

THE CHARTER SCHOOL DEBATE

Full Of Sound And Fury, But What Does It Signify?

I. INTRODUCTION

School choice has been one of the most polarizing issues to hit the education arena in the past two decades. Proponents portray traditional public schools as bloated bureaucracies staffed by tenured slackers more interested in their salaries and benefits than in the education of their students. Opponents portray proponents of choice as setting about to systematically destroy the public school system, which has fostered this country's greatness through its ability to provide an educated workforce and one inculcated with core democratic values. What is missing from the discussion, and what the New York State Court of Appeals did recognize in the CFE litigation, is that it costs more to educate children with special needs. Thus, one must ask whether the school choice movement arises from systemic flaws within the public education system or from funding inadequate to allow for desired results.

As might be expected with an issue so infused by polemics, literature measuring the success of charter schools is equally divided and often flawed. Early studies looked at gross statistics at a national, statewide, or district level to measure performance of charter schools. These studies are virtually meaningless because, without looking at the traditional public school population from which the charter draws, it is impossible to make valid assertions about charter performance. More recent studies are beginning to address criticisms of the earlier studies, but the field of meaningful academic review is still in its infancy.

Moreover, what has become apparent is that there are charters that are spectacularly successful, those that are abject failures, and those that offer choice in the method of education but have been unable to produce results appreciably different from those of traditional public schools. There is distressingly little research about what separates successful from unsuccessful charters. Without this type of research, one of the basic purposes of charters, allowing for educational experimentation into more effective ways to educate children traditionally left behind by public schools, will remain unfulfilled.

The following article will summarize the Charter School Act of 1998 and discuss issues confronting charter schools. Because charter schools vary tremendously from one state to another, unless otherwise indicated, this discussion relates only to New York State charters.¹ The need for brevity prohibits us from discussing

¹ Charter schools are creatures of state law. Minnesota began the charter revolution by enacting the nation's first charter law in 1991. Less than a decade later there were over 3,000 charter schools nationwide. Forty states, the District of Columbia, and Puerto Rico currently have charter school enabling legislation, and charter schools vary significantly according to the states in which they are chartered.

most literature in detail. For further information, we refer you to the primary sources cited in this article or the summaries of various readings contained on the LWVNYS website.

II. THE POLITICS OF CHARTER SCHOOLS

A. History of the Charter School Act of 1998 (CSA)

By 1998, when New York embraced charter schools, they had been around for quite some time.

In New York the stalwart charter advocates were Governor Pataki and the Black and Hispanic Caucus (now referred to as the Black, Puerto Rican, Hispanic and Asian “Caucus”) in the legislature, with insufficient support elsewhere to enact legislation. This changed at the end of the 1998 legislative session, when the Governor successfully linked passage of the Charter School Act to a pay raise for legislators.

The State League opposed S7877, which as amended became the Charter School Act of 1998, because its lack of an independent funding stream had the potential both to decrease actual funding available to educate each child in the public system at the same time that administrative inefficiencies of creating additional semi-autonomous education systems would effectively increase the per capita cost of educating each student. The League also objected to a number of ambiguities relative to education of disabled students and separation of church and state that were addressed in the version that was enacted. The Charter School Act, which addressed some of the League’s initial objections, left the League with a limited ability to participate in the charter school debate, which is the reason for this new study and consensus process.

B. Variations Among the States

Although charter school proponents and opponents have tended to align themselves nationally to extol the benefits or proclaim the shortcomings of charter schools, the reality is that charter schools look very different and serve different populations from state to state.

Michael Kirst in *Politics of Charter Schools: Competing National Advocacy Coalitions Meet Local Politics*,² discussed the myriad of differences, which have so particularized charters in different jurisdictions that attempts to compare charters risk comparing apples and oranges. Among the variables mentioned were new charter start-up vs. conversion of traditional public schools, bricks and mortar charters vs. home-based (virtual) charters, charters dependent on the school district for services vs. those that are independent, variation depending on chartering agency, union vs. non-union charters, profit vs. not-for-profit charters, niche charters (dropouts, at-risk students, disabled students) vs. charters that provide a general education program.)

² Kirst, Michael, (2006) *Politics of Charter Schools: Competing National Advocacy Coalitions Meet Local Politics*, at www.ncspe.org/publications_files/OP119.pdf.

