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WORKING ON BEHALF OF AND AGAINST CHARTER SCHOOLS: Current Issues

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The Charter School Landscape

Maximum of **120** charter schools in Illinois

- 70 in Chicago
 - 5 devoted to student from low-performing or overcrowded schools.
 - 5 devoted to re-enrolling high school drop-outs or 15 or 16 year olds at risk of dropping out. Must be in Chicago.
- 45 outside of Chicago

The Charter School Landscape

- 5 drop-out charters – can each have up to 15 campuses
- Now, one charter=one campus
- Previously in Chicago, charters had the ability to open multiple campuses
 - All schools operating at the time the law changed are grandfathered in and the change does not apply

The Charter School Landscape

Currently in Illinois:

- 14 charter schools outside of Chicago
- 133 charter school campuses/schools in Chicago
- 5 State-authorized charter schools
 - 2 in Chicago, 3 outside of Chicago

The Charter School Landscape

- New \$42 million grant from U.S. Department of Education awarded to Illinois to spend on the creation of up to 70 new charter schools
- Illinois is one of 8 states to receive an award through a competitive process.

The Charter Authorization Process

- Must be a public, nonsectarian, nonreligious, non-home based and non-profit school.
- The authorization process starts at the local district level with an application process.
 - Referendum process
- Must meet criteria in the law.
- If approved by district, must enter into a contract and be certified by ISBE.

The Charter Application Process

- If the local district denies the application, the charter school can appeal to the Illinois State Charter School Commission.
- If approved, it becomes a State-authorized charter school.
- Losing party can appeal the Commission's decision to the Circuit Court under the ARL.



Illinois State Charter School Commission

- 9 Commissioners:
 - New Commission Chair: DeRonda Williams
 - 4 new Commissioners
- Interim Director: Hosanna Jones
- Deputy Director: Shenita Johnson Gerrard

Application to the Local District

- Charter Schools Law
 - Sets out timelines for review of the application and hearing by the local board of education
 - Must give preference to proposals that: (1) have a high level of local support; (2) set rigorous levels for student achievement and a plan to achieve those levels; and (3) are designed to enroll and serve at-risk students

Application to the Local District

Case Study: Waukegan District 60

➤ Process:

- Review by the district
- What the district considered
- Specifics of the proposal
- Bases for denial

Commission Process

➤ Charter Schools Law

- Sets out specific timelines for reviewing the application, meeting with staff, and hearing in front of the Commission.
- Final decision has to be based on (1) compliance with the Charter Schools Law; and (2) must be in the best interest of the students it is designed to serve.

Commission Process

Case Study: Waukegan District 60

➤ Process

- Handling of appeals by Commission staff
- Hearing before the Commission
 - Last minute changes
 - OMA issues
- Conditions for approval after the final decision
 - After statutory deadline for decision
 - Improper delegation of authority to staff

Issuance of Charter

- ISBE approval process
 - What is reviewed
 - What is not reviewed
 - Contract with charter

Lessons Learned

- Thorough review and report by district
 - Focus on statutory criteria
- Be familiar with ISBE regulations and Commission by-laws
- Ask Commission staff to outline process, including communication protocol
- Hold Commission to its timelines and statutory and regulation requirements

Lessons Learned

- Watch for OMA violations
- Conditional approval and improper delegation to staff
- Analyze Commission's final decision in light of statutory criteria
- ISBE approval process
- Use FOIA requests
- Appeal date issue

Renewal of a State-Authorized Charter School

Case Study: Prairie Crossing (PCCS)

- Commission process and decision
 - If the Commission on appeal reverses a local district's decision (or if a charter is approved by referendum), the Commission acts as the authorizing entity for the charter school.
 - Commission approves the charter and performs all functions under the Charter Schools Law otherwise performed by the local district.

Renewal of a State-Authorized Charter School

Case Study: Prairie Crossing (PCCS) (continued)

- A charter may not be renewed if it is clearly demonstrated that the charter school did any of the following or failed to comply with the requirements of the Charter Schools Law:
 - Committed a material violation of any of the conditions, standards or procedures set forth in the charter;
 - Failed to meet or make reasonable progress toward achievement of the content standards or pupil performance standards identified in the charter;
 - Failed to meet generally accepted standards of fiscal management; or
 - Violated any provision of law from which the charter school was not exempt.

Renewal of a State-Authorized Charter School

Case Study: Prairie Crossing (continued)

➤ Issues in case

- Role of district in renewal of a State-authorized charter school
- Lack of standing
- Application of the ARL
- Finality of the Commission's decision
- Did the Commission's decision meet the "clearly erroneous" standard?
- Did the charter school fail to meet its statutory obligations to at-risk and ELL students and its transportation requirements?

Renewal of a State-Authorized Charter School

Case Study: Prairie Crossing (continued)

- Administrative Review Circuit Court process and decision
 - Academic performance not at issue
 - Focus on demographics of the charter school
 - Circuit Court reversed Commission's decision to renew
 - Standing issues
 - Commission's decision is the final administrative decision for purposes of appeal under the ARL
 - ARL applies
 - Commission's decision was held to be "clearly erroneous"
 - Denial of stay pending appeal

Renewal of a State-Authorized Charter School

Case Study: Prairie Crossing (continued)

- State and charter filed an appeal with the Illinois Appellate Court (1st District)
- Stay granted pending appeal
- Issues on appeal
 - Circuit Court lacks jurisdiction to review the Commission's decision under ARL
 - District's lack of standing
 - Was the Commission's decision the final administrative decision under ARL
 - Whether the Commission's decision to renew the charter was clearly erroneous

Charter School Cases

- Limited case law
 - Courts' approach to these cases
 - Illinois Appellate Court (1st District) order granting the PCCS stay:
 - Educating children in charter schools is a fairly new concept in Illinois, and a relatively small number of charter schools have been established. Accordingly, courts of review have had little, if any, opportunity to examine legal issues regarding renewal of their charters. . . .



Emerging Issues

- What constitutes grounds for denial of an application or non-renewal?
- Does a school district have standing to challenge a Commission's decision in State-authorized charters?
- Are the statutory timelines in the Charter School Law mandatory or directory?
- What is the final decision for review purposes – Commission's decision or ISBE approval?
- Need for revision/clarification of the Charter Schools Law.

Questions

