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Brief

Accelerating Public Charter Schools: Lessons from Idaho's Regulatory Reform

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Introduction

In 2024, the Center for Education Reform (CER) ranked Idaho among the top 10 states in the nation for its charter school laws.¹ CER scores are based on the original principle of the charter school movement: “charter schools should receive enhanced operational autonomy in exchange for being held strictly accountable for the outcomes they promise to achieve.” To measure how well states are adhering to this principle, the CER scores consider various factors, such as charter authorizer diversity, growth constraints placed on charter schools, charter school operational flexibility, and funding equity.

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Idaho was an early adopter of charter school legislation, which the state first implemented in 1998. But that initial law was a political compromise that limited the uptake of charter schools and provided modest operational autonomy. In the years since, Idaho has adopted many incremental improvements to the original law over time. But as recently as 2008, CER ranked Idaho's charter school laws as the “14th weakest of the nation's 41 charter laws.”²

By 2018, Idaho charter stakeholders were pushing for more serious reform to laws that “minimized the actual space for innovation” and made “Idaho's charter schools . . . the most regulated public schools in the state.”³ Their complaints were likely justified: at the time, charter schools in Idaho were not only subject to most state education laws meant for traditional public schools but also—unlike traditional public schools—beholden to a charter authorizer and a performance certificate that spells out how they will be held accountable for their academic and financial performance.



In 2024, the conditions were ripe for reform. On February 27, the governor signed the Accelerating Public Charter Schools Act (APCSA), which comprehensively repealed and replaced the state's charter school laws and regulations in order to provide far greater operational autonomy for charter schools.⁴

The approach embodied in APCSA was based on an understanding of the diversity in the charter school landscape. Some charter schools were nearly 25 years old and among the highest-performing public schools in the state, while others were newer and had less of a track record. Rather than attempting to place all charter schools in the same regulatory straitjacket regardless of school history—including tenure and past academic and financial performance—the legislation grouped charter schools into segments and offered “earned autonomy” to the highest performers.

High-performing charter schools can now earn longer renewal periods from their authorizers, as well as other benefits, such as fast-track replication of copycat schools into new markets. The bill also provided neutrality toward the format of charter schools, given the acceleration of virtual school options following the global Covid-19 pandemic.

Idaho provides a useful case study to states on how to update charter school laws, balancing operational autonomy with accountability in a proper regulatory framework. This paper presents Idaho's approach to regulatory reform in a field that had evolved piecemeal over 25 years, which may offer useful lessons for a wide range of states.

Brief History of Charter Schools in Idaho

The national charter school movement began in earnest in 1988, with two seminal events: Ray Budde—a New England educator who had already introduced the idea of charter schools—published his book *Education Charter: Restructuring School Districts*; and the president of the American Federation of Teachers, Albert Shanker, endorsed the concept of charter schools “run by teams of teachers and charged with creating innovative solutions to the challenges of underserved students.”⁵

Minnesota was the first state to pass charter school laws, with the state's first charters opening in 1992.⁶ Originally, charter schools were envisioned as public, tuition-free schools that were bound in less regulatory red tape, freeing educators to innovate and for schools to serve as “learning laboratories” for curriculum and instructional methods. In exchange for enhanced operational flexibility, charter schools would be bound by a *charter*—i.e., a contract, established with an authorizer that outlines the academic, financial, and governance goals for which the charter will be held accountable. Charter schools receive public funding from the state but cannot levy property taxes or issue public bonds.

By 1993, seven additional states had passed charter school legislation, which had become one of the fastest-growing educational reform policies in the country's history. In 1994, the federal government created the Charter School Program (CSP) to provide federal support for the creation of charter schools.⁷

It was against this broader national backdrop that Idaho ventured into the charter school space. The Idaho legislature introduced, but failed to pass, charter school legislation in 1995 and 1996.⁸ To gather more information, the legislature then formed an interim committee, which hosted



meetings throughout the state to solicit feedback on future charter school legislation. In 1997, charter school legislation was passed and signed into law, allowing charter schools to begin operating in Idaho on and after July 1, 1998.

Under the initial Idaho charter school law, only local school districts could authorize a charter school. This effectively gave traditional schools—which might see charters as competitors—the ability to veto the creation of a charter school in their service areas.