Christina Stoddard and Sean Corcoran reviewed demographic, financial, and school performance data in , *The Political Economy of School Choice: Support for Charter Schools across States and School Districts*,³ to determine what conclusions, if any, could be drawn about which states adopt charter legislation and which districts house charter schools. They concluded that an increase in population heterogeneity, both within states and within districts, is a major contributor to the existence of charter schools. States with a growing income inequality and states with a rising fraction of Hispanics are more likely to pass charter legislation and to pass stronger laws. Districts with a high or increasing percentage of black students, a high or increasing percentage of college educated adults, or growing income inequality are likely to see a greater percentage of students in charter schools. There is some evidence of low student achievement and charter formation. States with low SAT scores tend to have charter laws and to have stronger laws. States and districts with high dropout rates have significantly greater participation in charter schools. A highly unionized teaching force leads to later passage of charter legislation and to passage of weaker legislation, but once legislation is passed, districts with highly unionized teaching forces are more likely to see charter formation and have higher percentages of students who attend charters.

Amy Stuart Wells found that in states whose populations were relatively white and relatively wealthy, charters were more likely to be targeted to minority and low income children, while states that were more or economically diverse were more likely to see a whiter and richer population attending charters.⁴

III. WHAT ARE CHARTER SCHOOLS? A SUMMARY OF THE CHARTER SCHOOL ACT OF 1998 (CSA)

The three hallmarks of charter schools nationally are autonomy, choice, and accountability. These schools operate with more autonomy and fewer regulations under a charter issued by a public entity in return for enhanced accountability. With greater autonomy from one-size-fits-all regulations, charters are supposed to make better decisions tailored to their individual school communities. Proponents speculated that charters would have the freedom to operate in different ways from traditional public schools, attracting different teachers and programs and acting as incubators for innovation and improved student performance. Charters would be accountable to both students and their parents and to the chartering entities.⁵

The stated purpose of charter schools in New York State is to improve student learning and achievement, increase learning opportunities for all students, especially

³ Stoddard, Christina and Corcoran, Sean, (2006) *The Political Economy of School Choice: Support for Charter Schools across States and School Districts*, at www.ncspe.org/publications_filesOP113.pdf.

⁴ Wells, Amy Stuart, Editor , *Where Charter School Policy Fails: the Problems of Accountability and Equity*, Teachers College Press, (2002) p.15.

⁵ Bulkley, Katrina and Wohlstetter, Priscilla, Editors, *Taking Account of Charter Schools: What's Happened and What's Next?*, Teachers College Press, 2004, p. 1.

at-risk students, encourage innovative teaching methods, create new professional opportunities for educators, provide school choice, and provide schools with opportunities to change from rule-based to performance-based accountability systems.

Charter schools are public schools.⁶ An organization or group (other than private or parochial schools and for-profit corporations, which are ineligible to receive charters) may apply to operate a charter school. The applicant applies to a chartering agency and will be granted a charter if the application complies with the Act and the applicant demonstrates a reasonable ability to meet or exceed state student performance standards. Applications for charters to serve at-risk students are given priority. The CSA limits the number of charters that may be granted to 100, 50 to be granted by SUNY and 50 to be granted by the Regents or local Boards of Education (or the Chancellor of the New York City schools). In addition, a traditional public school may convert to a charter by vote of the Board of Education and a majority of parents of students attending the school for which conversion is sought. There is no cap on the number of conversions, and public school conversions do not count toward the cap.

The New York Charter law does not provide for virtual charter schools (schools for home-schooled youngsters.)

Charter schools must be nonsectarian in programs, admissions policies, and employment practices. A charter may not be issued to a school that would be “wholly or in part under the control or direction of any religious denomination or in which any denominational tenant or doctrine would be taught.”

As a general matter, charters must have an open and nondiscriminatory admission policy. They must accept any child who submits timely application. If applications exceed places, there must be a random selection process, except that priority may be given to returning students, students residing in the district, and siblings of students. Charters may not discriminate on intellectual ability, measures of achievement or aptitude, or athletic ability, but single-sex schools and schools for students at-risk of academic failure are permissible. A charter may refuse admission to a student expelled or suspended from public school for the duration of disciplinary action.

Charter schools are subject to federal laws, including civil rights laws. They may not discriminate against students or employees based on race, creed, national origin, gender, disability or any other ground that would be unlawful if engaged in by a public school.

Charters may not charge tuition, although they may charge fees to the extent permitted in traditional public schools.

