



# CHARTING A NEW COURSE

The Case for Freedom, Flexibility &  
Opportunity Through Charter Schools

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# Introduction

The charter school debate will look very different in the years to come. For the first quarter century, the question was simple: you're either for charter schools or against them. But now that the sector has matured, taken root, and gained broader public acceptance, the debate is shifting from whether to expand charter schools to how. Even the national media, which loves simple black-and-white storylines, has noted a rift in the school choice movement.

At the national level, the debate is untethered from concrete questions of policy and framed as a partisan divide. But education is something that happens at the state and local levels, and there is, in truth, a philosophical divide that has significant implications for practical policymaking. The way we see it, there are two camps within the school choice and charter school movements:

**System-centered reformers** want to arrive at higher quality educational options by expertise-driven management. They believe that bureaucrats and politicians should have ample authority to decide what schools may open and what schools must close using standardized test-scores to make data-driven decisions.

**Parent-centered reformers** trust parents more than bureaucrats when it comes to determining school quality. They want to see a more open and dynamic system, where educational entrepreneurs are freer to open new schools and parents decide which schools should close and which should expand based on whether they want to send their children there.

Right now, the system-centered reformers have the upper hand when it comes to financial support and organizational infrastructure. Philanthropists and major foundations fund organizations such as the National Alliance for Charter School Authorizing (NACSA), which sends representatives to engage with legislators on how to implement “best practices.” Their arguments are straightforward: we know “what works” to produce a charter sector that “outperforms” traditional public schools. Policymakers, eager to show that they're pro- “accountability,” are increasingly adopting system-centered reforms.

System-centered reformers make the simpler argument, and it is predicated on the assumption that the goal of charter schools is to raise standardized test scores. But we believe that parent-centered reformers make a better case for quality schools. Parents and the public intuitively know that academic outcomes matter but there is

more to academic outcomes and to education than test scores.

We are concerned about institutional isomorphism in the charter sector—the tendency of charter schools to look and act more and more like the traditional schools they were intended to substantively supplement. Charter schools were supposed to offer a wider array of options, to help parents find schools based on the educational approach that fits their child best. High test scores were hardly the alpha and omega of the charter idea. But, as Tulane University professor Doug Harris has noted, “when you have intense test-based accountability it really restricts what you can do and to what degree you can innovate because ... there are only so many ways to make test scores go up.”

We are concerned that the drive to produce a charter sector that demonstrates better results on standardized tests has come at the expense of struggling low-income students. Charter schools have closed for “academic” reasons despite being substantively similar to their traditional neighbors, and the students who attended those charters often chose them for reasons beyond academics: because the charter was safer than their district school or offered an academic or non-academic opportunity that the district didn’t. And there’s no telling how many potential charter leaders were either deterred from starting a school or corralled into a cookie-cutter educational approach by policies designed to close charter schools by default for a couple of years of low standardized test scores. Accountability should be about much more than a test.

We stand with parent-centered reformers more because of our optimism than our concerns. We believe that parents (who see their child come home from school every day) are better able than bureaucrats (who see mostly standardized tests scores) to judge the quality of the school they’ve chosen. We believe that if offered more freedom, educational entrepreneurs will embrace a variety of different approaches and offer parents a diverse range of options. We accept that more freedom might mean that more schools fail than would in a more regulated environment, but we believe that failure is necessary for success. We are optimistic that, over time, the net result of giving educators autonomy and empowering parents to judge schools will drive the creation of a higher quality sector.

While we know these arguments are more powerful than “do X because it will raise test scores,” they are certainly more complicated to make. So we’ve collected the work of thoughtful parent-centered reformers to make the case to policymakers for a new course.

Section 1 features two longer essays. Jeanne Allen discusses the isomorphic drift

that's made the charter sector come ever closer to mirroring traditional schools, and Max Eden lays out a point-by-point critique of the pillars of the charter regulatory agenda.

Section 2 explores the practical effects of over-regulation. It features the work of Show-Me Institute fellow Michael McShane on how burdensome charter applications can stifle a diverse sector; Benjamin Lindquist, a charter school leader, on how day-to-day regulations can make charters more focused on bureaucratic compliance than educational quality; Max Eden also gives a local example of problematic state policy, discussing how Ohio's charter authorizer evaluation law prevented thousands of students from ever stepping foot inside a quality charter school.

Section 3 focuses on the unseen, often softer effects of charter regulation. It features Derrell Bradford of NYCAN discussing the politics and partisanship that characterize a growing rift in the education reform movement and how that rift subverts an approach to charter school authorizing that values pluralism. Cara Candal of the Center for Education Reform describes how what some see as the most successful state charter sector in the nation, Massachusetts, has seen a proliferation of policies that curtail innovation in favor of test scores and regulation; and Robert Pondiscio, a fellow at the Thomas B. Fordham Institute, on how a heavy emphasis on standardized reading tests can actually harm quality English instruction.

Section 4 points to a better path forward. It includes a selection of the works by University of Arkansas professor Jay Greene, who argues that a parent-driven approach is every bit as politically viable as a system-centered one, and smarter to boot. Robert Pondiscio discusses why the school choice narrative needs to be reframed from one about "outcomes" to one about values and pluralism.

This book concludes with reflections by Jeanne Allen and Max Eden on the pillars of a parent-centered approach, offering policymakers an alternate set of reforms to advocate and implement if they find that, on reflection, their hearts and their heads are on the side of parent-driven reform.

**SECTION ONE:**

**Diversity And Choice In  
The Charter Sector**



Once a grass roots education reform driven by parents and communities, in the past twenty years charter schools have expanded rapidly across the nation. That expansion has meant more and often better educational options for students and families. But it has come at a cost.

As the charter movement has grown it has been coopted by well-intentioned advocates, funders, and reform-minded members of the education establishment who have insisted upon systematizing and institutionalizing the sector at both the state and national levels. That institutionalization has come in the form of policy environments and onerous regulations that tightly prescribe the conditions under which charter schools can be established, exist, and grow. As a result, a reform that once promised innovation and true choice for families has come to look more and more like the district school bureaucracies that founders of the charter school movement sought to escape. Rather than differentiated, charter schools and the structures for charter schooling in each state and locality have become similar.

The institutionalization of the charter sector has occurred for a number of reasons, including:

- Competing understandings of the role that charter schools should play in education reform
- Pressure to “organize” charter schools around one vision in service of expanding the movement
- Pressure to replicate charter organizations based on narrow measures of success, such as test scores alone
- Pressure to close charter schools based on narrow measures of failure, such as test scores alone
- Growing numbers of state and federal regulations that restrict charter school autonomy, focusing on inputs and compliance as opposed to outputs and innovation

As the charter school movement enters its third decade, charter advocates and reform-minded individuals and organizations have a choice to make: will we free up charter schools to once again become a grass roots movement or, as Al Shanker might have had it, a cause that arises from and is driven by each local community—a form of schooling that engages parents and students and empowers teachers and administrators? Or, will charter schools continue to become just another way to “do” public schooling, providing the lucky with an opportunity to attend schools that look alike and produce high test scores but lack the freedom to do anything truly innovative for students?





# Consequences of Scale, Isomorphism and the Charter School Movement

## How a sector built on decentralization has become institutionalized

*Jeanne Allen*  
Center for Education Reform

Isomorphism, the “constraining process that forces one unit in a population to resemble the others who face similar environmental conditions,”<sup>1</sup> has taken hold of the charter school sector. Charter schools are independent public schools of choice, accountable for results on a performance contract, and free from most rules and regulations that confine other public schools. When charter schools were conceived more than twenty-five years ago, this freedom was intended to foster innovations in teaching and learning and elicit competitive responses from other public schools. However, the charter sector is now influenced by coercive, mimetic, and to a lesser extent, normative isomorphism; Despite seeking to differentiate, its schools and structures have become similar.

Given the age of the charter school movement, this isomorphism isn’t surprising. DiMaggio and Powell have observed that “once a field becomes well established there is an inexorable push toward homogenization.”<sup>2</sup> This homogeneity threatens the hallmark of charter schools—performance based accountability with flexibility. If left unchecked, it will result in the demise of the charter sector.

Bureaucratization happens because organizations strive to be the same even if such sameness does not result in making them more efficient. In the national charter sector, charter schools and the groups that support them originally came together to advocate for differentiated and innovative pathways to education. Today, they operate collectively, similarly, and with less impact than when they began. These isomorphic tendencies are more likely to occur in state charter school sectors that have controlled and centralized chartering processes. The result is that states with independent authorizing practices have more diverse participants who keep one another in check in competitive ways. Diverse actors recognize that homogeneity decreases opportunity and creates the rising tide of isomorphism that undermines the core purpose of charter schools—to provide educational excellence for kids.

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<sup>1</sup> Hawley as cited in DiMaggio & Powell (1983), p. 149

<sup>2</sup> DiMaggio & Powell (1983) pg.148.

## How it Happened

When conceived, charter schools were supposed to be the antithesis of their traditional public school (TPS) counterparts, unbound from the bureaucratic processes and controls that assure the kind of compliance valued in government schooling. In the 1990s scholars like Chubb & Moe described how TPS bureaucracies, with their focus on rules, regulations, and compliance, rob principals and teachers of “professional judgment” and “the flexibility they need to develop and operate as teams.” The key to effective education,” they wrote, “rests with unleashing the productive potential already present in the schools and their personnel . . . granting them the autonomy to do what they do best...”<sup>3</sup> This idea of institutional reform was at the heart of the charter concept: Charter schools were meant to replace the districts’ exclusive franchise over education with a new power structure.

The first charter law, adopted in Minnesota in 1991, put school selection in the hands of students and parents. It also diversified public schools by permitting the creation of new ones outside the district exclusivity model. Up until then, most states had attempted to make improvements by restructuring existing schools and districts; these approaches had failed.

New entities, called sponsors, would establish and hold accountable charter public schools. Eventually the states with the strongest charter laws<sup>4</sup> would permit non-district entities, such as universities and cities, to sponsor charter schools. States with weak charter laws still allow district bureaucracies to establish and run charter schools.

In the 1990s, charter theory argued in favor of permitting contracting arrangements with other organizations, both non- and for-profit, that could execute on the vision of organizing bodies comprised of parents and teachers. These ideas were so powerful that 34 charter school laws including them were enacted between 1991 and 1998.

A small but influential set of state and national actors organically created the conditions for those charter school laws. With increasing national attention on charters and a new federal accountability framework pending (No Child Left Behind), pressures emerged for unified work. Although state laws required that

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<sup>3</sup> Chubb & Moe (1990), p. 2.

<sup>4</sup> Strong and weak laws are defined by the work I led at the Center for Education Reform as laws that have more independence from traditional education bureaucracies and which afford more autonomy to schools and their governing institutions and less, respectively.

all public schools, charter or not, should meet established academic standards, the charter sector was divided about the federal role. How would the new accountability mandate treat charter schools, creatures of state laws whose autonomy and governance varied depending on unique state charter laws? Major school reform donors, most notably the Walton Family Foundation (WFF) encouraged charter supporters to organize and coordinate one voice rather than offer competing perspectives on Capitol Hill. The seeds of isomorphism were planted.

As Congress finalized NCLB, one small group of charter school supporters noted a small clause in the law that had the potential for devastating impact. The clause would have forced charter schools to report, for the purposes of accountability, to traditional school boards instead of to their authorizers, thus exposing charter schools nationwide to additional, unnecessary and potentially hostile regulation. Though this small group of supporters worked to eradicate this clause, others ignored its potential impact. It should be noted that the perceived adverse impact of the disagreement was not fostered by congressional leadership concerned about discord; indeed they wanted to respect charter autonomy; but rather by other charter voices in the sector concerned that one voice might be more influential than others in the negotiations. Donors highlighted this incident as evidence of discord within the charter community and thus began a trend of coercive isomorphism.

WFF called for a “new national meeting of charter school leaders to discuss how the groups have and might operate better in the future, reflecting on the disagreement that occurred during the federal bill deliberations.”<sup>5</sup>

The result was a “coalition” called the *Charter School Policy Leadership Council* (“*the Council*”). The Council was intended to “enable and enhance regular, on-going communication among national organizations that support charter schools,” and to strengthen supporters’ “collective ability to effectively and forcefully represent the interests, well-being, and success of the charter movement as a whole ...” The Council was to communicate with a single or coordinated voice.<sup>6</sup>

Some were concerned: What if there came a time when a particular member or actor might not agree or seek to pursue a particular course? Would new approaches be welcomed as a positive disruption?

Dissension in the ranks was not kindly received. WFF became defensive in the face

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<sup>5</sup> C. Lund, personal communication, January 7, 2002.

<sup>6</sup> CSLC proposed MOU, personal communication, June, 2002.

of alternative opinions about how charters could best be supported nationally. It wanted a “strong, viable, national leadership culture,” and sought to quell group members that questioned the wisdom of such a move. Isomorphism celebrates unity, not diversity.

The Council morphed into a new umbrella organization, now the National Alliance for Public Charter Schools (NAPCS). The Alliance was created to speak for the charter school sector and ensure institutional coordination. It continues to be beholden to the demands of funders and an increasing group of peer organizations who seek to align their demands on state and federal lawmakers into one consistent set of principles and policies, rather than respect the unique character and diversity of laws and policies that made the charter school idea the spark to public education system change from its inception.

As the movement for charters became more institutionalized, funders also placed additional pressure on state level intermediary organizations to develop into additional formal state-based networks and associations, ensuring more effective support and advocacy on a state level. Each group had its own ideas about how best to achieve success. Yet national funders remain tied to the idea that these groups be institutionalized.

## The Growth of CMOs

Parallel to the institutionalization of the charter movement, a new class of non-profit charter school networks, Charter School Management Organizations (CMOs), arose. CMOs are groups of “replicated” schools run by one centralized group, or organization. Originally referred to as EMOs (Education Management Organizations) and modeled after HMOs (Health Management Organizations), CMOs garnered attention from prominent charter school donors.

Netflix’s Reed Hastings and New Schools Venture Fund’s John Doerr preferred CMOs; they saw value in scaling highly effective, leader driven schools. Some believed (and forcefully though not always correctly communicated to funders) that CMOs should replace single charter schools, often referred to as “Mom and Pop” charters. Donors also advocated for CMOs to be not-for-profit, as they felt they would have less influence over for-profit organizations. Eventually, donor support led to the primacy of a not-for-profit tax status in the CMO world.<sup>7</sup>

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<sup>7</sup> *National Charter School Research Project, 2007*

To create favorable conditions for further scale, CMOs created new centralized processes that focused on high educational standards and the hiring of quality staff. These foci helped them to gain legitimacy among politicians who were formerly hostile to charters. As Huerta and Zuckerman note, “by organizing centrally, CMOs can leverage their size and resources to help charter school principals and teachers overcome the entrepreneurial challenges of building and sustaining new schools in the complex environment of public education.”<sup>8</sup> But the delicate balance between organizational efficiency and local autonomy is hard to strike, and many CMOs have turned into large bureaucracies, dictating to their schools everything from instructional content and approach to governance and human resource development.

Because they are large non-profit organizations, many CMOs exist at the will of funders. This means that funders often influence what schools within these networks look like and how they operate. The Jaquelin Hume Foundation, for example, funds only institutions that support blended learning, causing many organizations to retool to reflect this priority. Other foundations fund only “no excuses” schools. Problematically, few investors will support a school unless it has a proven track record. Many organizational supporters of CMOs win a board seat with the CMO—sometimes more than one. This trend excludes the once prominent voices of parents and citizens. It shuts out unique voices and diverse ideas about the kinds of schools communities want to create. Indeed, many have argued that scrappy school leaders who took a risk and started some of the successful charters that have grown into the preferred CMOs of today might never have been approved under the current regulatory and funding environment.

## **Charter School Outcomes and Regulatory Creep**

The emergence of large-scale research about charters schools and CMOs has created more pressure for uniformity within the charter movement and inroads to further control the movement from the top-down.

Since the No Child Left Behind era, the federal government has been interested in supporting and expanding successful charter schools, where success is measured as student outcomes on standardized tests. The federal government, through the reauthorization of the Elementary and Secondary Education Act now known as the Every Student Succeeds Act (ESSA), has also led to the adoption of regulations aimed at closing “failing” charter schools.

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<sup>8</sup> *Huerta & Zuckerman (2009), p. 420.*

On its face, this type of federal involvement seems aligned with the origins of the charter school movement, at least in terms of accountability. But a closer look reveals that one large research study has exercised undue influence over which charters are held accountable and how.

Support for additional regulations aimed at closing failing charters stemmed from a flawed 2009 study by the Center for Research on Education Outcomes (CREDO) at Stanford University. The CREDO study claimed only one in five charters perform equal to or better than their public school counterparts. Following the study's release, lawmakers demanded accountability in exchange for further support of charters and CMOs. Despite criticism from seasoned and respected education researchers, the CREDO study, by virtue of the political influence it wielded, became accepted as fact.

The CREDO study was ambitious in that it tried to cover charters nationwide. But, because of its reach, researchers were unable to use what is considered the “gold standard” of education research, the randomized control trial (RCT), which compares outcomes for students who were offered a seat in a charter but chose not to attend to outcomes achieved by charter school students. Instead, CREDO compared charter school student test scores to those of their “virtual twins,” or demographic peers, in traditional public schools.<sup>9</sup>

And there are other problems. According to one prominent education researcher, the study “covers few years of a child’s education--three max. Given that school switching of any kind tends to yield a first year drop from which students need to recover, it is misleading to ask how a sector of schools is performing if one only looks at the initial years. The study finds that kids learn increasingly more in charters relative to TPS [traditional public schools] in years two and three. A fairer look at relative performance would have covered a school career for a kid and not just the early experience. And note, making matters worse, the sample of kids with one year of experience is larger than the multi-year experiences.”<sup>10</sup>

No matter its flaws, the CREDO study provided plenty of political fodder for charter school opponents. The American Federation of Teachers highlighted the study’s conclusion, based on flawed data, that “in most cases [charter schools] perform no better and are frequently worse than traditional public schools.”

The political answer to the CREDO study was for policymakers to create more

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<sup>9</sup> C. Hoxby, personal communication June 5, 2013.

<sup>10</sup> Chubb, personal communication, June 29, 2009.

top-down controls for charters. If the charter sector had not become more isomorphic in nature, other voices may have emerged to challenge the data, as well as the notion that state oversight and regulation leads to improved school quality. Instead, the sector silenced members that knew better, giving legitimacy to charter opponents.

The implications of CREDO's influence can be seen in many local charter sectors. The Philadelphia School Partnership boasts of funding high performing charter school seats and advocating for only those schools that are successful (mainly CMOs), based on district-developed data. Problematically, the data that define success in this case are developed by the Philadelphia School District, which competes with charter schools and is derived from flawed state formulas for assessing school quality.

In this case, the Philadelphia Performance Index is a complicated formula that relies largely on state-developed predictive growth measures, such that a school that increases achievement in math, for example, by 20 points over one year is actually credited only with how an average of that growth compares to where that student should be, regardless of where he started.

This is the same data kind of data that makes its way into researchers' hands and then leads to flawed conclusions about student outcomes. It is also data that drives legislation that funds "good" charters and closes "bad" ones.

But federal and state governments are not the only bodies responsible for the overregulation of the national charter sector. The National Association of Charter School Authorizers, one of the earliest members of the "X" Coalition, was formed to convene and share best authorizing practices, and has slowly emerged as what many consider the most bureaucratic of all groups in the field. NACSA pushes states to adopt their national performance standards, arguing that adoption of their standards in practice and law is the best way to assure school quality. It also demands that states open and close charter schools based on its accountability rubric.