Concerns about charter schools in Idaho echoed national fears, including that they would pull high-performing students—or even high-performing teachers—out of traditional public schools. This, in turn, would drain public funds, leading to the “collapse of traditional public schools.”⁹ Over time, these fears generally proved unfounded, but concerns persisted.

Very few charter schools were approved in the early years. In 2004—seven years after the legislation was passed—there were only 16 charters statewide. That year, the law was broadened to create the Idaho Public Charter School Commission (IPCSC), which was granted authority, along with traditional school districts, to authorize charter schools. This gave charter operators an alternative path to approval, reducing the potential anticompetitive impact of local district veto power.

But the 2004 reforms had two important limitations. First, a prospective charter school was still required to start by applying to the local school district for a charter. Only if there was no mutual agreement in 30 days could a school petition IPCSC for a charter. Second, the law capped the number of new charter schools at six per year statewide, with no more than one per year in any school district.

Idaho's charter school law was a triumph of incrementalism, with 84 amendments in just the first 14 years following its initial passage.¹⁰ Some of these reforms included allowing higher-education institutions to authorize charters (though, to date, none has done so) and establishing alternative pathways to certification for teachers and administrators at charter schools. Importantly, in 2012, the legislature removed the six-per-year cap on new charter schools, leaving this decision instead to the allowable authorizers.

Charter school growth has been particularly steep since 2018, driven by increased federal funding for the creation and support of new charter schools, as well as new state funding for charter school facilities. In 2018, the educational nonprofit Bluum received a \$22 million CSP grant from the U.S. Department of Education, which it used to fund the creation of 23 new schools with 11,500 student seats.¹¹ State funding of charter school facilities also played a critical role. The school funding formula was amended to include a minimum amount for school facilities per student (approximately \$400 in 2023). The state also offered greater support through a credit enhancement program and a revolving loan program for qualified charter schools.

Despite the growth in Idaho charter schools, demand still outstripped capacity, with more than 11,000 students reportedly on charter school waiting lists at the beginning of the 2023–24 school year,¹² or slightly more than one student waiting for every three students enrolled in an Idaho charter school.



Conditions for Broader Charter School Reform

In 2023—as the first charter schools in Idaho celebrated their 25th birthday—there was increasing support for broad charter school reform, as opposed to continued incremental progress. Four main factors were driving this: 1) the need for IPCSC reform, due to negative public attention; 2) a recognition, partly due to the pandemic, of the need for a new regulatory framework; 3) additional federal support for new charter schools; and 4) a burgeoning discussion about school choice more broadly in Idaho, spurred on partly by the national movement.

IPCSC Reform

IPCSC had attracted negative media at the time, including allegations of inappropriate executive sessions at commission meetings, high-profile staff turnover, and disagreements between staff and commissioners over decisions on specific charter schools.¹³ One education administrator raised concerns about IPCSC's "adversarial attitude," saying that the commission had become "a challenge to the schools it authorizes."¹⁴ Two IPCSC directors resigned in 2023 in a span of just months, prompting more direct oversight, on an interim basis, from the office of Governor Brad Little, who has been recognized nationally for his deregulatory efforts—including zero-based regulation, which made Idaho the least regulated state in the nation.¹⁵ This emphasis on regulatory reform was brought to the commission, as the governor's office sought to make progress on finding a more durable solution for IPCSC. Gubernatorial involvement was critical because, although Idaho allows alternative authorizers, IPCSC authorizes 82% of the state's, so it is important to have a strong state authorizer.

A New Framework

While there had been steady, incremental progress since the inception of charter schools in Idaho, many charter administrators felt that there were still "overreaching regulations ... [and] a one-size-fits-all approach."¹⁶ To describe the existing regulatory system, the interim director of IPCSC drew on former Federal Trade Commissioner Maureen Ohlhausen's "Procrustean Problem" with prescriptive regulation:

In Greek mythology, Procrustes was a rogue blacksmith, a son of the sea god Poseidon, who offered weary travelers a bed for the night. He built an iron bed especially for his tired guests, but there was a catch: if the visitor was too small for the bed, Procrustes would forcefully stretch the guest's limbs until they fit. If the visitor was too large for the bed, Procrustes would amputate limbs as necessary to fit the guest to the bed. Eventually, Procrustes met his demise at the hand of Greek hero Theseus, who fit Procrustes to his own bed by cutting off his head. The story of Procrustes warns against our human tendency to squeeze complicated things into simple boxes, to take complicated ideas, technologies, or people, and force them to fit our preconceived models.¹⁷

Several times, IPCSC had tried to squeeze all charter schools into the same regulatory box. For one, the coronavirus pandemic led to the creation of many virtual charter schools, which grew rapidly as students and parents became more comfortable with using new education technologies. Virtual schools did not fit the model for regulation of traditional schools. In addition, all charter schools—from those focused on college preparation to alternative schools for the most at-risk learners—were treated equally. Moreover, long-standing high-performing schools were regulated with the same stringency as startup schools. IPCSC had started speaking about "earned autonomy"—less regulatory oversight for schools that proved their performance over time and more oversight for schools that were failing to meet the negotiated terms of their performance certificates.



Federal Funding

In 2023, Bluum received an additional \$24.8 million CSP grant from the U.S. Department of Education. The group announced that it would use this grant to fund the creation of 13 new schools with 5,900 student seats statewide.¹⁸ A portion of this grant could be used to strengthen in-state charter authorizers; IPCSC availed itself of a portion of this funding and hired a consultant to help transform the internal culture of the commission and refine its policies and procedures.

School Choice Beyond Charters

A debate was growing around school choice in Idaho. The state had recently created the Empowering Parents micro-grant program, which provided low-income parents with funds that could be used for supplemental educational materials, such as curriculum, tutoring, technology, and therapy. Still other legislators advocated for broader school choice, including the use of public funds for tuition at private schools.

Core Elements of Idaho's Charter School Regulatory Reform

The Accelerating Public Charter Schools Act (APCSA) was one of the first bills introduced in the 2024 legislative session, and it quickly advanced through the legislature with broad bipartisan support as House Bill 422.¹⁹ It passed the House of Representatives with 66 in favor to 3 opposed, and the Senate by a margin of 32 to 1. It was signed by Governor Little in a ceremony at a charter school on February 27, 2024. A trailer bill to APCSA passed the legislature unanimously.²⁰

APCSA repealed all existing charter school statutes and replaced them with new text, using the “repeal and replace” method. The legislation also eliminated all existing regulations promulgated by IPCSC and removed rulemaking authority from the commission. This change preserved IPCSC's role in approving and overseeing charter schools but removed its hand in policymaking. All policy changes now would have to be accomplished through legislation. APCSA reflected a net reduction of 13,476 words, or approximately 27 pages, in the charter school laws.

Not only did APCSA reduce the volume of regulation; it also made substantive edits to improve the regulatory framework for charter schools. At the front and center of the bill were rhetorical changes that highlighted the new approach. The name of the law, which replaced the Public Charter Schools Act (PCSA) of 1998, was changed to APCSA to emphasize the word “accelerating.” This made clear that past policies, such as caps on the number of charter schools that could be approved annually, were a relic of the past and the legislative goal was to ensure that demand for charter school seats is satisfied.

The bill opens by outlining the intent of the legislature. The first sentence was changed to place students first, whereas the prior bill listed teachers first: “It is the intent of the legislature to provide opportunities for students, parents, teachers, and community members to attend, establish and maintain public charter schools that operate independently from the existing traditional school district structure but within the existing public school system.” While subtle, this change reflected an understanding that original charter school laws had to try to appeal to teachers to secure non-opposition from traditional-education stakeholders, whereas students were now the primary consideration for the updated charter law.



Stimulate the Creation of New Charter Schools.