⁶ For purposes of this article we will refer to schools run by elected boards of education as traditional public schools

Students who are enrolled in charter schools may withdraw at any time and return to traditional public schools.

Charter schools must comply with the Open Meetings Law and the Freedom of Information Law.

A. Staffing

As a general rule, teachers at charter schools must be certified. However, the lesser of 5 teachers or 30% of the teacher workforce need not meet certification requirements, provided they meet other articulated requirements.⁷

Teachers in traditional public schools may take a leave of absence to teach in charter schools and may return with full contractual benefits within two years of having left.⁸

B. Collective Bargaining

As a general rule, teachers at charters of fewer than 250 students at the date of opening do not belong to collective bargaining units and are not covered by collective bargaining agreements.⁹ However, there is no prohibition to the unionization of charter employees. Charters of over 250 students on the opening day become a separate negotiating unit of the home district's teachers' union, subject to the existing collective bargaining agreement. However union membership can be waived for up to 10 schools chartered by SUNY.

C. Student Services

Charter schools determine their school calendars, but the total instructional time must be at least as great as that offered by public schools.

Student achievement standards must meet or exceed student performance standards adopted by Regents, with mandatory participation in fourth and eighth grade math and English language arts tests and Regents exams.

Students are eligible for transportation from the home district as if they attended private school.¹⁰

⁷ One may teach without certification, subject to the numeric limitations, if one is uncertified with at least 3 years teaching experience at one level, is tenured or tenure track college faculty, has two years with Teach for America; or is a person with exceptional business, professional, artistic, athletic, or military experience.

⁸ If a current vacancy does not exist, the teacher must be placed on a priority list.

⁹ Public school conversions and certain larger charter schools remain members of collective bargaining units and subject to collective bargaining agreements. As a practical matter, no SUNY or Regents charters have been subject to collective bargaining agreements because, during the first year of operation, they have been relatively small schools, with additional grades and classes being added over time.

¹⁰ As a general matter, the home school district must provide transportation provided the student lives the minimum distance away from the school necessary to qualify for transportation and no more than 15 miles from the charter school. The 15 mile transportation limit may be expanded by vote of the district Board of Education

1. Special education services

The committee on special education (CSE) of the school district of residence remains responsible for classification of disabled students and development of individualized education programs (IEPs). The charter school is generally responsible for implementation of the IEP, either by direct provision of services, contracting with a third party to provide services or arranging to have services provided by the school district of residence. In the event that the charter provides services, or contracts with a third party to provide them, state and federal funds received by the home district for students with disabilities are transferred to the charter. The amount of funds transferred varies depending on the intensity of services required. If the CSE recommends a full-time placement outside of the charter school, the student is discharged from the charter and returns to the home school district for implementation of the IEP.

2. Services for students with limited English proficiency

The CSA is silent about the duty of charters to provide services for children with limited English proficiency. While schools may not discriminate against such children in the admission process, the funding mechanism provides no additional funds to charters to provide special services to this population. Thus, it is no surprise that English language learners are underrepresented in the charter population.

D. Funding

1. The funding formula

The school district of a student's residence pays the per pupil approved operating expense to the Charter School in 6 installments, beginning July 1 and every 2 months thereafter. In the first year of operation, payments are made on the basis of initial-year enrollment projections for the Charter, with subsequent reconciliation.

Students attending charters are also eligible for the same aids that private school students receive, including textbooks, library materials, computer software, and health services from the school district of residence.

If the charter implements a disabled student's IEP, the home school district transfers the state and federal special education funds attributable to that student to the charter. This sum is generally less than the true cost to educate a disabled child because the district traditionally supports the education of disabled children with an additional local contribution in addition to the contribution of state and federal funds. New York City has elected to give charters additional monies for the education of disabled children by turning over the local share of funds for a disabled student as well as state and federal funds.

2. Conflicting state policies

New York State's policy giving additional funds to districts for consolidation of school districts is at odds with its policy of permitting charter schools, which are somewhat analogous to independent districts.

3. Challenges for charter schools

Aside from minimal state and federal grants for school planning and construction, charters do not get money for start-up planning or the cost of construction or facilities' rental. Absent outside private funds, the amortization of construction costs or rent must be paid out of operating expenses, decreasing the per capita sum available for basic operating expenses. For the 2001-02 school year NYC charters, other than public school conversions, spent 19% of their public funding for capital costs.¹¹ A 2004 study indicated that, nationwide, charters spend an average of 20-25% of instructional revenues to finance building, although financiers generally agree that no more than 15% should be spent on debt service.¹² Moreover, the size, lack of a track record, and potential instability of charters renders them less likely to qualify for competitively priced finance products.