NACSA advocates for state laws to constrain to its model. Once its principles and standards are codified into law, it secures contracts from states to administer those processes. Although strong charter laws allow for multiple and diverse authorizers, both NACSA and the NAPCS have endorsed arrangements, such as in the state of Washington, where a state commission empowered by a state education agency (a regulatory body) exclusively oversees charter schools.

Like NACSA, NAPCS also forces its vision onto the charter sector by touting standardization and regulation as a means to quality. Each year it ranks state charter school laws, rewarding states that encourage strong oversight roles for authorizers and sophisticated data collection models—a blatant nod to the value that the Association places test scores as an indicator of school quality. Alternatively, the system that we have used at the Center for Education Reform since 1996 ranks states on measures that reflect how laws impact families and schools in implementation and practice. In creating our system, we responded to a call to help state and local leaders understand that the best charter school laws allow for precisely the kind of freedom and autonomy that advocates and researchers believe necessary to ensure expansive and aspirational charter schools to open. To create the CER ranking system, we consulted experts and assembled peer review panels that leveraged founders and influencers in the early charter movement; among them, Center for School Change director Joe Nathan (MN), then MA Charter Resource Center founder Linda Brown, Charter Schools Development Center founder Eric Premack, an early influencer of California and other charter school laws. They and others supported the development of a rubric to score charter school laws based on 10 components, each ranked with points based on their impact of spurring the creation of truly autonomous but accountable charter schools.

Considering this difference in approach, it is not surprising that many of the states that NAPCS praises for strong laws don't fare as well on the CER rubric, and vice-versa. And CER's 2017 National Charter School Rankings and Scorecard reveal a disturbing trend – once strong laws now amended to include many of the charter trade association's demands—such as a high regulation and high standardization approach to opening and monitoring charters—are reducing growth and innovation.

This cannot stand. The notion that the state can standardize quality is a contradiction at best. As Kolderie argues, “The state does not deal with schools; it deals with districts. The state's job is not to run the schools. The state's job is to provide a workable system for those who do.”<sup>11</sup> And the extent to which the current system works is questionable; there are now striking similarities between the tensions districts experience from bureaucracy and those evident in scaling charter school organizations.<sup>12</sup> The drive of NACSA and others to coerce uniformity and therefore isomorphism in the charter sector has caused charter schools and networks to recreate the district structures they originally sought to avoid.

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<sup>11</sup> Kolderie (1990), p. 2.

<sup>12</sup> Huerta & Zuckerman (2009).



## Conclusion

Despite coming to life as a grassroots revolution, the charter school field is now far from its roots. This nascent sector faces the perils of isomorphism before it even occupies six percent of the total school-age population of the U.S., rendering the potential for greater impact all but lost unless these conditions change. The quest for legitimacy is pernicious.

Efforts by the charter sector to protect itself from bad actors are well-intentioned, but have resulted in the imposition of policies which restrict autonomy, the very element that provides the conditions for innovation. Risk-averse leaders demand evidence of accountability in exchange for support. They convince legislators to enact laws that codify “investigations” and procedures for violations of law, the exact same regulatory language that created a public school system more focused on compliance than outcomes and the antithesis of charter *raison d’être* - that freedom breeds more accountability for results, while compliance driven Hobbesian oversight breeds mediocrity at best. The charter sector is made up of thousands of people who were not at the proverbial table where the first laws and schools were created, and they do not seem to know or appreciate the genesis of how districts came to be bureaucratically focused on accounting for inputs and behaviors, versus parental demands and student outcomes. Thus, without context, the sector is conditioned to accept the mimetic pressure to own its own failures and accept more government regulation masquerading as accountability as a result. An independent minded sector might look more deeply into the data, as well as question the variable results. It might foster further deliberation about the real effects of various kinds of laws and governing structures. If it could do these things, it might resist the isomorphic demands for greater uniformity. And it might embrace the vision that originally stimulated charter reforms.



# A Conflict of School Choice Visions

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## The Original Vision

While the opposition to charter schools by teachers' unions is well known, perhaps very few outside of the education policy bubble are aware that the original vision for charter schooling was articulated by the President of the American Federation of Teachers, Albert Shanker. He made national news by articulating his vision for a new arrangement for public education at the National Press Club in 1988:

*Do not think of a school as a building, and you can see how it works. Consider six or seven or twelve teachers in a school who say, 'We've got an idea. We've got a way of doing something very different. We've got a way of reaching the kids that are now not being reached by what the school is doing.' ... The school would announce in advance to the community what it is that it's trying to achieve and announce how it's going to test it, how it wants to prove what it can do. And then, finally, it would also admit something: that we really do not know just how to reach the 80 percent of these kids; that nobody has ever really educated all of them, and that therefore we are engaged in a search.<sup>1</sup>*

At times, charter advocates point to Shanker's support for charter schooling as proof that their policy agenda is right on the merits, and that it's simply self-interest that has driven the teachers' union turn against charters. But Richard Kahlenberg, a senior fellow at the Century Foundation and biographer of Albert Shanker, has pointed out that charter schooling in practice betrayed three key elements of Shanker's vision.<sup>2</sup> First, Shanker had envisioned charters as smaller laboratories of initiative and innovation that would be set administratively within a public school district and often physically within public schools; he did not envision whole new independent schools that would compete with traditional public schools. Second, Shanker expected that charter schools would be unionized, allowing "teacher voice" and collective decision making to guide all practice; he did not envision that one of the defining features of charter schools would be their non-unionized workforce. Third, Shanker envisioned the unique instruction offered in charter settings as a tool for racial and economic integration; he did not envision that

<sup>1</sup> Albert Shanker, *National Press Club Speech, March 31, 1988*, <https://reuther.wayne.edu/files/64.43.pdf>.

<sup>2</sup> Richard Kahlenberg, "Restoring Shanker's Vision for Charter Schools," *American Educator*, Winter 2014-15, <https://www.aft.org/sites/default/files/kahlenberg.pdf>.

charter schools would make it their express mission to serve primarily low-income students of color.

## The Contemporary Vision

Still, charter advocates are broadly comfortable with the developments that made Shanker disillusioned. They see a moral imperative in delivering a better education to the most disadvantaged students. They see the administrative and personnel flexibility as a key to forming distinctive school cultures and delivering better instruction. And as they see little hope in reforming public schools from within, establishing whole separate competing institutions is an obviously necessary and proper development. Indeed, one could fairly summarize charter advocates' contemporary vision for charter schools as follows:

“Charter schools are public schools that drive higher academic outcomes, especially for low-income students of color.”

This is a coherent and, to many, compelling vision for the role of charter schools. And every plank of the policy agenda offered by charter advocates is well suited to further this vision. But this vision is also quite substantively different from some of the most striking elements of Shanker's original vision; i.e., chartering as a mechanism for small groups of teachers to form distinctive and diverse communities of learning in a quest to reach students who are disengaged within the confines of the traditional public model. What's more, the main planks of the contemporary policy agenda all serve to further marginalize Shanker's dispersed/diverse vision of chartering even as they help to strengthen and consolidate the charter sector under advocates' contemporary vision. We will first discuss the four primary policy planks of the contemporary charter agenda, then demonstrate how they marginalize the possibility of a more dispersed/diverse and robust sector.

## The Charter Movement's Four Primary Policy Planks

The following is simply an attempt to distill the key elements of the charter agenda as they have struck one analyst. Due to the profound differences that characterize charter sectors from state to state, attention has been focused on the major national charter organizations that attempt to set the terms of the policy debate across the country. Categorizing the planks as follows should generate little controversy.

### **Plank One: Charter Schools Should Serve Primarily Low-Income Students of Color**

This proposition not only implicit in every claim offered by the cadres of reformers who claim that education reform is the “civil rights issue of our time,” it is also an explicit value-statement offered by the National Alliance of Public Charter Schools. The Alliance ranks the “Health of the Charter Public School Movement” annually, evaluating state policy and practice.<sup>3</sup> The alliance proffers the following value statements for a state’s charter sector:

- It is preferable for charter public schools to serve a slightly higher percentage of historically underserved students (i.e., racial minorities) than traditional public schools.
- It is preferable for charter public schools to serve a slightly higher percentage of historically underserved students (i.e., free and reduced-price lunch students, special education students, and English learner students) than traditional public schools.
- It is preferable for charter public schools to serve a slightly higher percentage of historically underserved students (i.e., nonsuburban) than traditional public schools.

### **Plank Two: Charter School Success Should be Defined Primarily by their Test Scores**

The notion that charter school success should be justified in terms of test score gains hardly needs justification. Most every favorable article about charter schools will point to the comparative standardized test scores between charter and public schools in a given city or state. Charter schools whose students post lower test scores than comparable students in public schools are broadly seen as under-performing. The National Alliance also ranks states based on the academic performance of their charter sectors, giving additional days in reading and math an equal weight to the racial and socio-economic composition of the student body.

### **Plank Three: Authorizers Should Approve Charters Based on Likelihood of Raising Test Scores**

The National Alliance for Charter School authorizers encourages its constituents

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<sup>3</sup> National Alliance for Public Charter Schools, “Health of the Movement Index,” <http://www.publiccharters.org/chartermovement/>.

to set up a high barrier to entry and screen prospective applicants on the basis of projected test scores. The very first principle of NACSA's "Principles and Standards for Charter School Authorizing," is that, "A quality authorizer 'Sets high standards for approving charter applicants.'" While the guidelines encourage authorizers to thoroughly vet applicants across a number of categories, they are very clear that an authorizer must, "Establish the performance standards under which schools will be evaluated, using objective and verifiable measures of student achievement as the primary measure of school quality."<sup>4</sup>

### **Plank Four: Authorizers Should Close Charter Schools that Post Low Test Scores**

NACSA has established the "One Million Lives Campaign," which "was launched in 2012 to engage authorizers and a broad coalition willing to close failing charter schools and open many more good ones."<sup>5</sup> Within five years, the goal is to affect one million students either by opening or closing charter schools – implying a moral equivalence between launching and closing charter schools. NACSA also ranks state charter laws, and strongly encourages states to adopt "default closure" provisions, which would automatically close charter schools that post low results on state tests for multiple years in a row. According to their "Comprehensive Guide to Charter School Closure," default closure provisions are necessary because often when an authorizer tries to close a charter school, "Parents will protest. School leaders and governing boards will take you to court. Elected officials and community leaders will try to intervene." So, "The idea behind default closure is that political pressure should not be allowed to prevent or delay accountability for failure."<sup>6</sup>

## **Tradeoffs of the Four Primary Planks**

The purpose of this analysis is not to prove that these planks are misguided. Indeed, if the goal is to create a charter sector full of schools that broadly resemble traditional public schools but post greater test scores, especially for students from disadvantaged backgrounds, then these policies are all quite prudent. If you encourage policymakers to favor charter schools to set up shop in low-income

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4 National Alliance for Charter School Authorizers, "Principles and Standards for Charter School Authorizing," <http://www.qualitycharters.org/for-authorizers/principles-and-standards>.

5 National Alliance for Charter School Authorizers, "One Million Lives Campaign," <http://www.qualitycharters.org/about/one-million-lives/>.

6 Ed. Kim Wechtinher et. al, "Accountability in Action: A Comprehensive Guide to Charter School Closure," [http://www.qualitycharters.org/wp-content/uploads/2016/01/AccountabilityInAction\\_AComprehensiveGuidetoCharterSchoolClosure.pdf](http://www.qualitycharters.org/wp-content/uploads/2016/01/AccountabilityInAction_AComprehensiveGuidetoCharterSchoolClosure.pdf).

neighborhoods, tell authorizers to screen diligently for prospective academic outcomes, and automatically shut down low performers, you will almost certainly raise the net test scores of that sector. But all policies contain tradeoffs, and it is worth taking each of these planks in turn to consider what may be lost as we try to achieve higher net achievement. Taking each in turn:

### *The Downside of Default Closures*

There are two obvious side effects of default closures. The first is that the policy may close a charter school that offers students and parents something they would otherwise lack at neighboring public schools (which might not necessarily post stronger test results either). The second is that the policy may discourage schools from attempting serve the hardest-to-serve students in ways that may be quite needful, but that wouldn't necessarily translate to test score gains.

Very little scholarly work has been done assessing default closures, and charter advocates seem to actively discourage any inquiry into it. As a result, we can only feel our way around this issue by anecdote. For example, I offered one such anecdote in a profile of Rainshadow Charter High School for The 74, pointing out that it had been at risk of closure due to low graduation rates (based on a four-year cohort analysis of a student body that entered severely credit deficient) and was facing possible closure due to financial difficulties and authorizer suspicion. I proffered, "If charter school advocates aren't conscientious, their efforts to strengthen the charter sector will make it as inhospitable to schools like Rainshadow as the public school system was to students like Yasmin and Jack, and to all of the kids who need, and deserve, something different."<sup>7</sup> In response, Greg Richmond, the president of NACSA, wrote, "The 74's story on Rainshadow reveals a disturbing trend among some charter school advocates. ... These are the same arguments that defenders of failing schools have been making for decades. There should be no place in the charter school community for them."<sup>8</sup>

We know next to nothing about the number or nature of charter schools that have been closed due to low-test scores in the face of high parent demand. In a debate between U. Arkansas professor Jay Greene and Fordham Institute president Michael Petrilli on how reasonable it is to rely solely on test scores when closing charter schools, Petrilli asked Greg Richmond how many charter schools with

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7 Max Eden, "Rainshadow: A Haven for NV's At-Risk Teens Now Finds Itself At-Risk for Closure," *The 74*, May 1, 2016, <https://www.the74million.org/article/case-study-rainshadow-hs-a-haven-for-nevadas-at-risk-teens-now-finds-itself-at-risk-of-closure>

8 Greg Richmond, "Are Charter School Standards At Risk From Within?", *The 74*, May 2, 2016, <https://www.the74million.org/article/greg-richmond-are-charter-school-standards-at-risk-from-within>.

waitlists had been closed due to test scores. Richmond replied, “I have to believe that hundreds of schools with wait lists have been closed.... Would we recommend keeping an academically failing school open because it has a wait list? No. Or ‘Hell no.’”<sup>9</sup>

Given that we do not even know how many schools with high parent demand have been closed due to low test scores, we certainly have very little qualitative insight into the perceived merits of the schools that have been closed. It could well be the case that many of these schools posted comparable academic results as their neighboring public schools, while offering a much physically safer and more emotionally nurturing environment than the public schools that parents chose to take their children away from.

But we only have anecdotes for analysis. We can only speculate about the disincentive effect of automatic closure policies on educational entrepreneurs who would want to try an approach to reaching disadvantaged children that prioritized socio-emotional improvement over reading and math instruction.

### *The Downside of High Barriers to Entry*

We can also only speculate how many such efforts have been rejected by charter school authorizers who have been encouraged only to authorize the most promising applicants based on their projected ability to raise reading and math test scores. Fortunately, while there’s been little to no analysis of charter closure, there has been more analysis on charter authorizing practices. Dr. Michael McShane conducted an in-depth analysis entitled, “The Paperwork Pileup: Measuring the Burden of Charter School Applications.”<sup>10</sup> By his estimate, charter school applicants could be saved over 700 hours if charter authorizers would streamline the application forms. However, McShane also found that many authorizers believed that the arduous application process would help weed out weaker applicants.

However, as Dr. McShane points out, it’s by no means clear that lengthy applications help ensure quality rather than encourage paperwork puffery, and it’s also not clear that folks who consider applying and choose not to due to the thousand hours necessary to fill out the paperwork wouldn’t have been outstanding school leaders. As McShane points out, people can always sit out. While the opportunity cost is impossible to reliably assess, it is noteworthy that according to NACSA the average

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<sup>9</sup> Michael Petrilli, “Test Scores Don’t Tell Us Everything But They Certainly Tell Us Something,” Fordham Institute, May 5, 2016, <https://edexcellence.net/articles/test-scores-dont-tell-us-everything-but-they-certainly-tell-us-something-about-school>.

<sup>10</sup> An excerpt of the report can be found in this volume.



number of charter applications received by large authorizers has fallen by half from 2011-12 to 2014-15 (from 18.3 to 9.8).

A fruitful area for further research would be to code the acceptance/rejection decisions of charter school authorizers based on the specialized (or non-specialized) nature of the applicants. More than half of charter schools make no particular effort to differentiate themselves from traditional public schools; it would be interesting to ascertain whether prospective specialized schools are being rejected at higher rates by risk-averse authorizers who prefer to accept traditionally modeled schools that hold more promise for raising reading and math scores.

### *The Downside of Focusing on Test Scores*

The upside of focusing on test scores is clear; the downside is purely speculative. But as Doug Harris, a professor at Tulane University and Director of the Education Research Alliance for New Orleans, noted,

“There hasn’t been as much actual innovation as maybe the original charter folks hoped. ... [W]hen you have intense test based accountability it really restricts what you can do and to what degree you can innovate because you have to put so many of your resources towards the same end. There are only so many ways to make test scores go up. So, I think that really restricts what they can do.”<sup>11</sup>

According to the National Alliance for Public Charter Schools, only 45% of charter schools make a clear effort to distinguish themselves based on their curriculum, instruction, or school mission. As Harris speculates, it’s likely that the drive to post higher reading and math scores on standardized tests is a large part of the reason why we’ve seen less innovation than many may have hoped.

### *The Downside of Focusing on Low-income Students of Color*

The focus of charter school advocates on serving low-income students of color has helped to galvanize the passions of a generation of mission-driven reformers and educators. But that focus has also come at a political cost that is becoming increasingly clear. The often explicit racial focus of the charter sector has bred concerns about segregation, as several African-American advocacy organizations, most notably the NAACP and Black Lives Matter, have called for a moratorium on charter schools which they see as specifically “targeting” the black community.

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<sup>11</sup> Brookings Institute, “Examining Charter Schools in America,” April 26, 2016, [https://www.brookings.edu/wp-content/uploads/2016/04/20160426\\_charter\\_schools\\_transcript.pdf](https://www.brookings.edu/wp-content/uploads/2016/04/20160426_charter_schools_transcript.pdf).

On the other hand, the lack of buy-in from the middle class threatens the charter sector's long-term expansion prospects.

## A Conflict of Visions

Each plank of the contemporary charter school policy platform is well designed to achieve its intended end. But each element also serves to take the charter sector further and further away from the original vision of Albert Shanker. Whereas Shanker asked us to “not think of a school as a building,” charters are now assumed to look just like public schools yet operate slightly differently. Whereas Shanker had envisioned charters as an avenue for a handful of teachers to take the initiative and teach according to their own ideas, the application process is so onerous and the risk aversion so strong that charters are more likely to be the result of a larger group of educators and administrators with, perhaps, a slightly different spin on a traditional school. Whereas Shanker had hoped that chartering could be a way to provide a better education for the 80 percent of students who were disengaged by traditional public schools, it's now seen as a way to reach the disadvantaged rather than the disengaged.

No doubt, maybe charter advocates are conscious of the tradeoffs and are confident that they have steered the sector in the right direction. But others may be less aware that the reigning vision comes at an opportunity cost. It's unlikely that the self-anointed national stewards of the movement will change their tack, but enterprising policymakers and leaders in some states could opt to chart a different course. Charter schools could serve more students in more communities in more ways if states were to decide to chart a different course.