APCSA included several provisions intended to stimulate the creation of new charter schools. The law eliminated certain nuisance provisions:

- It streamlined the application process that all authorizers must use for new charter schools. This limited authorizers to requesting a finite amount of information and limited the collection of additional information to what is “actually necessary to clarify the contents” of the application.
- It eliminated a requirement for prior notification to school districts, which could slow the application process and generate opposition before an application was officially submitted to an authorizer. Prior to applying, charter schools used to have to submit a completed petition to the superintendent of each district that overlaps with the proposed attendance area. This notification had to be submitted at least four weeks before applying to an authorizer, creating potential timing issues. As all Idaho allowable authorizers are public entities, open meetings are scheduled on any application, and interested school districts may still weigh in during official meetings.
- It eliminated an unnecessary training attendance requirement. Before APCSA, applicants had to attend an in-person workshop once a year as a precondition to applying for a new charter school. This prerequisite was eliminated, though the voluntary training and a recording are still to be made available as an educational resource to applicants.

Financing of facilities is often cited as the biggest barrier to the creation of new charter schools. APCSA addressed financing of charter school facilities in several ways:

- It established a minimum amount of \$400 per attending student to “defray the costs associated with payments for real property used by the students or employees of the public charter school for educational or administrative purposes.” This per-student minimum is in addition to the loan repayment program and credit enhancement program offered through the state.
- It changed the initial term of charter schools from five years to six years, which, advocates argued, would offer more advantageous financing for capital facilities.
- It exempted property belonging to a public charter school from taxation, lowering the operating costs moving forward by ensuring that charter schools do not have to pay property taxes.

APCSA attempts to “incubate innovative charter schools” by creating a pathway to approval for schools that are unlike traditional public schools or previously authorized charter schools. The bill allows authorizers to grant a “pilot charter” with an initial term of three operating years to test an innovative or novel model. Previously, authorizers had to approve a charter for a full term (originally five years) or deny the charter. The pilot provision provides a middle-ground option for truly unique charter models to try new things, while allowing such schools to fail quickly if they do not live up to expectations. To ensure that this would not become the default, the legislation requires authorizers to “provide sufficient documentation to justify the shorter term” afforded by a pilot charter.

Reward High-Performing Charter Schools with Earned Autonomy

In APCSA, the legislature addressed concerns about a one-size-fit-all regulatory approach that did not properly distinguish between high- and low-performing schools. Thus, APCSA provides two mechanisms to “reward public charter schools that meet their accountability measures with enhanced autonomy and freedom from regulatory burden.”



First, charter schools that meet all the terms and conditions of their performance certificates will now qualify for a 12-year renewal, while those that miss one or more items can get only six-year renewals. Previously, all schools qualified for a five-year renewal. This provides a major incentive for charter schools: high performance means that a school gets a longer leash and does not have re-justify its existence to its authorizer as often.

Second, charter schools that successfully go through one renewal cycle without condition are now eligible to fast-track a replication of a similar school into new markets. Rather than requiring these schools to go through a full application, APCSA created an “abridged” application that focuses on the location-specific information for the new school, on which the authorizer must act within 45 days. This replication process was described as a sort of “TSA pre-check” for high-performing charter schools.

Table 1

Core Elements of APCSA

Parameter	Prior Law	APCSA
Length of initial charter	5 years	6 years
Maximum length of charter renewal	5 years	12 years
Replication of high-performing school	Application process identical to new school	Fast-track (45 days) abridged application focused primarily on the proposed school location

Unleash Traditional Public School Innovation with Charter Schools

APCSA makes it easier for traditional public school districts to meaningfully experiment with charter schools. It eliminated the burdensome threshold for converting a traditional public school to a charter school. Previously, such a petition needed to be signed by “not less than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not less than sixty percent (60%) of the students currently attending the school to be converted.” In 25 years, no conversions had occurred, in part because of this high barrier.

Charter school laws traditionally outline appeal rights if a new charter school is denied approval by an authorizer, but there is generally not an appeal of an approval of a charter school. Idaho previously allowed appeals of approval of a converted traditional school to a charter school if there was an objection of 20 or more persons or employees of the traditional school district. This appeal right was eliminated so that all charter schools were on equal footing.

Reduce Red Tape for Charter School Administration and Operation

Charter school administrators had routinely expressed concerns about overregulation of charter schools. All state administrative rules promulgated by IPCSC were eliminated, and its rulemaking authority was removed. In addition, APCSA made the following changes:

- It allowed charter holders that operate multiple schools to enroll as a single local education agency (LEA), as opposed to requiring each school to serve as an LEA, as the law previously required. Under the old system, schools often felt that they could not move textbooks across schools or cross-collateralize facility loans, and they faced duplicative audit requirements. The decision of whether to operate as a single LEA is now left to each charter school, in consultation with its authorizer.