Schools run by for-profit education management organizations (EMOs) must fund the EMOs' profits out of their operating expenses, further decreasing the amount that is available for instruction of children.

Jacobowitz and Gyurko found that NYC charters received an average of \$8452 for each non-disabled and disabled elementary student in part-time special education, while traditional public schools received \$9,057; charter high schools received \$8124, while traditional public high schools received \$8645.¹³ These statistics look at public funds only and do not include monies charters may obtain through grants or private contributions.

In fact, charters in New York State vary considerably in the amount of money they can spend to educate each student (*per capita* operating expenditure). The reasons for this disparity are two-fold. First, some charters must finance their building costs, whether through payment of rent or amortization of construction bonds, while others have been given buildings. Second, some charters have been able to attract considerable funds from grants and philanthropic sources. The variation was apparent in six New York City charters studied by the League.¹⁴ Variation in per

¹¹ Jacobowitz, Robin and Gyurko, Jonathan S., (2004) *Charter School Funding in New York: Perspectives on Parity With Traditional Public Schools*, www.nyu.edu/iesp/publications/charter/CharterFinance.pdf

¹² Ascher, Carol, et al., (2004) *The Finance Gap: Charter Schools and Their Facilities – Findings From a Nine-Month Study*, Institute for Education and Social Policy, New York University, www.lisc.org/resources/assets/asset_upload_file678_6781.pdf.

¹³ Jacobowitz and Gyurko (2004).

¹⁴ See Appendix A, attached hereto.

student operating expense (total amount spent per student minus amount spent for facilities) ranged from \$7,937 to \$13,567.

4. Challenges for traditional public schools

The funding formula for charters is based upon the **belief** that a home school district will, through efficiencies and economies of scale, be able to reduce its costs in the amount lost to charters, without the need to cut programs or services to students remaining in the home school. In fact, there is never a perfect correlation. While departure of students may result in smaller class sizes for those students who remain, fixed costs such as overhead and administrative expenses are not reduced by the departure of students to charters. Moreover, the home district remains the educator of last resort, with the student able to leave a charter at any time and return to the home school. Thus, the home district is somewhat constrained in its ability to plan because it cannot count that the student population in charters will remain stable.¹⁵

IV. A SNAPSHOT OF NEW YORK CHARTERS

A. General

New York State has approximately 4,000 public schools, serving 2.8 million students. Over 1,000 schools and 1 million students are in New York City. It has been anticipated that when 100 charter schools are operational, they will account for approximately 2.5% of the statewide public school student body, or 70,000 students.¹⁶

The July, 2006 State Education Department annual report on charter schools contains a snapshot of charter school data for the 2004-2005 school year.¹⁷ Sixty-one charters operated during that year, serving a total of 18, 408 students. Sixteen of these schools were chartered by the Board of Regents, 32 were chartered by the Board of Trustees of the State University of New York (SUNY), 11 were chartered by the Chancellor of the New York City Public Schools and 2 were chartered by the Buffalo City School District. Twenty-one, or approximately one-third, were operated by EMOs. The EMOs and the number of schools each manages is as follows.

EMO	No. of Charters
Edison	6
Victory	4
National Heritage Academies	4
Chancellor Beacon Academies	3

¹⁵ A review of the charter schools' annual audits, required to be filed with the chartering agency, indicates that many students do elect to return to their home schools.

¹⁶ Vergari, Sandra, Editor, *The Charter School Landscape*, University of Pittsburgh Press, (2002).

¹⁷ Unless otherwise noted, the statistics in this paragraph are taken from The University of the State of New York, State Education Department, *Annual Report to the Governor, The Temporary President of the Senate, the Speaker of the Assembly and the Board of Regents on the Status of Charter Schools in New York State 2004 – 05*, at www.emsc.nysed.gov/psc/200405AnnualRptStatusCharterSchsNYS.pdf.