## An Originalist Agenda

If state leaders wanted to chart a different course, they would need a very different agenda from the one currently on offer from national education reform organizations. The following is not intended as an exhaustive list, but the following items would be a start:

*Carefully examine efforts to raise a state's “score” on an advocacy rankings list.*

NACSA ranks each state annually based on its charter authorizing law. It scores states on whether they require authorizers to formally sign onto “state standards

that meet or exceed NACSA's Principles & Standards for Quality Charter School Authorizing," whether the state conducts authorizer evaluations, and whether it has a default closure provision. Each of these provisions encourages a particular regulatory regime that is more conducive to academic homogenization than educational diversity.

*Say that #AllKidsMatter and mean it.*

State leaders could broaden out the discourse on education reform beyond an exclusive focus on low-income urban students and make the case for reforms that could help all students from all backgrounds. While there are some reform policies (such as course access) that could be pulled fresh off the shelf, broadening the charter sector to make it something that suburban parents could imagine having a stake in would require several changes in the state charter law.

*Allow a more diverse range of authorizers.*

States vary widely in the number and nature of authorizers that they allow. Enabling more organizations, from institutes of higher education to non-profits to city governments, to authorize charter schools would engage a broader swath of civil society in charter schooling. The diversity of authorizers would help encourage a broader diversity in applicants, and a broader diversity in educational offerings.

*Encourage authorizers to enable a raft of smaller school ventures.*

The assumption on charter schools is that they will be schools. Applicants often promise to serve hundreds of students from Day 1, and authorizers are encouraged to set a five-year time horizon for re-authorization once it can be ascertained whether the charter school will be stable and consistently high-performing. But these assumptions and practices are less well suited to a vision of chartering as a mechanism for smaller groups of teachers to take on smaller groups of students. Authorizers should be encouraged to accept applications that are less expansive in scope, and consider shorter reauthorization timelines to assess whether these pilot programs are fruitful and sustainable.

*Use standardized tests as a floor, not as goalposts.*

As discussed earlier, charter authorizers are being asked to consider high academic performance based on standardized tests as the central element for evaluating

charter school operations. Often, charters that deliver comparable test scores to neighboring public schools are considered failures. A larger number of authorizers overseeing smaller charter arrangements would be better able to look beyond test scores to see whether a charter is delivering unique value to the students that it serves. While test scores may be useful in spotting dysfunction, they should not necessarily be used as the north star of charter oversight.

### *Consult parents before closing a charter school.*

Charter authorizers will always have a role to step in and close failing schools. But low-test scores are not always necessarily a sign that the school is failing. While low-test scores should trigger enhanced authorizer scrutiny, before making a final decision an authorizer should also conduct a robust program of engagement with parents and students. One proposal, currently “model legislation” for the American Legislative Exchange Council, the Student and Family Fair Notice and Impact Statement Act would require authorizers to conduct parent surveys and analyze the impact of school closure on charter students. Whether or not this particular proposal strikes the proper balance, test scores should be weighed against parental preferences in any closure decision.

## **Conclusion**

There would, of course, be tradeoffs in pursuing the originalist agenda. Reducing the regulatory emphasis on test scores would likely also reduce the comparative advantage of the charter sector on measurable academic achievement. Increasing the number and diversity of charter school authorizers may open more space for bad actors and scandals. Allowing a greater number of smaller charters may make policymakers generally uncomfortable. The originalist path is not necessarily the idea; but it is an idea that has been lost sight of. Charter advocates may say that the sector has “matured” beyond the original vision. But there may be states where Shanker’s original vision sounds more exciting and appealing than the vision of today. On its current course, we will see charters expand at the steady pace of a few hundred schools a year, and perhaps within the next decade they will grow to serve 10 percent of American students. But Shanker’s original vision was more open and even more ambitious. To him, charter schooling was a way,

“...Not of shoving things down people’s throats, but enlisting them in a movement and in a cause. I believe that this proposal will take us from the point where the number of real basic reform efforts can be counted on the fingers of two hands to a

point where, if we meet here again a few years from now, we'll be able to talk about thousands and thousands of schools in this country where people are building a new type of school that reaches the overwhelming majority of our students.”

In some states, that might sound like a more appealing vision than what we seem set for under the contemporary policy vision and prescription. And in a nation as large and diverse as the United States of America, it would be exciting to see some states go back to the future for inspiration on charter schooling.

**SECTION TWO:**

**Overregulation In  
Practice: Regulatory  
Burden**



Slow to grow at first, charter school enrollment increased rapidly at the turn of the century, though it has leveled off in recent years. Gold-standard research in local charter sectors has also found charter schools to be successful, particularly with students from low-income backgrounds.<sup>1</sup>

This is the happy part of the story. But creeping bureaucratization and regulation are endangering the entire charter school movement. Examples are plentiful:

- Across the country, the length of charter school applications is growing; creeping paperwork paralysis is one way public schools lost the ability to innovate.
- In many states education leaders do not exempt charter schools from statewide teacher evaluation systems. Even though charter schools might be staffed differently, or value different criteria, they still have to use the same measurements to evaluate their teachers.
- In New Orleans, the city with the largest charter school market share, charter schools have been pressured to adopt a standardized discipline system, and a standardized enrollment procedure—standardization in most forms inhibits innovation.

In each of these cases, well-intentioned central planners have tried to bring about their particular idea of efficiency, effectiveness, and fairness. But if this creeping regulatory impulse is left unchecked, it's all too possible that the high achieving charter school of today could become the failing public school of tomorrow.

It is crazy to think that the same worn out processes will all of a sudden produce new results. Public oversight for the use of public dollars is understandable and appropriate, but we must remember that if unchallenged, agents of “oversight” will inexorably bureaucratize charter schooling, morphing it into the same system for which it was envisioned to be a substitute. If we're unhappy with the way schools are performing, we should avoid trying to constrain charters the way we have hamstrung district public schools. It is time to try something different.

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<sup>1</sup> Here, “gold-standard research” refers to randomized control trials, or studies that compare actual charter school students who applied to and were granted admission to a charter via a lottery to students who applied to the lottery but did not win a seat in a charter school. Some of those studies are: Angrist, Joshua, Pathak, Parag, A., and Walters, Christopher, R. (2013) “Explaining charter school effectiveness,” *American Economic Journal: Applied Economics* 2013, 5(4): 1-27;; Hoxby, Caroline, M, Muraka, Sonala, and Kang, Jenny (2009) “How New York City’s charter schools affect achievement,” Cambridge, MA; Setren, Elizabeth (2015) *Special Education and English Language Learner Students in Boston Charter Schools: Impact and Classification*, Massachusetts Institute of Technology..





# The Paperwork Pile-Up

## Measuring the Burden of Charter School Applications

*Michael Q. McShane, Jen Hatfield & Elizabeth English  
American Enterprise Institute*

For more than 30 years, leaders have called for major improvements to America's education system. In 1983, *A Nation at Risk* declared that "The educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a nation and a people."<sup>1</sup> In 1996, Bill Clinton argued that "We should reward the best schools, and we should shut down or redesign those that fail."<sup>2</sup> In 2000, George W. Bush decried "the soft bigotry of low expectations" in American education.<sup>3</sup> In 2007, presidential candidate Barack Obama said he would "not accept an America where we do nothing about six million students who are reading below their grade level."<sup>4</sup>

Despite all this talk, only 35 percent of US fourth graders and 36 percent of eighth graders were reading at grade level in 2013, when only 42 percent of fourth graders and 35 percent of eighth graders were doing math at grade level.<sup>5</sup>

It is not crazy to think that we need bigger, more comprehensive solutions. It is also not crazy to argue that America's education system, as currently constituted, struggles with making large, bold, and sustained improvements. Hardworking and talented educators who want to do right by kids are often thwarted by an incoherent bureaucracy, a culture that rewards compliance over innovation, inflexible work rules, ossified collective bargaining agreements, and piles of paperwork.

Frustration with this system and the ways it stifles efforts to create rich, rewarding, and rigorous schools was the catalyst for creating charter schools. Charter schooling seeks to give individuals and organizations room to create schools freed

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<sup>1</sup> National Commission on Excellence in Education, "A Nation at Risk: The Imperative for Educational Reform," April 1983, [www2.ed.gov/pubs/NatAtRisk/index.html](http://www2.ed.gov/pubs/NatAtRisk/index.html).

<sup>2</sup> William J. Clinton, *Between Hope and History* (New York: Random House, 1996), 44.

<sup>3</sup> George W. Bush, "Text: George W. Bush's Speech to the NAACP," transcript, *On Politics*, July 10, 2000, [www.washingtonpost.com/wp-srv/onpolitics/elections/bushtext071000.htm](http://www.washingtonpost.com/wp-srv/onpolitics/elections/bushtext071000.htm).

<sup>4</sup> Barack Obama, "Our Kids, Our Future," November 20, 2007, [www.presidency.ucsb.edu/ws/index.php?pid=77022](http://www.presidency.ucsb.edu/ws/index.php?pid=77022).

<sup>5</sup> National Assessment of Education Progress, "What Level of Knowledge and Skills Have the Nation's Students Achieved?" 2013, [www.nationsreportcard.gov/reading\\_math\\_2013/#/what-knowledge](http://www.nationsreportcard.gov/reading_math_2013/#/what-knowledge).

of the bureaucratic rules, regulations, norms, and culture that have stymied their traditional public school counterparts.

Nevertheless, many prospective charter school operators are facing the same types of bureaucratic hoop jumping that plague administrators at traditional public schools. Charter applications have become larded up with inappropriate and onerous requests.

In Colorado, a prospective charter school operator must present a document that describes exactly what the school will do if a student forgets his or her lunch. In Louisiana, operators must provide descriptions of a tough decision that each board member has made in the past. In Connecticut, prospective operators must create, and describe for the authorizer, a peer-mentoring program for their teachers.

It is easy to imagine that more rules promise more safety. In reality, experience in education and elsewhere teaches that the length of a charter school application does not necessarily make it any more rigorous or offer more assurance of quality. What's more, padding applications with unnecessary requests is not a victimless crime. It wastes the time, energy, and money of prospective school leaders, and it risks crowding out smaller groups that do not have the time, staff, or resources to complete the application.

We are not the only people who try to think about the costs of regulations for startup organizations. For years, the World Bank has released its "ease of doing business" rankings for countries around the world, measuring how many hurdles entrepreneurs face in trying to start or operate businesses, such as getting credit, paying taxes, registering property, and obtaining construction permits. It summarizes these hurdles by listing the number of procedures, overall amount of time, and cost of starting a new business in each country.

At the top of the list, countries like New Zealand and Canada require only one step, which can take as little as half a day to complete. At the bottom, Cambodia, Equatorial Guinea, and Venezuela have as many as 18 steps, which can take more than 100 days to complete. When the costs are all accounted for, starting a business in one of these nations can cost 2.5 times the national per capita GDP. By comparison, compliance with regulations costs a business in New Zealand around 0.3 percent of national per capita GDP.<sup>6</sup>

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<sup>6</sup> World Bank Group, "Starting a Business," 2015 [www.doingbusiness.org/data/exploretopics/starting-a-business](http://www.doingbusiness.org/data/exploretopics/starting-a-business).

The New York City Charter School Center home page lists the amount of time from submitting a request for proposal to obtaining approval from the board of regents at just over six months, not counting the amount of preparation time necessary for the application.<sup>7</sup> Even if we simply look at the time from the request for proposal to the application due date, it is more than 90 days, or right around the amount of time it takes to start a business in recently post-military-junta Myanmar.

Our analysis finds that excising requirements that are clearly inappropriate could shorten the average charter school application by at least one-third without sacrificing the authorizers' ability to ensure quality. In a process that, according to one charter operator, takes a team of six people two months to complete, this change could recover more than 700 hours of work. The money and effort trimmed from charter applications could be much better used to educate students.

In 2011, the Thomas B. Fordham Institute released *Charter School Autonomy: A Half-Broken Promise*, an analysis of the autonomy of charter school authorizers across the country. Of note, it found that almost 95 percent of charter schools faced certification requirements for their teachers (caused by how states interpreted the No Child Left Behind Act's Highly Qualified Teachers requirements), and more than 50 percent fell under restrictions related to how charter schools must establish their governing board, choose providers for special education services, or participate in the state's retirement system.<sup>8</sup> The amount and manner of such regulations have costs.

But we want to do more than measure operational autonomy. We wish to offer a principled vision of charter school authorizing and a measurement of how well authorizers are currently living up to it. In the following sections, we will describe what authorizers should and should not do, discuss how current requirements help or hinder the authorization process, and offer recommendations that will help ensure that charter school applications yield quality schools that are not overburdened by regulations.

## The Dos and Don'ts of Charter Authorizing

To be clear, our call to slim down charter applications is not a call to remove

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<sup>7</sup> World Bank Group, "Starting a Business," 2015 [www.doingbusiness.org/data/exploretopics/starting-a-business](http://www.doingbusiness.org/data/exploretopics/starting-a-business).

<sup>8</sup> Dana Brinson and Jacob Rosch, *Charter School Autonomy: A Half-Broken Promise* (Thomas B. Fordham Institute, May 2010), [http://edex.s3-us-west-2.amazonaws.com/publication/pdfs/Charter%20School%20Autonomy%20-%20May%202010\\_8.pdf](http://edex.s3-us-west-2.amazonaws.com/publication/pdfs/Charter%20School%20Autonomy%20-%20May%202010_8.pdf).

necessary safeguards for children and taxpayers in the authorizing process. Charter authorizers play an important role as gatekeepers, and the application process is a meaningful exercise that helps operators think through their plans.

Instead, in our effort to provide a principled vision for charter school authorizing, we would differentiate information that authorizers are justified in asking for from information that is irrelevant, inappropriate, or outside the scope of authorizers' expertise.

It is important to keep in mind that authorizers do play an important role. Acting in that role, authorizers should:

1. Establish clear performance benchmarks and hold schools accountable for meeting them.
2. Review applicants' governance, organizational, financial, and academic proposals to judge whether they are capable of meeting the agreed-upon goals.
3. Ensure that schools comply with all applicable laws and conform to norms of financial management.
4. Strive to be parsimonious in their applications by only asking for necessary information.

These ideas are not new. From the earliest writing on charter schools in the 1980s and 1990s, operating a charter school has been viewed as a "charter bargain," or a trading of autonomy for accountability. Albert Shanker, the longtime head of the United Federation of Teachers in New York, is credited by many as being the father of charter schooling. In a 1988 speech at the National Press Club decrying much of the standardized testing and bureaucracy that arose after the publication of *A Nation at Risk*, Shanker offered an alternative vision of schooling:

*Consider six or seven or twelve teachers in a school who say, "We've got an idea. We've got a way of doing something very different. We've got a way of reaching the kids that are now not being reached by what the school is doing." That group of teachers could set up a school within that school which ultimately, if the procedure works and it's accepted, would be a totally autonomous school within that district.<sup>9</sup>*

Shanker believed that, when removed from bureaucracy and micromanagement but held in check by a performance contract, small groups of teachers could design

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<sup>9</sup> Albert Shanker, "National Press Club Speech," March 31, 1988, <http://reuther.wayne.edu/files/64.43.pdf>.

schools in ways that would reach students underserved by the traditional public school system.

So what would such oversight look like? Let's look at each facet in turn.

First, authorizers must clearly articulate and subsequently hold charter school operators accountable for meeting agreed-upon performance goals. That is pretty obvious because it is spelled out in the schools' charter.

Second, authorizers should act as a front-end screen to weed out schools that have no business educating children. To make this determination, authorizers can reasonably ask for evidence of the curriculum the school is going to use, look into the board or management organization charged with overseeing the school, or review the school's staffing plan.

Third, authorizers have a responsibility to taxpayers above and beyond ensuring that schools meet academic standards. As the conduit of public funds, authorizers must ensure that taxpayer dollars earmarked for charter schools will be used to educate students. Government is rife with examples of fraud and theft, and careful review of financial plans and budgets can help prevent malfeasance. The same is true for legal compliance: authorizers have an obligation to students, families, and taxpayers to be sure charter schools comply with all applicable laws.

Fourth, however, in the pursuit of these important and reasonable ends, authorizers should also strive to be parsimonious, asking only for the information that is absolutely necessary to decide whether to grant or withhold a charter. Charter applications tend to run off the rails when, in addition to requiring information about academic programs or financial metrics, authorizers seek lengthy narratives to justify particular choices or request granular details on elements of school operation. Such details—for example, a school's food service plan—are likely to change as the school prepares to open. What's more, long narratives are prone to puffery and add little to authorizers' understanding of what schools are actually going to do. Applications should focus on the "what" of operators' plans and leave the "why" and "how" alone.

As important as it is to articulate what authorizers should do, it is just as important to enumerate what they should not do. Authorizers should not:

1. Fancy themselves venture capitalists;
2. Assume the role of management consultants;

3. Think they are pedagogical or curricular experts; or
4. Feel entitled to tack pet issues onto applications.

With regard to the first point, charter school authorizers are not venture capitalists for several reasons. First, venture capitalists and charter authorizers assume totally different financial risks. Venture capitalists invest their own money into nascent ventures with the hope that those ventures will grow and make a large return on seed money. This is why venture capitalists conduct market analyses: to try to predict growth and assess the ability of a product to fit a market niche. In contrast, the motivation of a charter authorizer is one of quality control. Whether parents choose to enroll their children in the schools is up to them.

Venture capitalists are also not gatekeepers; in fact, they generally boost organizations that already exist. They do not have veto power over existing startups. In reality, most startups grow and prosper without venture capital. If the only startups allowed to exist were the ones in which venture capitalists invested, we would see far fewer of them. Although it is understandable that charter authorizers might see themselves as being charged with a public investment, they cannot be as selective as venture capitalists.

Second, charter school authorizers are not management consultants. Just as authorizers should not see themselves as public education's Marc Andreessen or Peter Thiel, they should also avoid taking on the role of a Boston Consulting Group, Bain & Company, or McKinsey & Company. Part of the autonomy provided to schools in the charter bargain is in the operators' ability to manage their schools in the ways they see fit.

The more heavy handed the authorizer is in prescribing the types of models that it will and will not authorize—such as staffing plans, professional development models, faculty meeting schedules, and so forth—the less room charter schools have to create innovative structures that could benefit students. If charter school operators want guidance on these plans, they can and should solicit the expertise of management consultants, not authorizers.

What's more, management consultants are usually brought into old and ossified organizations to give them a breath of fresh air and new and better routines and practices. There is a reason you don't see startups outsourcing their growth and development plans to big consulting firms—firms generally have set ideas that would inhibit the flexibility of a young, mission-driven organization. Too tightly imposing a vision of what a school should look like risks stifling innovation, just like

imposing McKinsey's management ideas on a young startup.

Third, charter school authorizers are generally not curricular or pedagogical experts, and they should not pretend to be. If authorizers believe they have great ideas for curricular or instructional approaches, then they are welcome to operate their own schools. It is perfectly reasonable of authorizers to ask for a broad overview of a school's curriculum plan, but requiring detailed narratives and justifications is a step too far. If authorizers think a given reading program is reasonable, is it really important why it was chosen? Are authorizers in a position to make determinations about minute details of pedagogy, particularly when many are not educators or education researchers? We don't think so.

Fourth, charter school applications are not an invitation for authorizers to tack on their pet issues. Many charter applications today seem to be repositories for every charter board member's or state legislator's particular interest. Often, these requirements are included because it is more politically expedient to include everything than to determine the appropriateness of each requirement. However, this decision transfers the burden to applicants, who in turn must invest additional time and energy into fulfilling needless requirements. There is simply no need for schools to elucidate every minor detail of their policies or procedures (such as what they will do if a student forgets his or her lunch). Likewise, authorizers should not try to foist particular methods of professional development, instruction, or administration onto schools that are meant to be autonomous.

