86%	52%
• Setting policy	83%/44%	52%
• Planning for the future	73%	44%
• Evaluating executive director	67%	54% <sup>17</sup>
• Sounding board for management	37%	~30%
• Monitoring programs	33%	32%
• Evaluating the board itself	32%	17%
• Academic oversight	32%	NA
• Board recruitment	21%	NA
• Fundraising	11%	29%
• Community outreach	11%	27%
• Influencing public policy	8%	10%

<sup>15</sup> All for midsize nonprofits

<sup>16</sup> For those nonprofits that do not compensate board members

<sup>17</sup> If had a paid CEO/ED

<i>Board Performance of activities [ED ratings] (% good or excellent)</i>		
• Financial oversight	94%	82%
• Setting policy	81%	79%
• Planning for the future	83%	70%
• Evaluating executive director	78%	74% <sup>18</sup>
• Sounding board for management	73%	??
• Monitoring programs	73%	71%
• Evaluating the board itself	45%	??
• Academic oversight	78%	NA
• Board recruitment	58%	NA
• Fundraising	16%	49%
• Community outreach	38%	64%
• Influencing public policy	22%	??
<i>Mission Review</i>		
• How frequent?	69% review mission annually	??
<i>Accountability</i>		
• Top 2 [ED perception of board accountability]	56% - authorizer 44% - parents	NA
• Top 2 [ED report of ED accountability]	67% - board 36% - students 34% - authorizer	NA
<i>Revenues</i>		

<sup>18</sup> See FN 6

<ul style="list-style-type: none"> <li>• % from private sources (not government)</li> </ul>	86% had revenues of < 5% from private sources	??
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Table 2. Summary of Charter School Hybrid Features in MN Statutes (2011)

<b>Statutory Reference and Language</b>	<b>Public</b>	<b>Nonprofit</b>
124D.10, Subd. 4. Formation of School (a): How organized		Must be organized as a nonprofit corporate
124D.10, Subd. 4. Formation of school (b): Chartered by an authorizer	Before operators can establish and operate a school, they must have an authorizer who then files a petition with the MDE for approval	
124D.10, Subd. 4. Formation of School (d): Electors	Electors of board must consist of employed staff members and all parents or legal guardians	
124D.10, Subd. 4. Formation of School (d): Open meeting law	Board meetings must comply with Open Meeting Law (chapter 13D)	
124D.10, Subd. 4. Formation of School (f): Mandatory board training	Every charter school board member must attend department (MDE) approved ongoing training	
124D.10, Subd. 4. Formation of School (g): Board composition	At least 5 members and include at least one licensed, employed teacher, one parent of current student, and one community member not employed and not a parent of an enrolled child	Board may be teacher majority  Charter school employees shall not serve on the board (unless as a teacher representative); CFO and CAO are ex officio.
124D.10, Subd. 7. Public status: exemption from statutes and rules (a):	Charter school is a public school and is part of the state's system of public education.  Is exempt from all statutes and rules applicable to school, school board, or school district except those explicit to charter schools	
124D.10, Subd. 7. Public status: exemption from statutes and rules (g): tuition	May not charge tuition	
124D.10, Subd. 7. Public status: exemption from statutes and rules (j):	Is subject to same financial auditing requirements as a school district	
124D.10, Subd. 9 (3): Admission requirements: enrollments	Must enroll every student who applies if there is room and cannot limit admission to intellectual ability, achievement, athletic ability, etc.	