SABIS	1
Lighthouse Academies	1
Uncommon Schools	1
Mosaica	1

The size of charters ranged from 1,105 students for the Charter School of Science and Technology in Rochester (Charter renewal denied by SUNY effective June 30, 2005) to 88 for the Child Development Center of the Hamptons Charter School in Wainscott. Thirty-six schools served elementary (K-6) students in various grade configurations, with approximately 5/6 of students or 15,305 being enrolled in elementary schools. Students in grades 9 – 12 numbered 1,188. Of the 18,408 students served by charters, over 2/3 or 12,634 were black, approximately 1/6 or 3,059 students were Hispanic and under 1/6 or 2,395 students were white. Charter schools served 358 students with limited English proficiency and 1,502 students with disabilities, representing 9% of the children enrolled in charter schools. The Child Development Center of the Hamptons Charter School had the largest percentage of disabled students at 55% (48 of 88 students). A total of 11,555, or 63% of the students at charters received Free or Reduced Price Lunch (FRPL). Of these, 9,903 were at the K-6 level. During the 2004-05 school year 1,445 or 7.8% of charter students, transferred out of charter schools. Of these, 1331 transferred back to their home schools and 114 to non-public schools or home instruction.

B. Where Are Current Charter Schools?

In New York State, charter schools are largely a phenomenon of urban centers and small cities. The distribution of charter schools in New York State as of June, 2006 was as follows.

Home District	Number of Charters 6/26/2005	% of District Budget 2004 - 2005
Buffalo	14	7.77
Lackawanna	1	8.25
Niagara-Wheatfield	1	
Rochester	4	4.06
Syracuse	2	3.18
Albany	8	10.15
Schenectady	1	3.64
Troy	1	2.07
Yonkers	1	
NYC	57	0.30
Wainscott	1	3.03
Riverhead	1	
Roosevelt	1	4.52
Shelter Island	0	3.27
Sagaponack	0	3.17

V. ASSORTED CHARTER SCHOOL ISSUES

A. Cost Benefit Analysis

While there is much research about whether charters, as a model, have succeeded or failed, there is little discussion of the cost, both social and financial, of charters and of whether the benefit justifies the cost. While such an analysis is beyond the scope of this study, the question is one that should inform both the movement and our attempt to reach consensus.¹⁸

B. Administration of Charter Schools

1. General

Charter theorists speculated that, freed from bureaucratic regulation, charters would become hotbeds of educational innovation. A review of the literature on charters in Arizona, California, Colorado, and Michigan indicates that charters were introducing innovative administrative reforms, including merit pay, use of marketing to attract students, parent involvement contracts, and raising private capital. However, most classroom innovation drew on models that had been tried previously in traditional public schools. International research shows that alternative schools often embrace traditional approaches to education and that market forces may run counter to innovation.¹⁹

Theorists further speculated that freedom from the thrall of bureaucratic and union regulation would result in increased student performance. *The Charter School Dust Up* noted that, because the removal of this obstacle has failed to result in increased performance, bureaucratic controls and union contracts could not be said to be the cause of low performance.²⁰ The authors speculated that while the most talented teachers and administrators might be so constrained, less talented and more corruptible individuals are often restrained or assisted by the framework provided by legal structures. Thus, although charters enable the exceptionally good to flourish, they may also facilitate the failure of the bad. To date, there is no evidence that charters are more efficient than public schools.

2. The Role of Education Management Organizations (EMOs) and Not-For Profit Partners in Running Charters

¹⁸ See, Carnoy, Martin, Mishel, Lawrence, Jacobson, Rebecca, and Rothstein, Richard, *The Charter School Dust Up* Economic Policy Institute, (2005), pp. 109-126, which notes that the incubator approach embodied by charters may require multiple failures for each success, so that the net effect may be detrimental for participating students. This raises the policy question of whether unlimited experimentation, and the failure it will engender, is too high a price for its successes.

Seymour Sarason engages in a much more wide ranging discussion of the role of charters as an experimental program. See Section IX, hereafter.

¹⁹ Unless otherwise indicated, this section draws material for Bulkley and Wohlstetter, op. cit.

²⁰ Carnoy, et al., (2005) pp. 109-126.

The enormity of the administrative task in starting a school from scratch has led many charters to employ EMOs to run them. An EMO may be either a for-profit or not-for-profit corporation that generally oversees the day to day operation of the charter, including establishment of curriculum and hiring and training of personnel.