## **Charter School Application Requirements**

After coding each of the requirements in applications from 40 charter authorizers, we found that while a plurality (43 percent) of the application requirements were clearly appropriate for authorizers to include, the majority of requirements were either unnecessary (34 percent) or clearly inappropriate (23 percent). This means that authorizers could shorten the average application by at least one-third without sacrificing their ability to ensure quality—a change that could save applicants more than 700 hours of work, based on interviewed school leaders' estimates of the amount of time it takes to complete a charter application. Interviews and application data point to a handful of lessons about charter school authorizing.

## **Lesson 1: Many Authorizers Appear to Be Able to Streamline Applications without Losing Quality Control.**

It is reassuring to see that a plurality of the requirements common in charter applications collect the information necessary for academic, financial, organizational, and legal due diligence. The problem is that in addition to these requirements, authorizers layer on requests for information that they do not really need.

These requirements could be excised without detracting from authorizers' ability to regulate quality. In fact, eliminating these requirements would benefit applicants and authorizers by removing information that is busywork and says little about a school's chance of future success.

In short, by refocusing applications on the charter bargain, everyone wins. Operators could focus more on the core aspects of their plan and use their time more effectively, and authorizers could focus on the information that they are most capable of evaluating.

## **Lesson 2: There Is a Tendency for Authorizers to Mistake Length for Rigor.**

When asked about the length and amount of information school leaders are required to present, several authorizers we interviewed were unbowed. As one operator from an independent charter board put it, "We've always kind of sided on it being a tough challenge . . . because that's our first test if you're going to be able to run a school."<sup>10</sup>

This impulse to equate length with rigor is problematic because it assumes that the same set of skills that leads to a well-written application will lead to a well-run school. Although there is certainly some over-lap here (such as meeting deadlines and communicating clearly), there is much more to running a school than completing paperwork. If these cosmetic considerations are used as a proxy for operator ability, the risk of misclassification is immense.

Conflating length and rigor is also problematic because it creates unnecessary hurdles for applicants trying to serve students and communities. These hurdles make it harder for schools to open in the first place (for reasons unrelated to academic or financial viability) and hamper operators' ability to, after opening, change their plans in response to outcomes, data, or community requests.

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<sup>10</sup> Unless otherwise noted, all quotes derive from survey responses.



By all means, charter applications should be rigorous and should prompt prospective school leaders to think long and hard about how they are going to operate their schools. But adding 20 to 30 pages to an application does not necessarily make applicants think more deeply about the essential components of a good school, and it does not ensure that the schools that will be authorized will be of good quality.

### **Lesson 3: There Is a Lack of Clarity on the Role of Charter Schools and Charter Authorizers.**

Because new operators cannot provide authorizers with data on student outcomes, authorizers must predict, on the basis of their applications, which operators will be successful. The problem is, authorizers do not know exactly which application elements are most useful for predicting student success.

Even within a single authorizing board, there is often debate over what a charter school is supposed to do and what the appropriate role of a charter authorizer is. One authorizer said that deciding what elements go into an application “is a bit of a political process. There are a lot of different groups that work with charters within the department, and . . . they all want to play a role in the application process because they’re going to have to work with the charters throughout [their] life-cycle.” In this environment, applications can turn into Frankensteins—documents that are created by stitching together the desires of every political actor and then begin to take on lives of their own.

Accordingly, several authorizers spoke of their desire to streamline their applications after seeing how cumbersome the process had become or after receiving completed applications that were as long as 850 pages. One officer at a higher education institution said that instituting page limits for certain sections of the application had helped rein in applicants who “believ[ed] they needed to give you more and more for you to understand what they were trying to do.” This impulse by applicants is understandable—how can they know what authorizers are after if the authorizers don’t know?

Amid the charter school sector’s identity crisis over what makes a quality application and what metrics should be used to measure one, applicants are continually overshooting the target to ensure that their application contains everything it should or may need to cover. Returning to a principled theory of charter authorizing would help remove the inefficiencies inherent in the process today.

#### **Lesson 4: Authorizers Often Prize Innovation Less than They Say They Do.**

Although authorizers claim that they want to see innovation in applications, they have become increasingly risk averse, requiring more and more from applicants to approve their proposals. As one authorizer noted, “[Charters are meant to have certain autonomies so that we can see real innovation and have them push the envelope a little bit, but that’s not currently the case.]”

Furthermore, authorizers squelch the potential for continued innovation by narrowly prioritizing school models that may have been innovative yesterday (for example, models that incorporate science, technology, engineering, and math into a school’s curriculum) rather than actually encouraging schools to experiment anew and keep taking risks. As another charter authorizer stated, “We love to see innovation, but at the end of the day, it has to make educational and business sense.”

The autonomy that charter schools receive in trade for accountability should allow them room to experiment and innovate, but it is impossible for them to do this when authorizers regulate away innovation. Charter authorizers cannot be the end-all for determining what is “good” or “bad” innovation, because they cannot know what quality innovation looks like before it exists. Lengthy and restrictive applications make it difficult to create incentives for, and expectations of, true innovation—but innovation is fundamental to what charter schools should be.

#### **Lesson 5: There Is More Variability within (than between) Authorizer Types.**

When examining the variation in length between authorizer types, we see that the range is less than 20 pages, but the variation within a single authorizer type can exceed 120 pages. Thus, it does not appear that any one type of authorizer is more prone to kludging up applications than the others, rather, authorizers of all types often include extraneous requirements and should assess what can be done to streamline their applications.

## **Recommendations**

In light of these lessons, we offer four recommendations to improve the charter-authorizing process.

*State legislators and authorizers should undertake a serious regulatory review of the charter school authorization process.*

The operator of a high-performing charter school in Washington, DC, told us that there is a natural tendency for authorizing to become more regulated over time. He noted that, like entropy, “Everything is sliding into being regulated,” and “it is very difficult for authorizers to maintain their center, or keep their compass” pointed toward the appropriate degree of regulation.

Given our findings, we think this operator is correct. Charter authorizers should take a long, hard look at their applications and sandpaper off requirements that go beyond what is appropriate and necessary. Similarly, state legislators who propose many of the regulations that appear in charter applications should carefully examine state law and remove requirements that unnecessarily encroach on charter schools’ autonomy.

On streamlining the application process, state legislatures and authorizers should also consider computing cost-benefit analyses for future application requirements. Those seeking to add new regulations should demonstrate that the additions: (1) collect information that falls within the principles of authorizing that charter operators have agreed to and (2) collect such information in the least restrictive way possible.

Finding this balance (or reorienting one’s compass) is important not just because it would make charter applications more reasonable but also because it would stick to the charter bargain. Because authorizing has drifted toward regulation, charter schools are essentially being held accountable without being given their rightful autonomy.

*Authorizers should rebrand themselves as guardians of autonomy.*

One authorizer at a state board of education told us that she viewed her organization as a “guardian of autonomy.” More authorizers need to understand that protecting schools’ autonomy is an integral part of their mission. They often do not because there is a lack of clarity among operators, authorizers, and legislators on what charter schools are supposed to be and what role authorizers are supposed to play, but authorizers can also do much more to guard charter schools against unnecessary encroachment.

Internally, authorizers should articulate clear boundaries when it comes to their

responsibilities. By providing a principled position on only the activities they are in a position to do well (and therefore should be empowered to do), authorizers can then signal these boundaries to both charter operators and legislators. Authorizers ultimately decide what goes into an application and how that application is scored. If they do not fully appreciate the need to push back against legislators, advocacy organizations, or even people in their own ranks calling for greater regulation, regulatory creep will continue unabated.

*Charter school and education reform advocacy organizations should also act as guardians of autonomy.*

Like charter authorizers, reform advocacy organizations should be fighting regulatory creep. Unfortunately, these organizations are often the ones seeking to foist new restrictions on charter schools. For example, a recent white paper from the Thomas B. Fordham Institute and Bellwether Education Partners encouraged a raft of new regulations for charter schools in Ohio.<sup>15</sup> These regulations included requirements that members of charter school boards register as public officials (requiring disclosures of home values, stock portfolios, and a host of other personal details).

Most charter school board members are simply members of the local community who volunteer a small part of their time to try to help guide a school. Should they really have to tell the world where they live, how much their house is worth, or how big their 401(k) is? This would serve to drive possibly eminently qualified individuals from joining charter boards for a regulation with limited upside.

Protecting charter school autonomy should be a central mission of pro-charter school and pro-education reform organizations. If reformers do not take care to guard autonomy, they risk forcing charter schools to become the very institutions they are designed to replace.

*Everyone should excise “smart regulations” from their vocabulary.*

An all-too-common rhetorical tool of those looking to add regulations is that they support “smart” regulations. We can hear the objections to our findings already: “You have identified dumb regulations. We should get rid of those. But we’re for smart regulations. Those are the ones we should add.” There are a lot of problems with this mind-set.

First, “smart” and “dumb” are in the eye of the beholder. There is an unfortunate

tendency for those not actually given the task of creating something to underestimate how difficult and time-consuming it can be. What looks to be reasonable and limited to an authorizer or advocate might actually mean hundreds of hours of work for a prospective operator.

Second, no raindrop thinks it is responsible for the flood. Individually, each regulation could be sensible and meaningful, but when combined with hundreds of other requirements, the sum becomes incoherent and onerous. Authorizers need to understand how requirements can fit with each other, contradict each other, and add up to a mountain of kludges that make things more difficult than they ought to be for applicants.

As a result, new regulations need to be held to a higher standard than a subjective judgment of how “smart” they are. In our first recommendation, we suggested using cost-benefit analyses to assess whether a new regulation should be adopted. But we could imagine other objective standards that authorizers could use, such as setting page or task limits—or even estimated time limits—for applications.



# The Achilles Heel of Charter Growth: Overregulation

*Benjamin J. Lindquist  
Colorado League of Charter Schools*

Greg Richmond at the National Association of Charter School Authorizers recently announced that charter applications have declined 48 percent since 2012.<sup>1</sup> According to his report, the national approval rate has held steady for years, with authorizers approving 35 percent of the applications that they receive. Why are they receiving so many fewer?

This is no trivial matter. “There are still way too many parents waiting for the chance to send their children to a high quality public school of their choice,” writes Susan Aud Pedagrass at the National Alliance for Public Charter Schools in a recent blog post.<sup>2</sup> Many existing charters have waiting lists. Lottery-based admissions—so memorably depicted in the film *Waiting for Superman*—still yield tearful faces. Why is this once-so-vibrant movement now struggling to meet the obvious demand?

One key problem is overregulation. This issue may represent the biggest threat to the charter sector today because it undermines its ability to offer distinctive, high-quality options to students and families with differing needs and preferences. If charter entrepreneurs are compelled to deliver the same one-size-fits-all education as other public schools, why start new charters at all? To confront the magnitude of this challenge, consider Arkansas, where I was a charter operator from 2011 to 2016.

The Arkansas State Board of Education authorizes the state’s open-enrollment charters. Since each is its own “local education agency,” charters report directly to the Arkansas Department of Education much like traditional districts. To gain autonomy from state laws and rules, charters request specific waivers, but the state is reluctant to approve these.

In 2013, lawmakers created a Charter Authorizing Panel as the oversight body for open-enrollment charters. It comprises the Department’s deputy commissioners—meaning that charter schools report directly to the officials who oversee statewide

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<sup>1</sup> “*Inside charter school growth: A look at openings, closings, and why authorizers matter*,” National Association of Charter School Authorizers, March 2017, <http://www.qualitycharters.org/news-commentary/press-releases/inside-charter-school-growth/>.

<sup>2</sup> <https://www.the74million.org/article/pendergrass-the-great-misleading-debate-over-the-growth-of-americas-charter-schools>

reporting for district schools, too. The Panel's decisions can be appealed to the State Board, but only under exceptional circumstances.

In 2014-15, Arkansas charters were each expected to submit 374 separate reports as part of the standard compliance calendar. Even when a school had waivers, it was still required to complete all reports; never mind whether they apply to its activities. Each time a submission is made, the school leader must attest to its legal completeness and accuracy. Incomplete reporting can result in delays in state payments to the school or other penalties. As part of the reporting load, charters must navigate at least 4 and as many as 6 major reporting events every year, including (but not limited to) the following:

- Arkansas Consolidated School Improvement Plans (ACSIP)
- Annual parent involvement plans
- Charter amendment requests, including changes in facility locations
- Accreditation standards reviews
- Nutrition reporting audits
- Charter renewal applications

*Independent audits of finance and reporting compliance*

Each of these events requires thirty to eighty hours of labor from school administrators depending on the level of state scrutiny. At the start of the 2014-15 school year, charter administrators were required to attend twelve state-administered trainings over a five-month period, thus compelling key school administrators to be off-site for nineteen days. To fulfill all these obligations, the State required charters to input their reporting data into nine separate reporting systems. Due to the lack of cross-platform functionality, manual entry had to be done into eight of the nine systems. If charters have their own knowledge management systems, they must make duplicate entry into them. Burdensome? It gets worse.

Arkansas charters are monitored by thirteen different units spread over four state agencies. Each unit has its own primary contacts and deliverables, as described below:

1. Field Liaisons for Student & Financial Information. Finance directors meet with them biweekly on accounting and student information entry.



2. Charter Schools Office. School directors interact with representatives monthly to arrange site visits, charter reviews, and respond to inquiries from parents, employees, or the public.
3. Division of Learning Services. Charters administer state-required special education tests, early childhood tests, language acquisition tests, and state proficiency tests, on which they're accountable for meeting state-determined annual targets.
4. Office of Educator Effectiveness. Charters report on HR requirements including teacher licensing, staff qualifications and evaluations, and professional growth plans. Arkansas charters must comply with most certification requirements.
5. School Nutrition Unit. Charters meet strict federal and state nutrition guidelines.
6. Standards & Accreditation Unit. Charters post required reports and disclosures to their website, including teacher salary schedules and contracts. They demonstrate compliance with over one hundred regulations.
7. Fiscal & Administrative Services. Charters submit their budgets, monthly financial statements, and meet to respond to special accounting requests.
8. Office of School Improvement. Charters demonstrate that they are using federal funds to meet students' remedial needs within tight guidelines and according to a state-approved school improvement plan.
9. Charter Authorizing Panel. Charters appear before the Charter Authorizing Panel to seek changes in location, make charter amendment requests, seek charter renewal, and defend their waivers.
10. State Legal Counsel. Charters seek legal approval of long-term debt obligations, including copier leases, facilities financing, and any loan financing beyond a year.
11. Teacher Retirement. Charters participate in the Arkansas Teacher Retirement System.
12. Employee Benefits Division. Charters participate in the state health insurance plan.
13. Legislative Audit Committee. Independent audits of charter finances are subject to legislative review. Significant findings result in live hearings before a panel of state legislators.

These thirteen bodies actively monitor, review, and audit all of the electronic and paper reporting that charters do over the academic year.

## Teacher Evaluation

In 2011, Arkansas lawmakers began requiring all public schools, including charters, to implement a standardized teacher evaluation and professional development program. The average charter school with 475 students would employ thirty-five teachers. Following the evaluation process requires a minimum 195 hours of time from the school principal and director of curriculum.

## Total Reporting Load

In addition to state requirements, charters are subject to the Freedom of Information Act, Open Meetings law, IRS 990 reporting, and corporate filings with Arkansas's Secretary of State. They must cooperate with the fire marshal, police department, and Department of Human Services on such issues as safety, custody disputes, and child abuse.

For a school with 475 students, the total estimated salary cost for charter administrators to meet the standard state reporting obligations in 2014-15 was \$370,305, or 10.3 percent of public operating revenue (at \$7,600 per pupil). That is the time necessary for administrators, such as the curriculum director, dean of students, principal, finance director, executive director and office manager, to manually enter data, prepare reports, confirm reporting accuracy, and complete other reporting tasks. In other words, charters were required to spend a tenth of their budget on reporting rather than instruction.

But the *dollar* cost isn't the biggest challenge; it's the loss of precious time serving students and families. In 2014-15, administrators at an Arkansas charter school spent an estimated 1,431 hours, which equates to 179 full-time days, just completing reports. And that's without taking into account the time associated with supporting the school's governing board. While a school's leadership team is completing these tasks, it is forfeiting the time needed to build relationships with students and parents, handle behavior issues, support teachers in their classrooms, supervise transition periods, and otherwise improve school performance. This is particularly problematic in underserved communities where students and families have more intensive needs.

Arkansas is not unusual. In a recent article,<sup>3</sup> Joey Gustafson reported that 90 percent of charter authorizers are traditional school districts or state departments

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<sup>3</sup> Gustafson, Joey, "Charter authorizers face challenges," *Education Next*, 13(3).

of education. Only 10 percent are higher education institutions, independent chartering boards, non-profits, or municipalities.

## Key Takeaways

Authorizers have the power to impose reporting requirements that dictate every major aspect of what charter schools do. When their compliance mandates force conformity with regular district schools, they defeat the very purpose of chartering, which is to provide a variety of high-quality, distinctive options to learners and families with differing needs and preferences. One size does not fit all!

Yet the scale and burden of overregulation are easily overlooked. No national watchdog produces a rigorous tally of the reporting burden across cities and states so that charter operators can properly account for this issue when choosing where to open new schools. Because reporting practices vary by state and authorizer, charter operators face an inordinate amount of complexity when expanding across jurisdictions. Frequently, charter founders are not properly trained on the reporting load and therefore must learn on the job, which compounds the difficulty of executing an effective school startup.

Charter opponents understand only too well that overregulation is a lethal tool. Last week, for instance, an *L.A. Times* article reported that the Los Angeles teachers union introduced a bill to regulate charters more heavily. If overregulation isn't fixed, it won't just stifle the charter sector's growth. It will erode the performance and sustainability of existing schools because they'll gradually lose the capacity to perform in a flexible, responsive fashion.

## Solutions to Overregulation

The problem of overregulation is real, but it can be remedied. Ideas include:

1. **Charter-Specific Authorizers.** Some states have created authorizers that specialize in overseeing charters and have discouraged traditional education departments and districts from authorizing. Examples include the DC Public Charter School Board and the Arizona State Board for Charter Schools. This moves charters under a separate system of oversight for state and federal reporting, a system that can support a variety of distinctive options.
2. **Single Point of Contact.** State departments and districts seeking to oversee their

charters efficiently and well can create specialized teams as a single point of contact for schools, empower those teams to manage all aspects of reporting, and provide them with the authority and resources to implement better reporting systems.

3. **Advanced Management Systems.** Powerful knowledge management systems, such as Epicenter and Illuminate, span many different functions once performed by multiple reporting systems. These systems minimize the need for manual entry and support more agile information retrieval, analysis, and reporting. They have the capacity to support authorization in ways that are less burdensome to schools.

Any solution starts with recognizing that charter schools can only reinvent public education if they operate outside of the traditional system. The best people to build great charter schools, district charter portfolios, and statewide charter sectors are visionary educators and reform-minded entrepreneurs passionate about enabling charters to fulfill their distinct missions. Now that the charter movement has come through 25 years of development, there are many such seasoned professionals with the real-world knowledge and field experiences to redesign reporting systems from the ground up. If done properly, these systems could free up precious resources to support higher levels of performance instead of removing the operating autonomy and flexibility so fundamental to charter success.

