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RESEARCH-BASED OPTIONS FOR EDUCATION POLICYMAKING

Regulating Charter Schools¹

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A founding premise of charter schools is that deregulation will free teachers, principals and schools to excel. Regulation or accountability in the conventional sense would be unnecessary, as competition and the market model would be the driving quality control force. Schools not doing a good job of educating children would either have to adapt or go out of business.

Embracing this philosophy, 43 states and the District of Columbia have adopted some form of charter schools.² Growing rapidly, charter schools enrolled 2.5 million students or 5.1% of the student population in 2013-14.³ Electronic or cyber charter schools have been established in 24 states, with 20 of those 24 states requiring some form of additional oversight of those schools.⁴

But like many new enterprises that have a free hand in the beginning, cracks and fissures erupted. Charges of corruption,⁵ fiscal exploitation,⁶ weak academic performance,⁷ and intentional segregation⁸ spread across the charter sector. Since public dollars are involved, some legislators concluded that market-based accountability was insufficient and they called for external accountability and regulation.⁹

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Accountability of Charter Schools: The Primary Requirements

Public money usually comes with regulatory strings, such as reporting, transparency and guidelines for spending and business practices. Charter schools should be no exception.¹⁰ Elements of charter accountability can be grouped into four broad domains, each of which is discussed in greater depth below:

- **Academic Performance** – In charter schools, this fundamental accountability requirement is most commonly satisfied by demonstrated academic performance, usually by standardized tests. This requirement has proven stronger in rhetoric than in fact.¹¹
- **Equal Opportunity and Non-discrimination** – Numerous studies show lower enrollments of at-risk students in charter schools. Discipline records show greater proportions of children of color being suspended or pushed out.¹²
- **Financial Solvency and Stability** – Particularly problematic have been charter schools with financial irregularities or which went bankrupt in mid-year.
- **Safety** – Building codes, health and safety standards must be met.

Academic performance

Research comparing charter schools to non-charters on standardized test scores has been hampered by unmeasured differences in the two student populations, driven in part by charter practices that shape their enrollment.¹³ But the large body of research in this area—well over 80 independent and generally accepted studies—has yielded the consistent finding that, after controlling for student demographics, charter schools show test-score results at levels that are not meaningfully better or worse than district schools.

The most rigorous and extensive study, commissioned by the US Department of Education, was undertaken by Mathematica. The researchers examined a sample of oversubscribed charter middle schools and compared students at those schools to students who were on the waiting list but were not offered a seat. This longitudinal study showed no overall effect for charter schools.¹⁴ It did find that urban charter school students did slightly better and suburban charter school students did slightly worse.¹⁵

One of the most frequently quoted works is the Stanford CREDO study that found slightly positive results for urban charter schools.¹⁶ The magnitude of the differences was statistically significant simply because the number of cases was high. UCSB Professor Andrew Maul pointed out, “the actual effect sizes reported are very small, explaining well under a tenth of one percent of the variance in test scores.” He added, “To call such an effect ‘substantial’ strains credulity.”¹⁷

Equal Opportunities and Discrimination

There is a substantial body of research demonstrating that charter schools are adding to segregation by race, class, academic achievement, special education status, and English-Language Learner status.¹⁸

Examining all Pennsylvania student transfers, Kotek *et al* found that Black and Hispanic transfers were segregative. White student transfers also tended to be segregative.¹⁹ Discrimination by special education status and academic performance is also documented.²⁰ Reviewed by special education status and English-Language Learner status, charter schools were again much more segregative than the local district schools.²¹

Interestingly, even the charter advocacy community has recently called for charter schools to address access issues for students with special needs.²² In addition, Education Secretary John King, a long-time charter advocate and former charter leader, recently called upon charters to rethink their discipline policies that have contributed to the school-to-prison pipeline.²³

Finance and Closures

News reports have documented a great number of financial irregularities, particularly surrounding educational management corporations in large urban areas. Exorbitant salaries, the sale of public property, excessive rent, and conflicts of interest are among the recurring themes.²⁴ The “Charter School Gravy Train,” as *Forbes* headlined it, raised questions about political influence, profiteering, and ineffective schools.²⁵ A Pinellas County, Florida corporation was indicted for grand theft, money laundering, and aggravated white collar crime.²⁶ But unexpected mid-year closures and financial shortfalls can also be due to inadequate capitalization and lack of financial inexperience.²⁷

Yet, with substantial public monies changing hands, financial regulation is just as essential for charter schools as it is for traditional public schools.

Facility Adequacy and Safety

Charter schools are sometimes housed in excellent and even state-of-the-art buildings; but others are located in lower quality facilities, such as an older repurposed building.²⁸ Charter advocates see this as unfair, since traditional public schools generally have greater access to district facilities, leading to calls for state facilities funding and bonding authority by charter advocacy groups.²⁹ Advocates for traditional public neighborhood schools, however, see charters and the parallel system they create as driving enrollment uncertainty, turmoil and inefficiency. In any case, issues such as asbestos and lead pipes require full inspections and remedies for any problems. These obstacles accentuate compliance concerns with contemporary building and safety codes.³⁰ Questions also arise as to whether facilities meet applicable grant requirements and handicapped access requirements, and whether sharing of libraries, gyms and fields is feasible.

Recommendations

The laws and/or regulations for charter schools vary widely in content and focus. These need to be periodically updated; otherwise state policymakers will not have fulfilled their obligation to protect the safety, welfare and educational entitlements of children. The following list of recommended policies is not comprehensive. Rather it is focused on the domains listed above.

General process requirements:

- The authorizer must specify and enforce all criteria for granting charters and the length of time the charter will remain in effect.
- The authorizer must specify and enforce the grounds, circumstances and procedures for revoking charters. These must include the minimum academic level children must attain if the school is to maintain its charter. Only 11 states currently have such procedures.³¹
- The authorizer must specify and enforce the accountability mechanism for charter schools. Notwithstanding the many shortcomings of test-based accountability policies, the same tests and accountability mechanisms and sanctions required for traditional public schools are necessary in order to assure equality of opportunity as well as comparability of data. All states that provide for charter schools require them to meet state testing and accountability requirements. Currently, 29 states do not have sanctions for charter school authorizers.³²
- Monitoring and oversight must be strong and fully funded by the state.³³

Operational requirements:

- School governance must be representative and transparent. Budgets, governance involvement and reporting to the public must equal or surpass traditional public schools.³⁴
- Charter schools must have publicized admissions procedures that create broad access, and they must demonstrate evidence of their use.
- Policies to mitigate segregation, as described in an earlier brief in this series,³⁵ must be implemented.
- School discipline policies must be fair and transparent.
- At least once each year, the operator must post and distribute an annual report that includes the proposed budget employing the state's chart of accounts, auditor's report, a report on key activities past and planned, and school and comparison area demographics. About 12 states do not have a requirement for such a report.³⁶
- The charter school must comply with all relevant building codes, inspections, bidding laws, employee background checks, and similar requirements.

Again, this is not meant to be a comprehensive list. State policies must also designate the authorizing body(s) along with its authorities and its composition. Among other considerations are conditions for revocation of charters, due process procedures, caps on the number of schools, faculty requirements, and special rules for cyber schools.

For related and more detailed recommendations, see

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