A Michigan study found that during the five-year period under review, the percentage of Michigan charters run by an EMO increased from 17% to 74%.²¹ EMO-run schools have been described as “cookie-cutter” schools because they offer little opportunity for curricular freedom or building level decision making.²²

Jeffrey Hennig and Thomas Holyoke examined the hypothesis that organizational type of charter will affect behavior with respect to how the school defines, pursues, and responds to its consumers in *The Influence of Founder Type on Charter School Structures and Operations*. The study looked at charters in Arizona, Michigan, Pennsylvania, and the District of Columbia, dividing them into the following categories: EMO; local business; mission; parent founded; teacher founded. The study concluded that EMO operated charters were likely to behave differently than non-EMO operated charters. The EMO charters were less likely to include high school students, likely to be larger, less likely to target subpopulations of students, substantially more likely to aim at the median student than mission-oriented charters, and a little more likely to use high price marketing strategies. Charters launched by local businesses behaved more like mission-oriented charters than EMO charters. Schools formed by mission oriented groups were most likely to target at-risk students, while those formed by parents were least likely to do so. Schools formed by educators were least likely to aggressively advertise. Local business charters were more likely to be organized around a theme (usually vocational).

In addition, many charters have not-for-profit partners, which provide varying degrees of operational, instructional, and financial support. For the 2001-02 school year, thirteen of the eighteen NYC charters, 72 percent, had institutional (for-profit or not-for-profit) partners.²³ SED figures, which only look at EMO involvement, indicated that approximately 33% of charters in New York State were run by an EMO during the 2004-05 school year. It is estimated that EMOs will run 28% of charters during the 2006-07 school year.

C. Student Makeup of Charter Schools

²¹ Bracey, Gerald, (2004) *City-wide Systems of Charter Schools: Proceed with Caution*, Education Policy Studies Laboratory of Arizona State University, www.nyssbba.org/ScriptContent/VA_Custom/PDFs/grepsl-0403-115epru.pdf, p.5.

²² Jacobowitz, Robin and Gyurko, Jonathan S., (2004) *Charter School Funding in New York: Perspectives on Parity With Traditional Public Schools*, www.nyu.edu/iesp/publications/charter/CharterFinance.pdf

²³ Ascher, Carol, et al., (2003) *Governance and Administrative Infrastructure in New York City Charter Schools: Going Charter Year Three Findings*, Institute for Education and Social Policy, New York University, www.nyu.edu/iesp/publications/charter/gov_admin_may2003.pdf.

In a 2000 report, the U.S. Department of Education, examining 927 charter schools in 27 states, found that charter schools had, on average, higher proportions of black and Hispanic students and lower proportions of LEP and disabled students than traditional public schools.

Studies that look at district-wide data have been criticized as misleading because they mask demographic variation among charter schools.²⁴ Studies tracking movement of children from traditional public schools to charters are seen as providing the only accurate data about movement of students from traditional schools to charters. Studies that look at longitudinal movement of students into and out of charters have reported that black students are more likely to attend charters with higher concentrations of blacks.²⁵

The assertion that charter school students are inherently harder to educate than traditional public school students was examined by Jack Buckley, Mark Schneider, and Yi Shang in *Are Charter School Students Harder to Educate? Evidence from Washington, D.C.*,²⁶ where they found little evidence of student difference between students in charters and traditional public schools. However, Booker, Zimmer, and Buddin found, in a study of California and Texas charters, found that charters tended to take lower performing students from lower performing schools.²⁷

1. Racial Mix

The 2003 Regents Five Year Report to the Governor and Legislature on charter schools indicated that 85% of students in charter schools were minorities, compared to 45.5% in all New York State public schools. In New York City 96% of students in charters were minorities, compared to 87.1% in all New York City public schools.²⁸ The racial mix has changed somewhat, so that for the 2004-05 school year minority students in charters had increased to 87% of the New York State charter population.²⁹

The Charter School Dust Up considered the claim that charters increase racial segregation and found studies of children in Illinois, North Carolina, and Texas, and

²⁴ See Booker, Kevin, Zimmer, Ron, and Buddin, Richard, (2005) *The Effect of Charter Schools on School Peer Composition*, www.ncspe.org/publications_files/OP122.pdf, p. 6.

²⁵ See, e.g. Krop, C., & Zimmer, R. (2005). *Charter school type matters when examining Funding and facilities: Evidence from California*, Education Policy Analysis Archives, <http://epaa.asu.edu/epaa/v13n50/v13n50.pdf>; Booker, et al., (2005).

²⁶ Buckley, Jack, Schneider, Mark, and Shang, Yi, *Are Charter School Students Harder to Educate? Evidence from Washington, D.C.*, www.ncspe.org/publications_files/OP96.pdf.