*This contribution was originally published on the Thomas B. Fordham Institute's "Flypaper" blog, March 22, 2017. The editors would like to note that while some single authorizers work in theory, the key is to ensure the proliferation of multiple authorizers so that no one entity becomes more centralized and domineering than another. As of this writing, this is precisely what is occurring at the once acclaimed DC Public Charter School Board, whose members have begun to condition approval of charter applications and expansions on input driven issues like suspensions or "proven" records in other states, rather than the merits of the schools and the ideas themselves.*





# How Regulation Has Halted Charter School Growth in the Buckeye State

*Max Eden  
Manhattan Institute*

Whether or not standardized test scores provide enough information for regulators to make life-or-death decisions for charter schools is an open question. But that debate presupposes that state regulators are competent enough to even place partially useful test scores above entirely useless bureaucratic box checking. Ohio's recent charter reforms show that this assumption should not be taken for granted.

In 2015, concerned both by real cases of corruption and the false perception of low academic quality, the Ohio legislature adopted H.B. 2, launching a detailed evaluation system for charter school authorizers. The theory was, if Ohio held charter authorizers "accountable" it would see better management and better results. "Poor" authorizers would be shutdown, "Ineffective" authorizers would be given two years to improve before being shut down, and only "Effective" authorizers would be permitted to sponsor new schools. Authorizer evaluation is a key component of the National Alliance for Charter School Authorizer's policy rubric, and Ohio gained 8 points on NACSA's score card, giving it the best rating in the country.

There was just one problem: the charter authorizer ratings had essentially nothing to do with charter school quality. The sponsors rated "Effective" by the state had an academic "D" average for the schools under their charge, and the sponsors rated "Ineffective" had a "C" average. When you break it down to the school level and hone in on a school's most meaningful metric (its academic value-added score), there's simply no correlation between school quality and authorizer rating. Only 19 out of the 48 charter schools Ohio gives an "A" for academic value-added are overseen by "Effective" authorizers permitted to open new schools.

How did this happen? The legislature called for authorizers to be evaluated in equal parts by compliance with laws and regulations, adherence to quality practices, and academic performance. No doubt that sounded fair and straightforward to legislators. But the Ohio Department of Education graded charters on whether they could jump through hundreds of arbitrary paperwork hoops, like confirming that the school's flag is more than 5 feet long, and penalized charters that didn't adhere to "best practice," which don't have any solid empirical evidence behind them in the

first place. Hence, bureaucratic bean counting and box checking count for literally twice as much as academic quality.

This may all sound like abstract accounting, but it had significant real-world consequences. Because only “effective” authorizers were permitted to sponsor new schools, Ohio felt compelled to return \$22 million out of a \$71 million federal charter school grant. In effect, thousands upon thousands of students who are stuck in low-performing traditional schools won’t have the chance to attend a new high-performing charter. The Ohio legislature may or may not manage to fix this obviously broken system, but profound damage has already been done. Now, pro-regulation organizations like the Ohio-based Thomas B. Fordham institute and the National Alliance for Charter School Authorizers might contend that their idea is still “good in theory” but just had “implementation problems.” But when it comes to new government regulatory systems, “implementation problems” are an inevitable feature, not a quirk bug. Whatever your view of the competence of parents to judge school quality, Ohio’s example shows that it’s far greater folly to trust bureaucrats.





**SECTION THREE:**

**Overregulation In  
Practice: Subverting  
Pluralism, Stifling  
Innovation**



To date, much of the prominent research on charter schools has been devoted to trying to determine if charters outperform traditional public schools. Charter schools exist in a political context, so backers have had to prove that their schools can do as well or better than traditional public schools on the measures states use to hold schools accountable. But academic superiority (measured by test scores) isn't the only goal of charter schools. **Charter schools are also designed to give parents more options in the type of education that their child receives. They have the ability to specialize, and because students only attend charter schools by their free choice, schools have the opportunity to create unique learning communities organized around particular principles.** Charters embrace a pluralistic ideal.

Unfortunately, the horserace narrative about charter schools totally obscures the diversity within the charter school sector. Even asking the question “do charter schools outperform public schools?” subtly implies that both charter schools and public schools are uniform institutions. They aren't. From international schools to schools oriented around public policy, charters across the country vary meaningfully across several different dimensions, including mission, curriculum, and pedagogical approach.

To achieve and sustain diversity in the charter sector, charters must have the opportunity to innovate. The opportunity to innovate is dependent on certain conditions, especially at the state level, including:

- Limiting regulations to those that ensure equity, fairness, and fiscal responsibility, doing away with those that focus on compliance
- Creating policy environments that take a chance on untested models and focus on accountability for outcomes rather than inputs;
- Encouraging multiple and diverse authorizers;
- Allowing authorizers to operate in policy environments that favor autonomy and innovation over uniformity and regulation

Where diversity exists, charter schools have had the opportunity to innovate. Diversity in the charter sector means that there are charters that were once innovative but have spawned successful replicas, charters that are currently innovating, and charters that might not be considered innovative at all. The point is that parents and students have real choice, when we give charters the autonomy to be different.

*Adapted, in part, from Michael Q. McShane, “Charter Schools are No Monolith,” first published in U.S. News and World Report, July 28, 2015.*



# The Politics & Partisanship of America's Education Reform Debate: A Growing Blue-Red Divide

*Derrell Bradford*  
*New York Campaign for Achievement Now*

I voted for President Barack Obama twice and pulled the lever for Hillary Clinton last fall. I also know Education Secretary Betsy DeVos and was one of the few folks to support her nomination.

I've worked with business groups in New York and moms and dads in New Jersey to raise the bar for our kids. I worked on New Jersey's teacher evaluation framework and helped pass its tenure law TEACH NJ with the state's teachers unions. I've supported public charter schools alongside the thousands of New York and New Jersey families whose children fill them.

I grew up in the same neighborhood Freddie Gray did in Baltimore, and I went to private school on a scholarship, so I also support vouchers and tax credits, fiercely.

All of this is to say I believe in education reform, in all its flavors, and I've worked with all sorts of people, from all walks of life and both political parties, to make it happen.

But there are some problems we face, right now, as people fighting for change in the education space. Problems of policy, politics, and partisanship.

When I say we have a policy problem, that isn't to say we don't have smart people working hard to come up with brilliant solutions for what's wrong with education in this country. Anyone who's advocated for, or fought over, any of the more esoteric reforms we've championed recently knows we don't have a dearth of well-educated, well-meaning people looking to change the world for the better.

Look at accountability. Lots of us have supported the standards-and-assessments movement, which helped create the No Child Left Behind federal framework. It was imperfect, but its supporting pillars—test annually, report the results by subgroup, classify schools based on performance, and intervene when kids are being failed—were revolutionary. NCLB drew a line in the sand on school performance—maybe not a deep line, but a line nonetheless. A line that had not existed before. The data alone sparked conversations in states like Connecticut, where school

leaders blamed the achievement gap not on underperforming systems but on the over performing white kids in them. Vital, hard-fought progress was made. And it became easier to make the case for more choice for underserved families, a compelling pretext that accelerated charter school growth in many urban centers.

These policies—which placed underserved families with few choices at the center—might have been the right ones. But we, as a community of reform, may have been the only people who found them popular, or who believed that the injustice of chronically underperforming urban school systems overflowing with black and brown kids was a compelling enough reason to implement them.

While “we” felt the system needed to be upended in a variety of ways, lots of folks—to be pointed, lots of college-educated white folks—didn’t. And our policy agenda has finally run into them, headfirst and at full speed.

Sure, standards and testing are crucial for the least-served kids, but affluent, liberal suburban whites don’t seem to think that’s the right fit for them. This policy mismatch gave us the opt-out movement, which threatens accountability as a whole. Sure, the science on value-added models for teacher evaluation tells us that teachers who drive growth on tests also improve a wide range of life outcomes for their students, but three million teachers (again, overwhelmingly white) didn’t seem to agree with that premise or the accountability built into it for “those kids.”

This mismatch for “progressive” educators—which conveniently aligned itself with anti-Obama sentiment fomented by the Tea Party on the right—gave us the blowback on Common Core. The close association of charter schools with both of these agendas has stoked anti-charter angst in places where, ironically, we have some of the nation’s highest-performing charter schools and networks. And all of this combined gave us the hands-off approach of the Every Student Succeeds Act, which is a great step back if you care about old-school accountability and the federal backstop on performance.

We can keep doubling down on these things, or we can revisit them and get some religion. I like to point to a few schools in New York’s Success Academy network—the affluent Upper West and Cobble Hill among them—as a possible evolution of our policy approach. Not only do these schools, ironically, make the network more diverse, they expose charter schools to people who might otherwise never experience them. If you stick to the premise of solely closing achievement gaps, you might have a blind spot for the positive policy and political implications of a move like this.

My friend Chris Cerf, the superintendent in Newark and a recovering commissioner of education in New Jersey, likes to say, “You can be right, or you can be married.” Like the best humor, there is always a note of truth in it. So there is this lesson as well: We can be right and alone, or we can change our behavior in a way that allows us to stay married to the levers of power that help us change the way education is delivered in America. Levers that allow us to bring a better country into existence for all kids as well.

This is what is at stake.

But policy is only part of what ails our reform effort. We also have a political problem. By that, I mean our policies have not reached a scale where they cannot easily be undone, or a breadth where their diversity of support makes them easier to get behind. And make no mistake; the threat posed by these conditions is as real as it is existential. Politics is a numbers game, and you need politicians to actually change how the public square interacts with the policies we hold close. So let’s be honest—when a politician reviews your proposal, he or she is asking a fundamental and self-interested question: Does this get me more friends or make me more enemies?

If the answer is that something consistently makes more enemies, it’s going to be harder or, frankly, impossible, to get the support you need to get it done. We can talk about doing the right things for the right reasons—and we can wonder why politicians don’t behave that way—but, politically, the right things are rarely done for the right reasons. And until we’re willing to revisit our policy assumptions through the real-world lens of politics, we won’t be able to see the necessary path forward to grow and protect the work of previous decades.

Let’s take chartering and charter school authorizing as an example. Admittedly, the broadly accepted authorizing frameworks we know have given us some tremendous things. Most notably, they’ve created networks of schools, like those in New York or Newark where I have worked a great deal, that are particularly good at closing achievement gaps for low-income and minority kids. Those schools have become safe havens of order and creativity because of their strong emphasis on structure, great teaching, and high expectations—what folks commonly, if inelegantly, refer to as the “no excuses” model. They’ve changed and saved lives. This is laudable, and I support all of it.

But what haven’t those same authorizing frameworks given us? In their emphasis on bringing “quality schools”—or, rather, what “we” thought were quality schools—

into existence, we may have perverted the pluralism inherent in the chartering power and instead substituted control.

This approach has some benefits. But over time, what we thought of as quality authorizing has morphed into a sort of technocratic risk management for the sector—a process whose own bias, one could argue, accelerated not the growth of charter schools but the replication of one kind of charter school with one specific sort of leader.

The possible result of this “bias”? A sector densely concentrated in urban areas, where a minority of the voting populace has children in those schools and statewide political reach is limited. And let’s be even more clear: Our anchor constituency is black and Hispanic families who don’t vote in the same numbers or contribute the same dollars as, say, the affluent Nassau County moms who typify the opt-out movement. Let’s review how government behaves in these two instances. Some rich folks get concerned about testing, President Barack Obama makes a speech, says there is too much testing, and states start rolling back not just testing but also the evaluation systems tied to it. Want to add 12 new charter schools a year to one of the country’s best charter sectors in Boston? Dies by the sword, 2 to 1.

So you have to ask yourself, is this the way forward for sustainability?

And along with asking that question, you might consider revisiting some of your fundamental assumptions about our policy and politics, too.

Maybe you do need that dual-language-immersion charter school in the suburbs—not because you care about it educationally, but because its families help you make the case for charters politically. Maybe you think charter management organizations are the way to go, but to the extent the process to create them may crowd out leaders of color and neighborhood mom-and-pops—which grow authentic and local constituencies—you understand they shouldn’t be the only answer. Thinking like this could have headed off the NAACP charter moratorium with which we now all must deal.

Maybe you realize that if you believe in “choice,” you can’t believe in it only when the choice is you. And maybe you get that the fastest way to reach scale that has lasting political impact is actually to partner with private schools, who served the charter school base and educated generations of minority leaders, including our last president, long before the word “charter” was anything more than a kind of



bus. And maybe you do that because you share opposition even if you don't share interests.

If you don't think we have a political problem and that, instead, the stars are aligned around us right now, maybe you won't ask yourselves these questions. If you do think we have one, maybe these are the only questions you should be asking at all.

The final problem we have to face is the partisan problem. This may be the one that's easiest to see—though it is perhaps toughest to fix—and it spilled out into the street in the wake of Hillary Clinton's presidential defeat. It now charges the national debate, around all policy, with a third-rail-like electricity on both sides of the aisle.

Party allegiance is the new litmus test not just for political philosophy, but for personal belief and social inclusion. Answering the wrong way on the wrong question not just on reform—but on anything—carries the weight of possible ostracism from both the left and the right. My own lens on this is through the tribe of Democrats, because those are the primaries in which I vote and the affiliation of most of the folks who are close to me. Folks I admire and from whom I seek counsel and direction during difficult times.

I understand it. I found the last presidential campaign distasteful. I rejected the division and the acrimony that typified the exchange, particularly where race was concerned. I tell folks sometimes that black lives matter—and that since I have one, it matters a whole lot to me—but the electoral process left me confused about whether our leaders actually agree with me. I ultimately supported Clinton despite my firm belief that she would appoint a secretary of education determined to make our lives harder, not easier. In the professional sense, I voted against my own interests because I thought it might be best for America.

But I also spend a lot of time traveling the country, which means, unlike many of my peers, I am not confined to either of the progressive coasts. At 50CAN, four of the five states I manage—Tennessee, South Carolina, North Carolina, and Georgia—are politically a deep crimson.

Despite their red hue, one thing doesn't change as I move between them: how desperately children need great schools to ensure they reach their full potential. And though these states also bring the problems of rural education to the forefront, there are plenty of black and brown kids in cities who need our help as badly as any kid in Bed-Stuy, Brooklyn, does. Blue state or red state, our kids need all the help they can get, and they need it from everyone.

This is why I find the advance—or the retreat, depending on your view—by so many of my reform brothers and sisters to their respective hard rights and lefts not only troubling, but counterintuitive. And, in the long term, destructive.

It's a pivot of safety, tribalism, and sameness, one of ease and elitism when our children need us to behave in precisely the opposite fashion, running toward one another instead of away.

We don't have an education reform movement because liberal Democrats believe in civil rights. And we don't have one because conservative Republicans believe in market solutions, low regulation, and freedom. We have one because they could believe in them both, at the same time, together, and at the same table. The golden age of "reform" that folks associate with President Barack Obama exists only because of a history of this sort of collaboration.

It flowered when President Bill Clinton and a Republican Congress came together on charters. It grew further with President George W. Bush and the late Sen. Ted Kennedy, who together built and passed the No Child Left Behind Act. It expanded charters in places like Newark, where Republican Gov. Chris Christie and Democratic Mayor Cory Booker somehow managed to work together to make change.

Republican Gov. George Pataki, with the help of Democratic Rep. Floyd Flake, passed New York's charter school law in 1998. Democratic Assemblywoman Polly Williams and Republican Gov. Tommy Thompson joined to create the Milwaukee Parental Choice Program, the country's first.

Without a willingness to look past party with an eye toward the goal of improving education for our children, none of this would have been possible.

Much of what I read and see now seems ignorant of this history. And not just ignorant of it—dismissive, detached, and arrogant to it. There isn't a progressive state where a teacher evaluation framework, tenure reform law, equitable funding formula, charter, or choice program passed without the support of both Democrats and Republicans. A retreat from the political realities of what it takes to make change—real change, not just the kind that makes partisans happy, but the kind that actually alters culture in a way that unmakes what is broken so something better can be created—Isn't just selfish, it's self-interested. And it ignores the most important of factors: that change of this kind, and of this scale, can't be done alone.

We don't need new edges; we need a new center. So consider this: If your partisan values are more important to you than your education reform values, perhaps you should ask yourself if you are in the right place, at the right time, doing the thing that is best for you and your beliefs.

I happen to be an ed reformer first. My moral and professional compasses point in the same direction, and I act in a fashion that is aligned around changing policy for kids. This is also to say I am a Democrat second, and being one informs my view on reform—particularly on issues of equity—but is in service to that view. Not everyone sees the world this way. In fact, many people I know well don't see it this way at all. So if you're a Democrat first, or a Republican first, or a partisan first, and that is what matters most to you, I support that fully. The country is a mess right now, and we need political reform as much as we need education reform.

But it's also possible that, if you feel that way, the Democratic National Committee or the Republican National Committee would benefit more from your decision-making right now than a boy on a corner in Bridgeport who just needs you to be on one side — and that side is his. He's actually the last person who needs you to be a partisan — steeped in what you won't do and closing off policy opportunities that make you uncomfortable because of your political beliefs — because in the end, it's his life, not yours, that depends on it.

We should all see the world through his eyes when thinking about this.

I encourage everyone to reflect on the life of Martin Luther King Jr. and his efforts to pass the Civil Rights Act when thinking about our partisan problem. King worked with many people to pass the act. Some of those people were racists. And the most notable of them might have been President Lyndon Baines Johnson himself. Johnson's biographer Robert Caro described him as a connoisseur of the word "nigger" who tailored its use and inflection to the home regions of members of Congress. As Obama noted in 2014, "During his first 20 years in Congress, he opposed every civil rights bill that came up for a vote, once calling the push for federal legislation a farce and a shame."

The lesson here isn't necessarily about Johnson's motivations, or even the sincerity or veracity of the change he underwent that made him a supporter of civil rights. It is instead about King's single-minded focus on the goal of equality for black people, and the relentless pursuit of that goal through political disconcert and social pressure. And in this case, it included his willingness to work with a man—one fluent, skilled, and practiced in the casual use of the greatest insult to black

people—who offered him not comfort, but the chance to improve the lives of those very same people. The history of minorities seizing power in America has always been colored by these crushing concessions. King’s discomfort, I think, is of the sort we have to live with now if we want to make progress in these difficult political times.

Education reform isn’t about how you may or may not feel at cocktail parties or your own political or personal proclivities. It is about kids dying civic and physical deaths in schools that don’t work for them. Progress, real progress, never feels good. And it’s always uncomfortable, because change is uncomfortable, even when it’s for the better.

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# Innovation Interrupted: How Regulation Has Redefined Charter Schooling in Massachusetts

*Cara Stillings Candal*  
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In November of 2016 charter school advocates in Massachusetts suffered a resounding defeat at the ballot box. Convinced by state and national teachers' unions (despite overwhelming evidence to the contrary) that charters are selective and that they drain funding from district schools, the public voted overwhelmingly to keep a stringent cap on the number of charter schools that can exist in the state at a given time.

Across the country, charter advocates wondered at this negative sentiment toward Massachusetts's schools. Gold-standard research finds time and again that the Commonwealth's charters, especially those in Boston, help students realize incredible academic gains.<sup>1</sup> And these schools have flourished within a system that is also very generous to district schools—sometimes at the expense of charters. While state law ensures that charters and districts receive the same operational funding per-pupil, it provides little funding for charters beyond that (charter schools have to raise money for facilities), and districts are very generously reimbursed for a period of six years after students leave them for charter schools.<sup>2</sup>

But what reformers failed to realize is that charters in the Commonwealth have come to have a very distinct reputation—one that elicits negative sentiment even among some of the most common consumers of charters: low-income parents living in Boston and the state's few other urban centers. The reputation that Boston's charters have is one of sameness: a “no excuses” approach to education that seems increasingly inflexible and even out-of-touch with the needs of today's students.