- It allowed charter schools to operate enterprises related to an educational purpose, which was previously disallowed. This lets charter schools operate on-site day-care and after-school programs, but they cannot use any of the funds intended for the charter school for the operation of these related enterprises.
- It removed the 10% cap on proposed enrollment increases, which previously could be waived only after a public hearing and notification to local school districts. Under APCSA, enrollment increases are decided on by the authorizer.
- It provided broader flexibility for virtual schools to perform certain services virtually, such as “remote testing, proctoring, and administration procedures for state-required assessments”
- It broadened career technical education (CTE) provisions at charter schools, removing outdated provisions, noting that CTE programs taught by teachers with a charter school-specific teaching certificate “shall receive added-cost funding ... in an amount equal to programs taught by teachers with an occupational specialist teaching certificate” in a traditional public school.

Improve Operations of the Public Charter School Commission

To address the perceived adversarial relationship between charter schools and IPCSC, APCSA changed the commission from one with an enforcement-first mind-set to one with a blended, supportive approach. The legislature clarified its intent to “foster and support charter schools through best practices, development, educational and operational assistance.” This dual role was reinforced in the statute speaking to the commission and staff duties: “It shall be the responsibility and duty of the director acting at the direction of the commission to administer and enforce the provisions of this chapter and to foster and support charter schools through effective partnerships with other state agencies.”

Many stakeholders felt that much of the tension stemmed from disagreements among IPCSC staff and commissioners about school approvals or renewals. The legislation removed the requirement that staff provide commissioners with a “written recommendation” within 10 weeks of receiving an initial petition. This ensured that the staff’s role was ministerial and decision-making was vested in the commissioners, and the blurring of these two roles was minimized.

Appeals of denials and renewal decisions were moved away from the Office of the State Board of Education to the new Office of Administrative Hearings. This was done to seemingly depoliticize decision-making around charter schools and have the reviews focus on the technicalities of APCSA.

Strengthen Accountability for Low-Performing Charter Schools

Sponsors of APCSA wanted to balance autonomy with accountability. The bill thus retains the primary accountability tool for charter schools—a performance certificate—which serves as the basis for renewal and revocation decisions. Charter schools therefore arguably have more oversight than traditional public schools, as there is no ability to non-renew or revoke an underperforming traditional public school.

Two additions were made to the basic accountability framework: first, the law requires charter schools to report early distress signals that have been linked in the literature to poor performance and school closure. In particular, schools must notify their authorizer “if there are any early warning signs of distress as outlined in the charter contract, including any excessive reductions in enrollment of all students or at-risk students, excessive staff turnover, or excessive governance board turnover of the charter holder in any school year or between school years.” Authorizers can act on this information by providing support to charter schools in distress or pursuing enforcement action against such schools.



Second, the legislation added a pathway for direct support for low-performing charter schools: “The state department of education shall collaborate with authorizers to enroll charter schools in need of improvement in support and development programs including, but not limited to, the Idaho building capacity [IBC] program.” IBC is a partnership with local colleges and universities to support school districts and help them increase student achievement by assessing local needs. Two staff members were added to carry out this task, along with operating funds to enlist technical assistance from state colleges and universities.

Conclusion

Idaho's example provides lessons for other states—those that have long-standing laws marked by incremental reforms, as well as those with newer laws that are seeking to appropriately balance flexibility with accountability. Comprehensively reforming charter schools through a “repeal and replace” method attracted broad bipartisan support. The core elements of Idaho's reform were creating a one-stop shop in statute and segmenting high-performing schools from low-performing schools. High performers were rewarded with additional autonomy and less heavy-handed regulatory oversight, with longer renewal pathways and opportunities to quickly replicate their successful schools in new markets. When paired with other reforms to reduce red tape, stimulate new charter schools, and refocus the role of the charter authorizers, Idaho shows how new state legislation can reform old charter school laws and can create more opportunities for students throughout a state.



Endnotes

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- ² CER, “Charter School Laws Across the States: Rankings and Scorecard,” 10th ed. (2008).
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