

Effective ESP Selection & Service Provider Oversight

Understanding Roles & Due Diligence



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Key Issues, Questions, & Options

Key Issues

- Meeting the school's needs
 - Services
 - Expertise
 - Budget
- Protecting the school's interests
 - Board autonomy
 - Budget
 - Core mission, values, charter
- Appropriate role delineation
- Clear responsibilities and expectations
- Adequate oversight and accountability



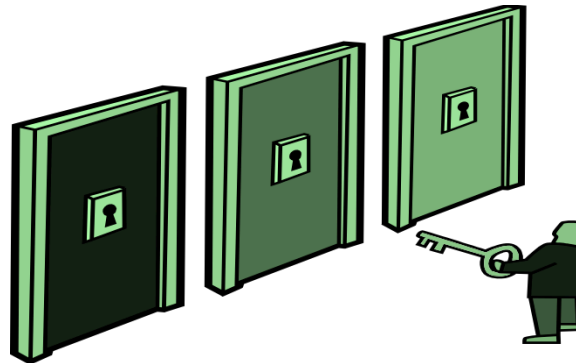
How was your EMO selected?

Firmly establish the school's mission and the "non-negotiable"

Carefully consider potential benefits (gaining access to educational, human, or financial resources, expertise) and challenges or tradeoffs (losing day-to-day control, financial costs)

Consider the costs (both human and financial) for the "do-it-yourself" route.

Establish the organization's need and budget



Write an RFP that clearly articulates the school's needs

Do your research on the organization(s) that offer their services

Negotiate a clearly defined contract that protects the school

The Board's Role & Responsibilities

Independent Board of Directors

- Structural independence based on a board made up of community members, and parents
- Completely separate from ESP (no ESP representation on the board)
- Set and approve broad school policies such as budget, curriculum, admission, conduct, calendar, grievances
- Maintain fiduciary responsibilities
- Ultimately accountable for achievement of charter objectives

Regular Meetings

- Regular meetings demonstrating an active role in oversight of the management company
- Documented meeting minutes reflecting board discussion and decisions considered in the meetings relative to the management organization

Oversight

- Expectations for reporting from ESP to the board
- Regular review of management company's services
- At least one formal review annually of ESPs services per the contract
- Documented communication with the ESP related to performance

The Contract (1)



■ Foundational Matters

- Authority of charter over ESP contract
- Board's responsibility in oversight under the contract
- Separate documents that detail terms of the contract (e.g., accountability plan, financing agreement, etc.)

■ Roles and Responsibilities

- Board and ESP
- Specific legal obligations
- Duties such as recruitment, fundraising, media relations
- Reports the board will review prior to submission to higher authorities
- Conditions for inspections of school operations by the board
- Who employs the principal, teachers, staff
- Role the board and ESP play in hiring, evaluating, and firing decisions
- The scope of the ESP'S authority to subcontract for services

The Contract (2)

■ Contract Duration, Renewal, & Termination

- Length of initial contract term
- Conditions for renewal by both parties and procedures for renewal consideration
- Grounds for termination of contract by either party
- Conditions, if any, of termination without cause
- Indemnification provisions in the event of a default or breach of either party
- Physical assets, start-up debt, intellectual property, proprietary materials, etc.



■ Performance Oversight & Evaluation

- Clear, measureable school-wide achievement results aligned with mission
- How achievement of goals affect renewal and termination decisions
- How often, in what ways will the board review and evaluate the ESP
- Reporting expectations (frequency, format)
- Conditions, standards, and procedures for board intervention

The Contract (3)

■ Compensation and Finances

- Which operating and capital expenditures both parties are responsible for
- How the board funds various costs (e.g. staffing, legal, audit, etc.)
- Precisely defines “revenue” for purposes of calculating the service provider’s compensation or the funds to operate then school (e.g. federal funds, fundraising, etc.)
- How ESP’S compensation is calculated and schedule and provisions for payment
- Timeline and process for the board to develop the budget
- Limits to authority of the ESP’S with budgetary decisions
- What happens in the case of surplus or deficit in revenue and how calculated
- Financial reports required (frequency, type, format)
- Statement that the board will select the independent auditor
- Debt payment particulars if ESPS or a 3rd party is providing a loan (particularly in the case of termination of contract)



The Contract (4)

■ Property

- Terms for intellectual property (use, ownership, at termination)
- Rights of each party to disseminate information for marketing, advocacy, or general information purposes
- Obligation to disclose information to comply with laws
- Who owns physical assets and what happens to assets at termination of contract
- Who will order, finance, own, and oversee acquisition or construction of the facility and terms in case of dissolution of the contract agreement

■ Contingency Planning for New Management

- Period of time before termination that plan goes into effect
- Propriety materials – continuation of access, terms
- Right of school or new management to hire staff employed by ESP
- Timely access to information (e.g., student records, financial records, etc.)
- Other transitional specifics



Accountability

- **Good evaluations are fair.**
 - ESP'S know BEFORE they begin management how assessed, frequency, and tool used
 - Evaluations are determined based on both qualitative and quantitative data obtained from a variety of sources and in the contract
 - The evaluation instrument uses straightforward language and clearly express levels of performance against contract provisions
 - Evaluation results are communicated with the ESP:
 - In a timely manner
 - In an honest and direct manner
 - In person AND documented in writing for both parties
- **Good evaluations measure key elements to be monitored that are negotiated in the contract such as:**
 - Student-Centered Learning Climate
 - Professional Development and Human Resource Management
 - Instructional Leadership: Improving Teaching and Learning
 - School Management and Daily Operations
 - Financial Management
 - Plant Management
 - Communication and Interpersonal Skills
 - Educational Outcomes
 - Achievement of charter performance objectives (may encompass some of the above)
- **Good evaluations support the success of the charter school and help determine future partnership between Board and ESP.**
 - Areas of strength used to determine if the Board will continue a partnership
 - Areas of weakness used to develop corrective action or to determine if the Board will continue a partnership
- **Good evaluations improve communication between the ESP and the Board**
- **Good evaluation is a year-round activity, not just an end-of-the-year "gotcha".**
 - Should be at least conducted formally once yearly (with on-going data from throughout the year)
 - Should be comprehensively done prior to contract renewals and renegotiation

More to consider...

- Employees must be employees of the board
- Check **references and results**, (not just the flagship school)
- If the company is not currently operating in Georgia, why not?
- Review the history of ESP/CMOs in Georgia
- Have an attorney review your contract and assist with negotiations
- Board support and development
- Policy development
- You will have to justify your selection
- Ask to see the annual report & strategic plan
- What happens “contractually” if there is a falling out?
- What is the process for amending the contract?

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Red Flags

- Board should not delegate authority to ESP.
- ESP should not develop policies for the board/school?
- Beware of balloon payments/fee structures.
- Beware of ESP managing all recruiting / hiring
- ESP should not set calendar and schedule
- No ESP “appointee” on board
- No “evergreen” contracts
- Be sure that termination clause(s) are balanced for both parties
- ESP contract should not conflict with local, state, federal laws or SCSC policies

Resources

- http://www.publiccharters.org/files/publications/548_file_Charting_a_Clear_Course_2005_report_final.pdf
- <http://www.qualitycharters.org/files/public/ESPToolkit2005.pdf>