Of course, not every successful charter is of the “no excuses” ilk, but many of the most successful (Roxbury Prep, City on a Hill, and Match, for example) have at one time or another adopted this moniker. At the start of the state's charter

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<sup>1</sup> As an example, see: Angrist et. al, (2013) “Stand and deliver: Effects of Boston's charter high schools on college preparation, entry, and choice,” *National Bureau of Economic Research, Working paper 19275*, Cambridge, MA.; Setren, Elizabeth (2015) *Special Education and English Language Learner Students in Boston Charter Schools: Impact and Classification*, pp. 15-16.

<sup>2</sup> Ardon & Candal (2016) “Assessing charter school funding in 2016,” *Pioneer Institute, White Paper no. 148*.

movement in the 1990s, these schools were a welcome innovation. They provided rigor, structure, and high expectations where district schools did not (and they still do). They also extended the school day and year, cultivated their own faculty, in particular pedagogical approaches, and committed to things like personalized tutoring for every student, when district schools could not. These schools continue to provide a very high quality of education to families, and most maintain long waiting lists that speak to their popularity. But to some parents it seems that they are the only type of charter school option around, and not every parent desires the same kind of education for their child, no matter their background.

Indeed, this issue is at the heart of a growing rift in public sentiment about charter schools nationwide: if all charters look and operate the same, how can parents find the more personalized or unique educational venues that best fit their children?

There are several factors that have contributed to the shape of the charter landscape in Massachusetts. The state's only authorizer (the Department of Elementary and Secondary Education (DESE)) is the same bureaucratic entity that oversees all public schools. As such, its default mode is to regulate. The stringent cap on charter schools limits not only the number of applications that are submitted and approved each year, it enables the already risk averse DESE to be very selective in who it authorizes. Most importantly, in 2010, in a bid to modestly increase the charter cap, charter school advocates made a consequential deal with the opposition: to win more charter school seats, they would agree to allow only a very specific type of charter school to proliferate.<sup>3</sup>

## The Trouble with Proven Providers

In 2010 the Obama administration provided an unforeseen opportunity to charter advocates across the country. Under Race to the Top, states that prioritized the expansion of charter schools received preference for federal grants. For the first time since the Massachusetts charter school law was conceived, charter supporters and detractors came together to win additional funding for schools in the state.

As part of legislation entitled An Act Relative to the Achievement Gap, the Commonwealth raised the cap on charter schools in the lowest performing ten percent of districts. The legislation specified that any new charter school seats created in these districts would be awarded to “proven providers,” charter

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<sup>3</sup> Candal, Cara (2010) *Charter Caps and Strings Attached: The Achievement Gap Act of 2010 and Charter Policy*. Pioneer Institute



operators with a track record of meeting a high bar for student achievement and sound school governance. In a state and city (Boston) starved for more charter school seats, the legislation was viewed as a boon to the movement.

After years of approving few, if any, new charter seats in Boston, in 2010-11 the Commonwealth authorized 16 new charter schools, all operated by groups with a proven track record of high performance. On its face, this turn in Massachusetts’s charter school history seems positive. In reality it has redefined the charter school movement and curtailed the growth of quality educational options for Massachusetts families.<sup>4</sup>

First, the 2010 charter legislation implicitly defines charter schools as for a certain group of families—those who only have access to lower-performing district schools (and not all district schools in Massachusetts, even in urban districts, perform poorly). Whereas the first crop of charter schools authorized in the Commonwealth were rife with different school types that served students from diverse racial, cultural, and socioeconomic backgrounds, charters were now understood to exist solely for poor, minority students looking for a “way out” of districts.

Second, by limiting the expansion of charter schools in specific communities to those operated by proven providers, the Commonwealth was foreclosing on any real opportunities for innovative new providers or models to enter the scene. In brief, the state has reduced choice for poor, minority families to “troubled” district schools on the one hand or successful charters on the other. Of course, one’s actual choice, in this context, might have more to do with luck than anything else, since charter schools admit students by lottery and almost all of them maintain very long waiting lists.

Additionally, the 2010 legislation included language that has enabled DESE to pile new regulations on charter schools. In many cases, those regulations do little to improve the educational experience for students while curtailing charter school autonomy and forcing charter school operators to focus on compliance.

## More Regulation

To be sure, if test scores and student growth on standardized tests are considered the most important measures, Boston’s charters, in particular, are incredibly

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<sup>4</sup> Massachusetts Department of Elementary and Secondary Education (DESE), *Charter School Fact Sheet; Application History*

successful. Repeated high-quality studies have shown that these schools help students achieve incredible academic gains in comparison their district peers, although there is no strong evidence that these gains persist after high school.

The strength of these schools has been attributed to a variety of things: a conservative approach to authorizing that closes failing schools without question; a risk-averse approach to authorizing that successfully picks “winners”; even an incredible local talent pool of school founders, leaders, and teachers. Massachusetts attracts many of the nation’s best and brightest to its institutions of higher education and some of them stay and start charter schools.

But the attractiveness of starting a strong charter school has, in recent years, started to wane, primarily because there is little opportunity to start new schools, given the cap. In addition to the cap, running a charter school in Massachusetts is not the same as it once was—today’s charter operators are subject rules and regulations from which they were once exempt.

The main regulations instituted in 2010 certainly seem sensible. The first is a requirement that charter schools “backfill” certain grades until halfway through the school year when they have available seats. While detractors argue that this can inhibit a schools’ ability to create a cohesive school culture, few charter operators in the Commonwealth have reported backfilling itself as a problem, and many were doing it already.<sup>5</sup>

The second set of regulations was meant to ensure that charters are serving proportionate numbers of students with special needs. In exchange for district schools providing student addresses so that charters can more effectively recruit all students (something that districts were loathe to do), charters were required to design “recruitment and retention” plans to demonstrate to DESE that they are working to serve special populations.<sup>6</sup>

The problem with these regulations is in the implementation. They have resulted in additional procedures for charter operators to follow and, in that, ample additional time spent on paperwork and compliance. Instead of simply measuring outcomes (has the number of special education students that charters are serving increased?) DESE has ensured that charters are doing a lot of unnecessary work on the front end, describing how they intend to accomplish something, instead of whether or

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<sup>5</sup> *Massachusetts Education Laws and Regulations 603 CMR 1.00(4)*, downloaded from <http://www.doe.mass.edu/lawsregs/603cmr1.html?section=04>, October 15, 2014.

<sup>6</sup> *ibid*

not something of value has been accomplished.

Over time, the number of students with special needs that charters serve has increased substantially. In fact, studies show that most charter schools are now serving similar percentages of students with special needs and helping those students to dramatically outperform their district peers. It's not clear, however, that the growth in this population of students is at all the result of the recruitment and retention plans that these schools have designed and published. According to school leaders, just having access to the student information that districts once kept under lock and key has allowed them to more effectively reach out to all students.

## Innovation Interrupted

The consequences of Massachusetts's 2010 charter legislation are clear: in a state where the charter movement should be flourishing, it is at a standstill. Despite 10,000 unique<sup>7</sup> students on waiting lists in the city of Boston alone, DESE authorized only three new charter school seats in 2017, none of them in Boston or in other communities with substantial waiting lists.<sup>8</sup> Furthermore, DESE has a history of denying strong applications from “unconventional” providers, such as those offered by founders desiring to contract with the for-profit educational management organization SABIS.<sup>9</sup> A sector that was built on the promise of providing innovative new school options for families has been prohibited from offering up innovative ideas.

This lack of opportunity to innovate has led would-be charter operators to leave the state for other places where they have the opportunity to establish schools and to try out new ideas. Current Secretary of Education James Peyser warned of the potential for this kind of brain drain even prior to 2010.<sup>10</sup> He saw the cap on charter schools as the main culprit—at the time he might not have predicted that the legislature would further halt the charter movement by designing a “proven provider” clause.

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<sup>7</sup> Massachusetts Department of Elementary and Secondary Education, 2017-18 charter school waitlists by city/town, <http://www.doe.mass.edu/charter/enrollment/>.

<sup>8</sup> “Board of Elementary and Secondary Education approves three new charter schools,” MA DESE press release, February 27, 2017.

<sup>9</sup> Kandilis, Ann, “SABIS deserves a second school in Springfield,” *The Republican*, May 20, 2012, [http://www.masslive.com/opinion/index.ssf/2012/05/viewpoint\\_sabis\\_deserves\\_secon.html](http://www.masslive.com/opinion/index.ssf/2012/05/viewpoint_sabis_deserves_secon.html).

<sup>10</sup> Peyser, James, “Brain drain: why so many talented educators are leaving for New York,” *The Boston Globe*, Sept. 14, 2008.

In the past decade, I have often cited Massachusetts as a model for education reform. Certainly there are aspects of the Commonwealth's approach to authorizing, such as a laser-like focus on accountability for outcomes, which have in part led to the growth of very high-performing charter schools. But in recent years the impacts of constraining legislation, overregulation, and a single authorizer have become clear: the charter sector may be able to maintain a set of excellent schools, many of which rely on a specific and similar approach, but it is unlikely to offer anything new or exciting.

The Bay State's aversion to sensible risk in the charter school sector will ultimately lead to far less opportunity for its citizens. And, if the results of the 2016 ballot initiative are any indication, it will be some time before a meaningful conversation about educational opportunities and charter schools resumes.





# The Connection Between Knowledge and Reading Assessment

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*This essay is focused on the impact of centralized accountability demands on content and instruction, in particular how reading tests lower the bar for students, calling into question how it is we should rely on such tests as one major indicator for whether charter schools should open or close.*

I tend to be the guy who says “charters, choice, data, teacher quality. That’s great. Can we talk about what kids actually do all day in the classroom?” I bring the perspective of having been a fifth-grade teacher in the South Bronx for many years, and more recently a teacher part-time at Democracy Prep in New York City, so I try to keep the classroom and curriculum and instruction at the center of what I do.

I have a complicated relationship with testing. On the one hand, I value it. On the other hand, I refuse to pretend that it has caused no mischief in our schools, narrowing curriculum, encouraging large amounts of ill-conceived test prep, making schooling a joyless grind for our children. But neither can I deny that there have been real, if modest, gains in our present era of test-driven accountability, especially for low-income black and brown kids, which is all I’ve ever taught, as a teacher, and particularly in the early grades. In pieces I’ve written about this I’ve likened our relationship with testing to Jefferson’s famous quote about holding a wolf by the ears, which is to say we don’t much like it but we cannot let go.

The most reliable means we have of evaluating performance of schools and teachers is deeply unpopular—you know this. The more popular means are deeply unsatisfying—very squishy, easily manipulated. So America’s relationship with testing is also complicated. More than half of us, I think, based on last year’s PDK poll agreed that standardized tests are not helpful in letting teachers know what to teach. That figure jumps, by the way, to roughly two-thirds when you count only public school parents. At the same time, there is strong support and far less controversy, speaking of our relationship with testing, with things like college entrance exams, tests to determine promotion from one grade to the next, and AP testing towards college credit to high-schoolers. So it’s not as if we don’t like testing, period. We just don’t like the tests that our kids take for performance.

Americans support testing when it’s in the service of clear, well-defined outcomes,

but they don't seem to regard the standardized testing, going back to the No Child Left Behind era and now in the Common Core era, in the same way. I have no idea how to resolve this. Those of you who are expecting some clear vision on this, I'm going to disappoint you because this is the question that I've wrestled with on and off for more than 10 years and I'm no closer to a solution now than I've ever been.

One, without a doubt, and in the main, testing has done more good than harm in America's schools, but it is long past time, I think, to acknowledge that reading tests, particularly the tests with stakes for individual schools and teachers, are doing more harm than good.

A good test or accountability scheme should encourage instructional practices that are strong. Reading tests, I would argue, do exactly the opposite. They encourage poor practice. They waste instructional time. They materially damage reading achievement, especially for our most vulnerable children. See, a test can tell you, for example, if a student has learned to add or subtract unlike fractions, can determine the hypotenuse of a triangle, understands the causes of the Civil War, and by reasonable extension, whether or not I have done a good job teaching the child that content.

But reading comprehension is not a skill or a body of content that can be taught. The annual reading tests that we administer to children in third through eighth grade are de facto tests of background knowledge. I've written deathlessly about this, and everything I've ever learned about this I've learned from E. D. Hirsch, whose work I assume you're familiar with. Those reading tests are de facto tests of background knowledge and vocabulary, so they are not instructionally sensitive. Success or failure has little to do with what I do in the classroom on any given day.

There is a substantial body of research that says that reading comprehension relies on the reader knowing at least something, and sometimes quite a lot, about the subject he or she is reading about: the effects of prior knowledge can be profound. A student who is ostensibly a poor reader suddenly looks like a rather good reader when he or she is reading about a subject with domain knowledge that he or she possesses. The most famous study is the Recht and Leslie study with baseball.<sup>1</sup> Students who had low reading skills but high content knowledge of baseball, for example, easily outperformed ostensibly good readers with low content knowledge. And that's a generalizable conclusion. If you have a lot of schema about a topic, that compensates for your lack of reading comprehension skill. I'm

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<sup>1</sup> Recht, Donna R. & Leslie, Lauren (1988) "Effect of prior knowledge on good and poor readers memory of text," *Journal of Educational Psychology*, Vol 80(1), 16-20.



painting, obviously, with a very, very broad brush.

But the reading tests that our children take, even the Common Core tests of today, treat reading comprehension not as something dependent upon prior knowledge but as a broad, generalized skill. When we treat reading comprehension as a transferable skill, and when we test it that way, we also incentivize teachers to teach it that way. In this scenario, students lose.

Math, on the other hand, is a hierarchical, school-based subject. There is a logical progression of content. But reading comprehension is cumulative. Every cognitive input that a child has, from the day he or she comes home from the hospital, to the day he or she sits down for the fifth-grade reading test, builds that background knowledge and vocabulary, and not all of it, quite obviously, is school-based. So this is why affluent children—children who enjoy the benefits of educated parents who speak in full sentences and read to them, parents who fill their lives with concerted cultivation—do much better on reading tests. This is also, by the way, why it’s so difficult for schools and charter schools that serve low-income children to raise reading scores. It’s just harder to move that needle in reading.

By treating reading as a collection of content-neutral skills, we make reading tests a minefield for both kids and for teachers. The test passages on reading comprehension tests are randomly chosen. They are not necessarily based on school-based knowledge, and even when they are, they are not necessarily pegged to any particular grade. Yet we’re using these tests to hold schools and teachers accountable. So, in short, the students who do well on reading tests tend to be those who have a lot of prior knowledge and read about a wide variety of subjects. That’s the wellspring of mature reading comprehension ability, not skills like finding the main idea or questioning the author.

As a practical matter, standards do not drive classroom practice. Assessments do. The first and perhaps only litmus test for any accountability scheme is simply to figure out: “does this test encourage the classroom practices we seek?” In the case of annual reading tests with high stakes for kids and teachers, the answer, I’m afraid, is clearly: “No. They do not.” Nothing in reading tests as currently conceived encourages schools or teachers to make the urgently needed long-term investments in knowledge and vocabulary that, again, are the wellspring of mature reading comprehension and that drive language proficiency.

So what could replace them? This is where we reach the limits of my good ideas. Options could include testing reading annually but eliminating stakes, testing

decoding up until grade four and then stopping with reading tests altogether, substituting subject matter tests for reading tests. The best and most obvious solution, frankly, is a complete and total political nonstarter, and that would be curriculum-based tests, which could be an elegant solution.

In other words, if third grade is the year where you'd learn about Vikings, the water cycle, photosynthesis, ancient Greeks, and ten other topics, test reading passages would be about those topics. But curriculum based tests are not being used, for obvious reasons.

This is the fundamental conundrum: On the one hand I value these tests. If there were no tests, no data, no researchers telling us what they've learned,, the moral imperative for reform goes away. We go back to neglecting the kind of students I've taught my entire career. But again, we can't blind ourselves, as a reform community, to the damage that these tests are doing. They are incentivizing precisely the kind of literacy practices we should be actively disincentivizing. For 10 years now I've made fun of the way I was taught to teach reading comprehension to my struggling fifth-graders in the South Bronx, but if you tell me that I have to make a year's growth in a year's time, a concept I'm not even sure I understand when it comes to literacy, then I'm going to do exactly the things that I've criticized for the last 10 years.

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# A New Model of Accountability

*Michael Horn*

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Picture that you're going over to a friend's house and you're going to be the chef for a night. Your friend says, "I want you to make the most innovative meal possible. But there are a couple of catches. Here are the ingredients you're allowed to use, and only these ingredients. Here are the steps that you are to follow, and only these particular steps, in this order, and for this amount of time for each step. Also, use these specific techniques." If you were to cook a meal following all of these prescriptions, what you get will be exactly what everyone else does, just executed better or worse. There is no possibility for innovation.

From a policy perspective, when we constrain, regulate and prescribe the inputs of the process, by definition we will not get innovation. Every organization has resources, processes, priorities, and then ultimately a value proposition that it delivers. The inputs are the resources and processes. If we constrain resources and processes, by definition, we will keep delivering the same thing.

Accountability and regulation are not the same thing. Over time, in school policy, we have layered mechanisms for accountability with compliance- and input-based regulations. The result is that there now exists very little freedom for novel thinking around what schools (or schooling, as Ted Kolderie would say) should look like.

As a result of layering on compliance- and input-based regulations, metrics like seat time, student-teacher ratios, and teacher credentialing have all become regulated. Some people say that the business model has wielded too much influence over education reform. But what business manager would say to a line manager, "I'm going to hold you responsible for the P&L of this particular product or service, but you're not allowed to choose the people that you hire, or have any say in how you allocate your budget." This sounds insane, yet it's what we've done to teachers and principals consistently, particular in the district environment but to some degree in the charter environment as well.

It is critical that we move away from thinking about inputs and instead concentrate on outcomes. A critical outcome for schools to consider is individual growth (as opposed to proficiency). Of course, we must be mindful of the challenges associated with measuring growth. We know, for example, that it can take a few years for new schools or different schools to demonstrate proficiency. But if we consider growth and look at where students start in a curriculum and whether and

in what period of time they move to mastery, we see something very different. We might also instill a growth mindset in students and school personnel.

We must also understand that different policies work in different policy environments. In environments where government runs everything and students and families have no voice or power, perverse incentives and behaviors are present. This has happened in higher education, where in recent years, Title IV funding has been abused.

So how do we hold schools accountable and empower families without overregulating? One interesting approach is an auditing model, where schools report on the outcomes that they claim students will achieve. Those can be cognitive (achievement) and non-cognitive outcomes, such as character formation or growth. In an auditing model, students should also provide evidence of the outcomes a school has enabled them to achieve. And an audit could include some form of a reliable, valid, assessment—carried out by a third-party—as one measure of outcomes.

In such a policy environment, students could start to make better decisions based on the goals that they have set for themselves. There would also be much more opportunity for true choice and transparency of choice, as consumers will be able to make informed decisions based on the type of outcomes each school produces for different students in each local context.



**SECTION FOUR:**

**A Better Way: Learning  
From The Evidence**





As Ted Kolderie has pointed out, when conceived, charters were not just about a different way of doing school. They were about professionals coming together, thinking about the best ways to serve the students in front of them, and giving families the option to try something new. The idea was that “one-size-fits-all” is no way to approach education; those closest to children—parents and teachers—are best equipped to decide what “fit” means for each kid.

In the push to expand and institutionalize charter schooling, this role of the parent and his or her choices is increasingly left out of the conversation. Instead of talking about empowering parents with diverse school options, the discussion is around providing parents with access to schools that produce high test scores. As such, charters have increasingly come to be viewed as an escape valve from “failing” district schools, instead of places that are attractive because of their missions, cultures, and distinct offerings.

