MN ASSOCIATION OF CHARTER SCHOOLS

The Charter School Advocate

Friday, November 2, 2018

REMEMBER TO ENCOURAGE EVERYONE TO VOTE ON TUESDAY, NOVEMBER 6TH!

A 'PICCOLO' PERSPECTIVE

THE CHARTER SCHOOL BARGAIN – AUTONOMY for ACCOUNTABILITY

The chartered school concept was and still is rooted in a fundamental bargain – "**autonomy**" (*freedom from unnecessary and burdensome regulation*) **in exchange for "accountability"** based on out-comes (*student performance, achievement and success*) – that is one reason why the 1991 charter school law called them outcome-based schools.

Over the years, the "**accountability side**" of the equation has slowly but steadily been defined by a belief that accountability must and can only be measured by standardized tests - in two or three academic disciplines.

The "**autonomy side**" of the equation has been subject to a growing list of laws and regulations (*if we are honest some of these have been brought on by virtue – really more appropriately – the lack of virtuous behavior of a small number of charters*), which has stifled the innovative environment and often placed charter schools in one-size fits all boxes – the boxes they were supposed to be designed to break free from.

There are necessary laws, rules and regulations to protect student health and safety, academic integrity, financial and organizational transparency for accountability and maintain the public trust.

The challenge is always how to ensure that necessary laws, rules, and regulations do not undermine the fundamental bargain of chartering, nor create unnecessary bureaucracy, nor impose phony accountability.

We must always remember that the fundamental bargain was to ***"UNLEASH EDUCATION FROM CONVENTION"*** in exchange for improving student performance, achievement and success through innovation.

WHY IS IT SO HARD TO ENACT A RATIONAL POLICY ON CHARTER SCHOOL FACILITIES?

For over a decade the Minnesota Association of Charter Schools has put forth and argued for legislation that would create a rationale policy approach for charter school facilities.

The question that needs to be asked is – **Why the legislature will not address the issue given the proposals that would save the taxpayers money, and provide for the return to the state treasury of the value of the property in the event that a charter school which owns a facility would close?**

The answers we have received over the last decade boil down to **three things**.

1. There just is not enough time in the particular legislative session to address such a big issue
2. The issue is complicated and there are so many questions about how would it work
3. The state does not want to be stuck with buildings if a charter school closes

So, let me address these three issues in reverse order.

 # 3] Under the legislation that has been put forward by the Association the state would not be stuck with any buildings.

When a school closed, the nonprofit school corporation would be required to sell the building before the corporation could be shut down. Under the charter school law any funds from the sale of the building after the mortgage or bonds are paid off would be returned to the state treasury.

 # 2] While it is true there are several components to the legislation – it is quite simple in design.

First, it establishes the criteria for which charter schools are eligible to own a building vs lease

Second, it phases out current Affiliated Building Companies (ABC's) over a period of time – which is a complicated and expensive way of doing facilities

Third, it establishes a state charter school facility authority (modeled after the Higher Education Facilities Authority) to issue revenue bonds for charter school facility projects

Fourth, it restructures Lease Aid into Facilities Aid – with the following provisions:

- A financial incentive for schools that negotiate lease costs lower than the maximum amount of lease aid
- Reduces the amount of Facilities Aid to schools that own building when the mortgage on the facility is paid off

#1] There is always time in the legislative process when there is an issue that the legislature really wants to address.

The time has come to address an original provision of the almost 28 year old charter school law that no longer reflects the reality of the world, and would save taxpayers money and provide the citizens of Minnesota with assets for their investment in charter school facilities.

Eugene Piccolo
Executive Director

AN AGENDA TO FULFILL THE PROMISE

MACS 2019 – 2020 PUBLIC POLICY PLATFORM RATIFICATION VOTE PROCESS

As has been the practice for over a decade member schools vote on each specific proposed public policy position and only those that receive a majority vote become a part of the Association's Legislative Platform.

- **Thursday - NOVEMBER 1** – Member schools received all of the proposed public policy positions that the Government Affairs Committee has brought forth to read, study and review.
- **Friday – NOVEMBER 9 -** Member Question & Answer Call- In **10:00 – 10:30 a.m**. **
- **Monday – NOVEMBER 12** – MACS Board of Directors Vote to forward public policy positions to membership for Ratification
- **Tuesday – NOVEMBER 13** – Members will be Sent Ballot for Ratification Vote on Public Policy Positions.
- **Wednesday – NOVEMBER 21** – Voting Closes on Ratification Vote at **NOON.**

CRUZ GUZMAN vs STATE OF MINNESOTA & *Higher Ground & Friendship Academy*

On October 10th the District Court held a hearing on various motions in the case. In the briefing papers submitted by the attorney for the Plaintiffs (Cruz-Guzman) and for the Intervenors there are three significant items of interest.

Plaintiffs are arguing that:

Even the dissenting judges in this summer's Supreme Court decision conceded claims of segregation are justiciable, even if they wrote opinions that this particular case was not justiciable because it was not about traditional segregation. The plaintiffs go on to argue – that no matter traditional segregation or some other kind of segregation - whatever it is, that the courts are equipped to determine whether a school system is segregated.

Intervenors are arguing that:

In 1974, the U.S. Supreme Court began to draw sharper distinctions between de jure (by law) and de facto (by fact) segregation. The Court stated that unless a district deliberately sought to discriminate against students by race, it could not be held responsible for school segregation. Federal courts have ruled that there is a difference between segregation by state action and racial imbalance caused by other factors. (*i.e. housing choices, demographic shifts, and parental choice*)

Plaintiffs are arguing:

To exclude charter school students from being part of the class action certification other than the two intervenors. However, they then argue that they intend to prove in this case that charter schools have **NO** statutory exemption from desegregation rules, and whatever exemption charters may now have is a constitutional violation of the Equal Protection and Due Process provisions of the Minnesota Constitution because the MN Supreme Court ruling did not state that one must show discriminatory intent with regard to the violation of the Education Clause of the State Constitution.

BOTTOM LINE*: Plaintiffs are seeking to equate traditional segregation (state action) with racial imbalances that occur because of other factors and enshrine a principle that one does not need to have a discriminatory intent to be guilty of segregation, thus violating the constitution*.

ACROSS THE NATION

WASHINGTON STATE SUPREME COURT DECLARES CHARTERS CONSTITUTIONAL UNDER AMENDED STATE CHARTER SCHOOL LAW - On Thursday October 25th the Washington State Supreme Court in a divided opinion ruled that **charter schools are constitutional because they are funded through the state lottery** and not funded as "common schools" – which the state constitution explicitly defines in detail what a common school is and is not. The court reaffirmed previous rulings that the state constitution prohibits public schools that are not defined as "common schools" from receiving funding from the common school account, or any levy money.

Seattle Times 10/25/2018

WASHINGTON D.C. – The U.S. Department of Homeland Security is proposing to label legal immigrants who access essential health care and nutrition programs as *"public charges",* which could lead to denial of visas or green cards. "9 million children live in households that receive public benefits and include at least one non-citizen immigrant"

Education Week Commentary 10/17/2018