To put the fate of schools in the hands of regulators alone assumes that parents are not equipped to decide what is best for their children. To value parents, we have to put some stock in the power of the educational choices that they make. What do we know about parent choice and charter schools?

- When parents are truly empowered to choose schools, they tend to choose schools that work.
- Accountability for school performance and regulation are not the same thing; parents are empowered when policies encourage transparency accountability for outcomes, they are disempowered by regulations that make choice among schools meaningless.
- The current politics of education reform have all but forgotten about the power of parent choice—to get back to the essence of charter schooling, choice must be part of the equation when it comes to opening and closing charter schools.

The data on programs where parent choice is a driver versus the highly regulated charter sector are clear: regulation produces a certain kind of school and in some cases a certain kind of output, but it does not necessarily produce superior or more attractive educational options. There is a better way.



# The High Regulation Approach to School Choice

*Jay P. Greene*

*Distinguished Professor, Department of Education Reform, University of Arkansas*

Many of the most powerful backers of school choice are embracing a high-regulation approach. Their interests have shifted from promoting choice as the goal to using choice as a mechanism for obtaining more quality schools. They don't trust that choice produces quality. They want a fairly heavy dose of regulation to prevent bad schools from being included among the options available to families. They want to control key aspects of school operations to prevent schools from becoming bad. And they want a powerful regulator—a portfolio manager or harbor master—who will identify and remove bad schools from choice programs.

I think this approach is deeply flawed. I understand that political reality requires some amount of reasonable regulation. But the view that regulation, not choice itself, is the main driver of quality improvement is completely wrong. My fear is that just when school choice is achieving escape velocity as a self-sustaining and expanding policy, the love for high-regulation may do serious harm to these programs and the children they intend to help. There are four main arguments for regulating school choice programs:

1. State funds require accountability to the state for performance.
2. Regulation protects kids and improves outcomes from choice.
3. Regulation improves the political prospects for choice.
4. Achievement tests are a reasonable proxy for school quality, such that a regulator could use results to decide which schools should be included or excluded from the set of options available to parents.

Unfortunately, these arguments are deeply flawed.

## **Do state funds require accountability to the state for performance?**

It's the taxpayers' money, the argument goes, so the public deserves to know if students are doing well. That's the price — if you take the government's money, you are accountable to the government.

Unfortunately, the people who make this argument are just repeating a political slogan. If they bothered to think about it, even for a few minutes, they would

quickly realize that the vast majority of government programs do not require accountability to the government for performance.

When the government provides food stamps it does not require recipients to submit BMI measurements or other indicators of adequate nutrition. Yes, food stamps have some restriction on the items that may be purchased, but the program does not require accountability for performance. Social Security was developed to ensure that senior citizens would be able to buy necessities, like housing and food. But we do not demand an accounting from seniors of the use of those funds. If they want to blow it at the casino and not pay their rent or buy groceries, they are free to do so.

Even in the area of education, government funds do not typically require accountability for performance. We do not require recipients of Pell Grants to take a state test. Beneficiaries of the Day Care Tuition Tax Credit similarly do not have to demonstrate progress toward school readiness in exchange for the government subsidy. Repeating that government funds require accountability to the government is just mindless sloganeering, not an accurate description of how government programs typically operate.

Why do most government programs not require accountability for performance? The simple answer is that in most cases we trust that the private interests of program participants are aligned with the public interest in providing them with the benefit. We trust that food stamp recipients want to avoid being malnourished, which is why we provide them with this assistance. We trust that seniors don't want to be homeless or go hungry, so are unlikely to blow their money at the casino if a rent payment is due. We trust that college students want an education. And we trust that families with children in pre-school want them to be prepared for later schooling.

We don't demand performance accountability in any of these programs because we believe that people are likely to use funds in ways that are consistent with the public purpose in providing them with assistance. Of course, that is not always true. Some people would rather trade food stamps for drugs and go hungry. Some people will spend their Social Security checks foolishly and fail to pay the rent. Some college students would rather embark on an alcohol-fueled journey of self-discovery than receive an education. And some families just want their pre-schoolers to be warehoused conveniently somewhere while they go to work rather than improve their children's school-readiness.

While we are fully aware that some people will abuse these programs and fail to use the funds efficiently in a way that is aligned with the public interest, we recognize that demanding performance measures would undermine the public purpose of these programs even more. Requiring performance measures distorts and narrows the behavior of program participants. It is also costly, burdensome, and highly intrusive.

The same is true for school choice programs. As long as we believe that most program participants have interests that are aligned with those of the taxpayer, let's design school choice programs like we design most government programs—without performance accountability requirements.

### **Do regulations protect kids and improve outcomes from choice?**

Even if government accountability is not the norm for government programs, some people may still favor requiring choice schools to take the state test and comply with other components of the high-regulation approach to school choice, such as mandating that schools accept voucher amounts as payment in full, prohibiting schools from applying their own admissions requirements, and focusing programs on low-income students in low-performing schools. Some people, including many of the most powerful backers of school choice, seem to believe that these regulations help protect kids and improve outcomes.

Let's leave aside for now discussion of whether this set of heavy regulations negatively affects the quality of participating schools. And let's also leave aside whether these regulations are even effective in promoting equity of access to participating schools for disadvantaged students. The real problem is that heavy regulation dramatically reduces the number of participating schools.

Arizona's choice programs have light regulation and near-universal participation among private schools. Florida's tax credit program has more regulation, although it does not require taking the state test. It has almost two-thirds of private schools willing to take students.

But in Indiana's heavy-regulation program the private school participation rate drops to around 50%. At least in Indiana, many private schools were accustomed to administering the state test as a requirement for participating in inter-scholastic athletics. In Louisiana, where the heavy regulation and state-testing requirement were new, only about 1/3 of private schools are willing to participate in the voucher program. Survey research by Brian Kisida, Pat Wolf, and Evan Rhinesmith confirms

that heavy regulation is driving private schools away from these programs.<sup>1</sup>

The only equity of access that is promoted by the heavy-regulation approach is that everyone is equally unable to access schools that refuse to participate in the programs. In their desire to protect disadvantaged students, the backers of this heavy-regulation approach have ironically done serious harm to these students by driving away most of the supply. And the minority of private schools that are willing to participate are likely to include many of the lower quality schools. Who is most likely to be willing to abandon control over their admissions, accept tiny voucher amounts as payment in full for serving the lowest achieving students, and be willing to take the state achievement tests? Financially desperate private schools with a lot of empty seats are likely to be first in line to accept these terms. High-quality private schools may at most make a token number of seats available. Rather than protecting access and ensuring quality, heavy regulation is having the opposite effect. Heavy regulations are eliminating the bulk of options and especially driving away the highest-quality private schools.

It should come as no surprise to anyone if we see some very disappointing academic outcomes in Louisiana's voucher program. A heavy regulation program that some major backers of school choice believe represents the "ideal" approach is actually designed to give us the worst outcomes. If we do see bad results, the first impulse of the backers of heavy regulation will be to double-down on regulation. They'll wonder who the bad schools are and call for regulators to remove them from the program.

If education reform could be accomplished simply by identifying and closing bad schools while expanding good ones, everything could be fixed already without any need for school choice. We would just issue regulations to forbid bad schools and to mandate good ones. See? Problem solved. But real education reform requires using the power of choice and competition to provide incentives to create more good and to reduce bad. The whole problem with the high-regulation approach is that it falsely believes regulators can define, identify, and require good outcomes. If that were in fact possible, we would have already solved the problem and we could have done so without any school choice. The enduring troubles of the traditional public system tell me that is not possible.

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<sup>1</sup> Kisida, Rhinesmith, & Wolfe, "Views from private schools: Attitudes from school choice programs in three states," *American Enterprise Institute*, [http://www.aei.org/publication/views-private-schools-attitudes-school-choice-programs-three-states/?utm\\_source=today&utm\\_medium=paramount&utm\\_campaign=012115](http://www.aei.org/publication/views-private-schools-attitudes-school-choice-programs-three-states/?utm_source=today&utm_medium=paramount&utm_campaign=012115).

## Does regulation improve the political prospects for choice?

If high-regulation is not the norm and does not help children, supporters of this approach might still favor it if they think it has certain political advantages.

For those interested in private school choice, two political advantages are claimed: 1) High-regulation addresses some objections, winning votes among skeptics to improve the political prospects of passing and sustaining those programs; 2) High-regulation protects private school choice programs from the political damage caused by scandals and embarrassing outcomes.

Neither of these arguments is supported by experience. Conceding regulatory measures to skeptics and opponents has hardly changed a single vote. Backers of the Milwaukee voucher program thought they would get relief from legislative opposition if they accepted more burdensome regulation. No votes have changed as a result and the program remains as precarious as ever.

Nor has regulation protected programs from scandal. Judging from the steady stream of news reports about teachers in traditional public schools sleeping with students, it appears that no amount of background checks or government oversight can eliminate rare but regular instances of misconduct. I'm not arguing against a reasonable and light regulatory framework, I'm just suggesting that higher levels of regulation provide little or no additional political protection. Determined opponents can always find scandals to exploit and cannot be appeased with anything short of preserving the traditional public system.

I'm actually more worried that key backers of school choice are starting to focus all of their energies on charters. High-regulation is the norm in charter programs. You don't have to worry about charter schools refusing to participate in a heavily regulated program since they have no alternatives. And charters seem to be flourishing. Charter programs exist in more states with more schools serving more students than do private choice programs. Many important backers of school choice seem to believe that charters are also getting better results.

But charters are not necessarily producing better results than private school choice. In four rigorous studies,<sup>2</sup> the charter schools examined had a significant impact on test scores but not on on-time graduation or college attainment and completion. High-regulation comes with a cost to quality.

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<sup>2</sup> Wolfe et. al (2013), "school vouchers and outcomes: Experimental evidence from Washington, D.C., *Journal of Policy Analysis and Management* 32(2).

Similarly rigorous studies of private school choice show significant benefits for educational attainment. Wolf, et al examined the federally funded DC voucher program. They found little benefit for voucher students on achievement tests but those students enjoyed a 21 percentage point increase in the rate at which they graduated high school. Cowen, et al<sup>3</sup> examined the public funded voucher program in Milwaukee and found a 5 to 7 percentage point increase in the rate at which voucher students attended college. And Peterson and Chingos examined a privately funded voucher program in New York City and found that African-American voucher recipients experienced a 9 percentage point increase in attending college. There was no significant benefit for Hispanic students.<sup>4</sup>

Charter supporters who advocate for high-regulation are making a horrible mistake. Among charter schools, the kinds of schools that high-regulation folks like the most are the ones producing weaker long-term outcomes. Focusing only on charters making the biggest achievement score gains misses those charters with more modest achievement results but truly impressive attainment outcomes. Charter schools offer the illusion of getting the benefits from choice without too much of the messiness of markets. As it turns out, central planning among charter schools is no easier than central planning among traditional public schools.

### **Are achievement tests a reasonable proxy for school quality that should be used to decide which schools exist?**

Achievement tests are at the center of the high-regulation approach. They are used by regulators—whether authorizers, portfolio managers, or harbor masters—to identify good and bad schools, to determine whether they should be included as choice options, and to shape the goals schools should pursue.

There is no question that growth in student learning provides us with some useful information. The problem is that school quality is much broader than just test score results.

I always understood that achievement tests were only a partial and imperfect indicator of school quality, but I used to believe that other aspects of school quality not captured by achievement tests were largely correlated with those test results. That is, I used to think that if a school raised scores it probably meant that students were safer, more students would graduate, more students would learn productive

<sup>3</sup> Cowen et. al (2013) *School Vouchers and Student Attainment: Evidence from a State-Mandated Study of Milwaukee's Parental Choice Program*, *Policy Studies Journal*, 41(1).

<sup>4</sup> Chingos, Matthew & Peterson, Paul (2013) "The impact of school vouchers on college enrollment," *Education Next* 13(3).



values, and more students would go on to become successful adults.

Unfortunately, the evidence is increasingly clear that test scores are only weakly correlated with all of these other desirable outcomes from schools.

The problem is that the high-regulation approach needs achievement tests to be correlated with all of these other good outcomes. If they are going to pick the school choice winners and losers based on test scores, then test scores need to be strongly predictive of other things we care about. People have been very slow to accept the fact that test scores are only weakly correlated with later life outcomes because it would be so convenient if readily available and relatively inexpensive test scores could capture something as complex as school quality. The fact that they don't throws a monkey wrench into the entire high-regulation machinery.

The reality is that the average low-income parent has more complete information about their kid's school quality than does the highly-trained regulator armed only with test scores. When we wonder why parents are choosing schools that regulators and other distant experts deem to be "bad," it is almost certainly because the parents know more about what is good and bad than do the experts.

The wrong response to recognizing that test scores fail to capture school quality sufficiently is to increase the set of high-stakes measures we collect. We can't fix the limits of math and reading achievement tests by adding mandatory "grit" surveys or other measures. Even informed by a variety of measures, Chinese officials are no more effective in telling state-controlled banks how to allocate capital than portfolio managers are in determining how to allocate school options. Decentralized decision-making is simply better than central planning.

The school choice movement has to remember that choice is what makes this reform work, not the regulation. I'm perfectly willing to accept that some regulation is necessary and inevitable. And I'm willing to make compromises to get programs adopted. But the cardinal sin of the high-regulation school choice folks is that they believe that heavy regulation is the ideal and should be the starting point for political compromises.

*This contribution is adapted from a series of blog posts on the Education Next blog <http://educationnext.org/edblog/>*



# Asking the Wrong Questions on School Choice

## The Real Debate We Should Be Having Is: What Kind of Education System Do We Want?

*Robert Pondiscio  
Thomas B. Fordham Institute*

With Donald Trump in the White House and long-time school choice advocate Betsy DeVos installed as his education secretary, arguments for and against vouchers and scholarship tax credits are burning white hot.

A New York Times report and subsequent editorial claimed that “three of the largest voucher programs in the country, enrolling nearly 180,000 children nationwide, showed negative results.” Choice advocates fired back, disputing the methodology of those studies and insisting that the vast majority of “gold standard” research has found that school choice produces “equivalent or superior academic results, usually for a fraction of what is spent on public schools,” in the words of the Cato Institute’s Neal McCluskey.

Who’s right? Who’s wrong?

Wonky battles over research studies can be illuminating. They can also be irrelevant or premature. While McCluskey and other advocates are correct that the preponderance of evidence tends to favor school choice, this entire debate puts the cart before the horse. When we look to test-based evidence—and look no further—to decide whether choice “works,” we are making two rather extraordinary, unquestioned assumptions: that the sole purpose of schooling is to raise test scores, and that district schools have a place of privilege against which all other models must justify themselves.

That’s really not what choice is about. Choice exists to allow parents to educate their children in accordance with their own needs, desires and values. If diversity is a core value of yours, for example, you might seek out a school where your child can learn alongside peers from different backgrounds. If your child is a budding artist, actor or musician, the “evidence” that might persuade you is whether he or she will have the opportunity to study with a working sculptor or to pound the boards in a strong theater or dance program. If your child is an athlete, the number of state titles won by the lacrosse team or sports scholarships earned by graduates might be compelling evidence. If faith is central to your family, you will want a

school that allows your child to grow and be guided by your religious beliefs. There can be no doubt that, if you are fortunate enough to select a school based on your child's talents or interests or your family's values and traditions, the question of whether school choice "works" has already been answered. It's working perfectly for you.

Deciding whether or not to permit parents to choose based solely on test-based evidence is presumptuous. It says, in effect, that one's values, aspirations and priorities for one's child amount to nothing. Worse, our evidence-based debate presumes that a single, uniform school structure is and ought to be the norm, and that every departure from that system must justify itself in terms of a narrow set of outcomes that may not reflect parents' – or society's – priorities. Academic outcomes matter, of course, but so do civic outcomes, character development, respect for diversity and faith and myriad others. "These outcomes shouldn't be placed in a framework that begs the question of whether [a single school system] is the right structure," notes Ashley Berner, Deputy Director of the Johns Hopkins Institute for Education Policy.

The question is not whether academic outcomes matter, but when they matter. Evidence should be used to influence school choice program and policy designs, not to decide whether or not choice should be permitted in the first place. The desirability of school choice and educational pluralism is a values-driven question, not an evidence-based one. Decide first if families should have publicly supported options beyond a single, uniform system. Then use evidence to inform choice or ensure that taxpayer funds are well spent.

Berner is the author of the book "Pluralism and American Public Education: No One Way to School," which notes that making traditional district schools the default setting makes American education an outlier. In other countries, she notes, the state "either operates a wide array of secular, religious and pedagogical schools, or it funds all schools but operates only a portion of them." Pluralism does not exist to create competition for state-run schools; it's valued intrinsically.

That doesn't mean pluralistic systems are indifferent to school performance. Governments in other lands intervene when schools fail to produce acceptable academic outcomes, but the corrective measures are "sector agnostic," Berner notes. In the U.K., for example, whether it's a Church of England school or a nonsectarian, state-run school that's not performing well doesn't matter, since both are government-supported. "The conversation is not, 'See? Church of England schools are terrible!' The conversation is, 'All schools need to serve students well."

Period,” she says. School outcomes are a downstream conversation. The larger, more important debate—should we have a state-run or pluralistic system?—comes first.

School choice proponents who seek to prove that vouchers, tax credits and scholarships “work” by citing test-score-based research have allowed themselves to be lured into argument that can never be completely won. They have tacitly agreed to a reductive frame and a debate over what evidence is acceptable (test scores) and what it means to “win” (better test scores). This is roughly akin to arguing whether to shop at your neighborhood grocery store vs. Wal-Mart based on price alone. Price is important, but you may have reasons for choosing the Main Street Grocery that matter more to you than the 50 cents per pound you’d save on ground beef. Perhaps Main Street’s fresh local produce and personal service are more important to you.

If we limit the frame of this debate to academic outputs alone, every new study provides ammunition, but never a conclusion. The real debate we should be having is, “What kind of system do we want?” Answer that question first, then use evidence to improve the school designs, policies and programs we have agreed deserve public support.

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# Chartering a New Course: Recommendations for State Policymakers

State policymakers must understand that the charter school conversation has moved beyond a simple “for” or “against.” To be sure, there is still no shortage of charter opponents. But it’s incumbent on state policymakers to do more than simply support charter schools. They have to know why its important to support charter schools and propose policies to advance their particular vision.

We encourage policy makers to consider: do we want charter schools that are “better” than public schools, or that are different than public schools?

For many in the charter sector, the answer is clearly “better.” But we put that word in scare quotes for a reason: in practice, “better” is almost always defined in terms of reading and math standardized test scores. Charter schools, by and large, successfully outperform their neighboring public schools on these tests, giving policymakers and the public a clear case that charters are “working.” If policymakers want to double-down on this vision, the agenda is not terribly complicated. You simply orient the regulatory infrastructure around producing a sector of schools with higher standardized test scores. You put up significant barriers to entry to attempt to only allow schools to open that you think are likely to produce standardize test score gains. You get every charter authorizer on the same page that the prime factor in charter school renewal is whether they meet their intended test-score targets. You automatically weed out schools that post low-test scores. Over time, the system is likely to achieve its intended effect.

But this places a whole lot of faith in standardized test scores as the ultimate arbiter of educational quality. Certainly more faith than parents place in them, and for good reason. Parents know that the intangibles of a school – its culture, the commitment of its teachers, it’s particular pedagogical vision – can matter a whole lot more to their child’s development than whether they place five percentiles above or below what the state would predict on standardized math tests. But by designing a system based exclusively on standardized tests, policymakers risk designing a standardized system that has little room for mission-driven innovation.

Policymakers who value pedagogical pluralism and innovation must chart a more complicated policy course to enable a diverse and robust charter sector. To achieve this more open, parent-driven kind of system, the prescription isn’t quite

as simple as centralizing policy around the single end of raising test scores. Rather, policymakers must inject a certain openness and liberty into how their state opens, monitors, and closes charter schools.

## Opening New Charter Schools

System-centered charter advocates say that authorizers must set “high standards” for opening a new charter school. Parent-centered advocates can’t flippantly counter that they are for “low standards” – rather, they must make a more nuanced case for a host of targeted reforms.

### 1. Encourage independent, multiple, and diverse, charter authorizers.

Most charter advocates, whether system- or parent-centered, agree that it’s best to have multiple authorizers. But the multiplicity matters the most if each authorizer has the liberty to operate in a distinctly different way. Oftentimes, when a state has multiple authorizers on paper it actually only has a series of authorizers with local monopolies. And many of those authorizers are either school districts or operate contingent on school district approval. This means that, in practice, rather than encouraging competition and innovation there are simply a chain of different fiefdoms. What’s more, even in states that have multiple authorizers, there is a growing pressure to make these authorizers adopt standard “best practices.” In practice, this can counteract the autonomy and judgment of charter authorizers and encourage authorizer homogenization.

State policymakers should aim for a law that allows at least one non-district, non-governmental authorizer who is capable of starting a charter school in any part of the state, without geographic restrictions that produce another monopoly over a particular region or city, and permitting all communities to be home to charter schools, versus selecting certain districts and city-sizes, as is the case in Kentucky, the latest law to be adopted. When it’s done so by law, as law in Ohio, Oklahoma, Missouri and Tennessee, it constrains charters into specific areas, limiting their popular appeal and pedagogical potential. When it’s done in practice, as in in Massachusetts and New Jersey, efforts for further expansion tend to be resisted by constituencies that have never benefited from charter schools. Such bargains are made allegedly to gain political support but result in increased protectionism, not expansive attitudes toward reform. It further changes the nature of what chartering is and can be in those areas for its residents and builds the philosophy, amongst suburbanites, that charters are a course of last resort for other people’s kids.



Geographic and socioeconomic constraints on where charters are allowed to open and local authorizing monopolies should be counter acted.

Policymakers should also enable a range of different kinds of organizations that are allowed to authorize charter schools. School districts should have the option, as should the state education agencies, local governments, universities, and non-profit organizations. While we believe allowing for the same creativity that fostered the first charter school laws is in order to find the next best entity to authorize, we nevertheless point to the data on states with universities as authorizers as evidence of why this should be the preferred model for lawmakers today.

These different types of authorizers should be encouraged to either remain mission agnostic, or should be encouraged to specialize as part of a diverse state-wide range of authorizing bodies. It would be interesting to see authorizers spring up with particular missions; for example, classical education, Montessori education, or digital education, and focus on bringing those particular approaches to any location statewide. No matter the approach, mission-standardization across multiple authorizers should be discouraged.

## **2. Create a mechanism for “small-schools” to start up.**

There is a very compelling reason why authorizers might be hesitant to take a chance on a new charter school: opening a new charter school is a massive endeavor, and if a large school sets up shop overnight and fails quickly it could harm hundreds upon hundreds of students in the process.

As Matt Candler of 4.0 Schools in New Orleans has said, the typical charter school launch goes as follows: cross your fingers that a 200-400-page application based on a school you’ve never tested gets approved and then go from zero to running a \$1-4 million operation serving 80-200 kids overnight. Realizing that this isn’t the most efficient or promising way to start a new school, Candler’s 4.0 Schools acts as an incubator for “Tiny Schools” where a handful of teachers can test out new pedagogical approaches for a classroom or two of children, and can work towards scaling up their concept if it proves fruitful.

More organizations like 4.0 Schools should exist, and they should have a mandate to authorize start-up charter schools, at least on a limited basis. Ideally, you could imagine a dual-track system for charter approval. One system would be the normal process by which educational entrepreneurs write a massive application and try to launch a big new school from whole cloth. And the other would be a sort of “start-

up” track, authorizing 1-4 classroom mini schools for 1-2 years of a pilot launch to try to prove their concept and competence.

For policymakers, an approach to help achieve this practice is to limit requiring “proven” school models and discouraging authorizers from using prior experience running a school with traditional measures of success to be a proxy for approval. The founders of KIPP were once two scrappy, young teachers who had no prior experience. Yet their creativity, aspiration and dedication drove them to start what is considered among the best charter management organizations. Had they been required to demonstrate prior success, thousands would have never completed their education.

## Monitoring Charter Schools

### 1. Legislatively commission a regulatory audit

As you learned from Benjamin Lindquist’s chapter, charter schools are often hampered to such a significant degree by state regulations that it makes a mockery of the promise of charter autonomy. For the most part, state legislatures entrust oversight of the charter sector to state education agencies, which are often the ones promulgating an intensive, compliance-based system. State legislators should maintain oversight over state education agencies, local education agencies, and charter authorizers to monitor and mitigate the everyday regulatory burden imposed on charter schools. Legislative committees should commission periodic third-party regulatory reviews, with an eye toward issuing legislative recommendations that can fight back against bureaucratic-regulatory creep.

Similarly the federal Department of Education must review its role in having fostered a climate of compliance driven, punitive state oversight of authorizers and charter schools. The Public Charter School Start up grant program has developed from a thin, state block grant program into a complex web of federal demands on states; increased funds for schools has also increased funds to support that bureaucracy.

We encourage Education Secretary Betsy DeVos to provide incentives for states to conduct a forensic audit on the regulatory demands and non-regulatory compliance which have played a significant role in the regulatory reload of charters addressed in many of this publication’s papers.

## **2. Encourage all schools, charter and public, to conduct and report school climate surveys**

The promise of charter schooling goes well beyond test scores – but quite often that’s all that the public (and policymakers) are able to judge. One solution to this information problem is to encourage all schools – charter and public – to conduct and publish consistent school climate surveys. It could well be that a charter school is performing just as poorly on standardized tests as its neighbors, but according to students they feel much safer there than at their former school. It could also be the case that students at one charter school perform higher on tests, but feel less respected and nurtured than at another charter school that doesn’t perform quite as high. All of this is information that parents care about, deserve to know, and could help encourage schools to compete not just on standardized tests, but on offering a whole-child education.

## **3. Defend charter school autonomy on teacher quality**

When No Child Left Behind’s call for highly qualified teachers reached the states, the default requirement became standard certification of teachers, even for charter schools which had prior to its adoption been permitted in most states to allow alternative paths to teaching. While many states permit some flexibility – mostly temporary – from such provisions, most have not resulted in the kind of expansive environment for attracting non-traditional teacher candidates to the classroom.

At a time when there is a shortage of qualified people to teach, the growing push to maintain and expand teacher licensure requirements to all charter schools must be counteracted and reversed. Under the Every Student Succeeds Act, states are allowed to use federal funds to establish specialized teacher preparation academies. State legislators should push to allow charters to set up their own academies, essentially giving them freedom to recruit and train their own teachers.

Separate from charter school laws, all schools would benefit from legislation that permits wide latitude in hiring and subject matter expertise to substitute for certification. The National Council on Teacher Quality has more to say about this subject.

## Closing Charter Schools

Many system-centered reformers will be quick to straw-man arguments for a more free and open charter sector by saying that parent-centered reformers don't want to allow bad schools to be shut down. On the contrary, part of the charter bargain is that charter schools must be accountable to a state entity with the power to close them. The question is how.

In a parent-centered eco-system, authorizers should retain the ability to close a school – but that decision should always be a human one. Rather than simply close a school based on a formula for standardized test score performance, test scores should open a serious conversation rather than close one.

When a charter school is identified as being low-performing, a charter authorizer ought to conduct a thorough review, consulting students, teachers, and parents to judge whether the school truly deserves closure or whether it might have other virtues that make it worth keeping open. Perhaps parents and students feel that they are safer in a charter school than they were at their last school. Perhaps teachers feel as though they're making tremendous progress of the sort that doesn't shine through on test results. Or, perhaps teachers feel as though the culture at their charter school is toxic and parents feel like they are being stonewalled. Either way, this is all information that a charter authorizer should have a duty to collect and take into account before making a decision.

This is a subject we do not take lightly. Tomes have been written on it, and hundreds of meetings, hearings and debates held to discuss when and how – indeed if – to close charter schools.

The current approach advised by the national charter-only organizations is failing to deliver on the promise that students have access to schools that best meet their needs. It also fails to deliver on the promise that educators have the opportunity to create those schools with leeway to devise and develop new and innovative approaches. Parents need and deserve opportunities to choose from a wide and increasing plethora of diverse educational approaches. By leading a national conversation on closing charter schools and demanding laws that develop complex systems to put authorizers, not parents, exclusively in control of enforcement, the authorizing and association organizations have given a blank check to opponents and policymakers to over-regulate and thus reduce the footprint possible for chartering. As we point out, the downward spiral growth curve of the charter sector is not an accident.

## Conclusion

There are fewer guarantees in a parent-centered charter sector than a system-centered charter sector. Policymakers can only set the conditions for educational entrepreneurs to have the freedom to offer more, different options for parents to choose and judge. There are many ways to accomplish this; adopting laws that are narrow in scope and not explosive in bureaucracy is one. The Center for Education Reform worked with the American legislative Exchange Council to create a new, Next Generation Model Charter School Law that draws from the best of model states, provides a clear and balanced approach to system accountability but doesn't usurp its intended purpose.

But, fundamentally, chartering is about creating the space for this freedom. Some charter advocates view charter schooling as simply a means to an end, as a more efficient way to drive higher test scores. But freedom is a good in and of itself. That is, so long as you trust that given the freedom to innovate educators will indeed be able to engage in a more holistic and robust pedagogy. And so long as you trust that parents know what's best for their children and know what's going on in their child's schools. If you do, then it's not enough to simply be "for" charter schools - you must be for a more charter system, and we hope this book has helped explain how to achieve that.



# Editors

## Jeanne Allen

Jeanne Allen founded the Center for Education Reform (CER) in 1993 and remains its CEO. Unyielding in her mission to revolutionize education an acclaimed author, media staple, and education thought leader, has been a trusted advisor to presidents, governors, and lawmakers, and continues to provide valuable counsel to policymakers, philanthropists, and her colleagues in education.

## Cara Stillings Candal

Cara Stillings Candal is the Director of Research and Curriculum for the National Academy of Advanced Teacher Education. She consults in the areas of large-scale assessment and teacher professional development and maintains a relationship with Boston University, where she conducts educational research and teaches undergraduate and graduate-level courses in domestic and international education policy.

## Max Eden

Max Eden is a senior fellow at the Manhattan Institute and has served as program manager of the Education Policy Studies Department at the American Enterprise Institute. His work has appeared in scholarly and popular outlets, such as the *Journal of School Choice*, *Encyclopedia of Education Economics and Finance*, *Washington Post*, *U.S. News and World Report*, *National Review*, *Claremont Review of Books*, and *The Weekly Standard*. He holds a B.A. in history from Yale University.





# Contributors

## Derrell Bradford

Derrell Bradford is the executive vice president of 50CAN and the executive director of NYCAN. In his national role, Derrell recruits and trains local leaders across the 50CAN network for roles as CAN executive directors, fellows and YouCAN advocates. He spent nine years with New Jersey's Excellent Education for Everyone (E3) as director of communications and then as executive director.

## Elizabeth English

Elizabeth English is Manager of External Affairs for Domestic Policy Studies at the American Enterprise Institute, where she previously served as an Education Policy Research Associate, conducting policy research on prison education and reentry, early childhood education, school choice policies, federal grant programs, and urban school reform.

## Jay P. Greene

Jay P. Greene is endowed chair and head of the Department of Education Reform at the University of Arkansas where he conducts research and writes about education policy. His articles have appeared in policy journals, such as *The Public Interest*, *City Journal*, and *Education Next*, in academic journals, such as *Education Finance and Policy*, *Economics of Education Review*, and the *British Journal of Political Science*, as well as in major newspapers.

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Michael Horn co-founder of, and a distinguished fellow at, the Clayton Christensen Institute for Disruptive Innovation, a non-profit think tank. He also serves as a principal consultant for Entangled Solutions and is the author and coauthor of multiple books, including the award-winning *Disrupting Class: How Disruptive Innovation Will Change the Way the World Learns*, and the Amazon-bestseller *Blended: Using Disruptive Innovation to Improve Schools*.

## Benjamin J. Lindquist

Benjamin J. Lindquist has spent twenty-two years as a charter school operator, venture philanthropist, and grant-maker. He was recently named President of the Colorado League of Charter Schools and is a former Program Director for The Kern Family Foundation. He also founded and was Executive Director of Exalt Education; was a Partner & Vice President of the Charter School Growth Fund; and served as a Program Officer for the Walton Family Foundation.

## Michael Q. McShane

Michael Q. McShane is Director of Education Policy at the Show-Me Institute and holds a Ph.D. in Education Policy from the University of Arkansas, an M.Ed. from the University of Notre Dame, and a B.A. in English from St. Louis University. His analyses and commentaries have been published widely in the media, including in the *Huffington Post*, *National Affairs*, *USA Today*, and *The Washington Post*.

## Robert Pondiscio

Robert Pondiscio is senior fellow and vice president for external affairs at the Thomas B. Fordham Institute and is a senior advisor to Democracy Prep Public Schools, a network of high-performing charter schools based in Harlem, New York. As a journalist for more than 20 years, he held senior positions at *TIME* and *BusinessWeek*, appears frequently Fox News, CNN, and elsewhere.



# CER's National Charter School Laws Ranking & Scorecard 2017

GRADE		A			B														
State		DC	AZ	IN	MI	MN	CO	CA	FL	NY	MA	SC	TX	NC	UT	OK	MO	WI	LA
Year Passed		96	94	01	93	91	93	92	96	98	93	96	95	96	98	99	98	93	95
<b>CHARTER AUTHORIZERS</b>	Possible pts.																		
Multiple Authorizers	8	6	7	8	8	7	4	4	1	5	4	5	3	4	4	5	6	3	4
Authorizer Independence of Local/State Authority	7	5	6	6	7	3	5	3	4	6	5	4	3	3	5	3	3	4	3
Authorizers Subtotal	15	11	13	14	15	10	9	7	5	11	9	9	6	7	9	8	9	7	7
<b>GROWTH</b>																			
No Charter Caps	10	9	10	10	9	10	10	9	10	6	3	10	6	10	7	5	6	8	10
Scaling Up	5	5	3	3	4	3	3	4	3	4	3	2	4	4	2	3	2	2	3
Growth Subtotal	15	14	13	13	13	13	13	13	13	10	6	12	10	14	9	8	8	10	13
<b>OPERATIONS</b>																			
School Autonomy	8	6	6	7	4	6	5	6	6	7	5	4	5	5	4	5	5	6	4
State Allows Freedom To Innovate	7	6	7	6	6	5	5	5	5	4	5	5	4	4	5	5	5	5	3
Teacher Freedom	5	5	5	4	3	3	4	4	5	3	5	4	5	4	3	5	3	3	3
Operations Subtotal	20	17	18	17	13	14	14	15	16	14	15	13	14	13	12	15	13	14	10
<b>EQUITY</b>																			
Operating Funds	10	8	5	7	6	8	7	7	6	6	8	6	7	5	8	5	7	5	5
Pre-K Funds	2	2	0	0	0	0	0	0	0	0	2	0	2	0	0	2	0	0	0
Facility Funds/Financing	5	4	2	0	0	2	0.5	1	1.5	0.5	1	0	0	0	0.5	0	0	0	0
Equity Subtotal	15	14	7	7	6	10	7.5	8	7.5	6.5	11	6	9	5	8.5	7	7	5	5
<b>TOTAL SCORE</b>	<b>65</b>	<b>56</b>	<b>51</b>	<b>51</b>	<b>47</b>	<b>47</b>	<b>44</b>	<b>43</b>	<b>42</b>	<b>42</b>	<b>41</b>	<b>40</b>	<b>39</b>	<b>39</b>	<b>39</b>	<b>38</b>	<b>37</b>	<b>36</b>	<b>35</b>
2015 Rank		1	5	3	4	2	9	11	7	6	27	9	25	23	10	22	12	15	16
2017 Rank		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Total Charter Schools as of MAR. '17		118	547	93	379	166	238	1252	652	335	83	68	629	167	132	29	72	237	144

For more about the Center for Education Reform's Charter School Laws Ranking & Scorecard, go to: <https://www.edreform.com/2017/06/national-charter-school-law-ranking-scorecard/>

C									D												F					
TN	GA	ID	NV	NM	OH	PA	NJ	HI	KY	OR	AR	DE	ME	CT	IL	NH	AL	WY	MS	RI	WA	AK	VA	KS	MD	IA
02	93	98	97	93	97	97	96	94	17	99	95	95	11	96	96	96	15	95	10	95	12	95	98	94	03	96
3	4	5	5	4	5	1	2	3	2	1	2	2	4	2	4	1	1	1	2	2	3	1	0	0	1	1
3	2	4	2	4	1	2	1	2	4	2	2	3	1	1	2	2	2	2	3	1	1	1	0	0	0	1
6	6	9	7	8	6	3	3	5	6	3	4	5	5	3	6	3	3	3	5	3	4	2	0	0	1	2
10	10	7	10	5	6	9	10	10	10	8	3	2	1	3	2	5	3	8	3	1	3	10	10	10	0	1
3	3	3	2	2	1	1	2	1	0	1	3	1	1	2	1	1	0	0	0	1	0	1	1	0	1	1
13	13	10	12	7	7	10	12	11	10	9	6	3	2	5	3	6	3	8	3	2	3	11	11	10	1	2
2	4	4	2	4	4	5	3	5	3	5	4	5	6	4	4	4	5	2	4	3	5	2	1	0	1	1
2	4	3	4	3	5	5	3	4	3	4	4	4	3	3	2	4	2	3	2	3	3	2	2	2	2	1
3	3	3	3	3	3	3	3	0	4	3	3	3	3	3	4	4	5	3	3	2	3	0	0	0	0	0
7	11	10	9	10	12	13	9	9	10	12	11	12	12	10	10	12	12	8	9	8	11	4	3	2	3	2
6	5	5	6	8	6	6	6	4	3	4	5	6	5	4	5	2.5	5	2	4	7	2	1	0	0	4	0
0	0	0	0	0	0	0	0	0	0	0	0	0	2	2	0	0	0	0	0	0	0	0	0	0	0	0
3	0	1	0.5	1	1	0	0	0	0	0	0.5	0	0	0.5	0	0	0	0	0	0	0	0	0	0	0	0
9	5	6	6.5	9	7	6	6	4	3	4	5.5	6	7	6.5	5	2.5	5	2	4	7	2	1	0	0	4	0
35	35	35	35	34	32	32	30	29	29	28	27	26	26	25	24	24	23	21	21	20	20	18	14	12	9	6
20	17	13	24	19	14	18	29	30	N/A	26	34	21	31	39	32	35	N/A	38	36	33	28	37	42	43	41	40
19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
104	115	47	67	97	400	152	89	34	N/A	126	73	29	9	36	144	26	0	4	3	30	8	29	9	10	50	3

**LET FREEDOM RING  
WITH EVERY SCHOOL BELL.**







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