²⁷ Booker, et al., (2005).

²⁸ The University of the State of New York, "Board of Regents Report to the Governor and the Legislature on the Educational Effectiveness of the Charter School Approach," The State Education Department, December 2003, <http://www.emsc.nysed.gov/psc/5yearreport/fiveyearreport.htm>.

²⁹ The University of the State of New York, State Education Department, *Annual Report to the Governor, The Temporary President of the Senate, the Speaker of the Assembly and the Board of Regents on the Status of Charter Schools in New York State 2004 – 05*, at www.emsc.nysed.gov/psc/200405AnnualRptStatusCharterSchsNYS.pdf, p 2.

perhaps California, moved from more to less integrated settings as they moved to charters.³⁰

2. Poverty

The 2003 Regents Five Year Report to the Governor and Legislature on charter schools indicated that 74% of students in charter schools qualified for free or reduced price lunch, compared to 50.6% in all New York State public schools. In New York City, 82% of both charter and public school students qualified.³¹ The 2004-05 Annual Report indicated 63% of students in charter schools qualified for free or reduced price lunch.³²

Nationally, charter school proponents have often claimed that charter school students are more disadvantaged than their public school counterparts. *The Charter School Dust Up* reviewed existing literature to evaluate the validity of this assertion and found that, in general, charter students were less disadvantaged than public school students.³³ The authors examined the 2003 NAEP data and reviewed studies of charters in individual states to conclude that charter students from racial or ethnic minority groups were at least as economically advantaged as their public school peers and in some cases more so.

3. Disabled Students

A 2003 report on charter schools indicates that New York charters educate a smaller percentage of disabled students than their home schools and that the more severely disabled students are returned to their home schools.³⁴ Buffalo charters enrolled 5 to 6% disabled students, compared to 22% in the city schools. Enrollment statistics were similar in Albany.

The 2003 Regents Five Year Report on charter schools indicated a somewhat higher percentage of disabled students being educated by charters, with 11.8% of charter school students classified as disabled and 15% of the public school population statewide classified as disabled. In New York City the total number of disabled students in all public schools was 14%, compared to 7% in charter schools. For the 2004-05 school year, 9% of students were disabled.³⁵

³⁰ Carnoy, *et al.* (2005), pp. 97 – 98.

³¹ The University of the State of New York, “Board of Regents Report to the Governor and the Legislature on the Educational Effectiveness of the Charter School Approach,” The State Education Department, December 2003, <http://www.emsc.nysed.gov/psc/5yearreport/fiveyearreport.htm>

³² The University of the State of New York, State Education Department, *Annual Report to the Governor, The Temporary President of the Senate, the Speaker of the Assembly and the Board of Regents on the Status of Charter Schools in New York State 2004 – 05*, at www.emsc.nysed.gov/psc/200405AnnualRptStatusCharterSchsNYS.pdf, p 6.

³³ Carnoy, *et al.* (2005), pp.21 – 65.

³⁴ *Charter Schools: Investment in Innovation or Funding Folly?*, New York State School Boards Association (2003), www.nyssba.org/scriptcontent/va_custom/PDFs/charter_schools.pdf.

³⁵ The University of the State of New York, State Education Department, *Annual Report to the Governor, The Temporary President of the Senate, the Speaker of the Assembly and the Board of Regents on the Status of Charter Schools in New York State 2004 – 05*, at www.emsc.nysed.gov/psc/200405AnnualRptStatusCharterSchsNYS.pdf, p 5.

4. Students with Limited English Proficiency

Minimal number of students with limited English proficiency attend charters, representing 1.9% of the population for the 2004-05 school year.³⁶

5. Student stability

The Charter School Dust-Up briefly examined the link between student stability and academic performance, to answer the question of whether high turnover rates of students at charters impaired achievement.³⁷ It noted a study of Texas public school students that concluded the achievement disparity between white and black students could be reduced by one-seventh if black families moved no more frequently than white families.³⁸ Movement in and out of schools has a negative impact on both those students who move and those who do not.

D. Teachers in Charter Schools

1. General

In general, charter schools employ newer teachers than traditional public schools and have higher rates of teacher attrition. This may be a function of teacher salaries, which are comparable in charters and traditional public schools for starting teachers but which do not increase as quickly for teachers in charters, so that there is a substantial salary differential in a few of years, with ongoing implications for charter teacher retention.³⁹ One year contracts and absence of tenure may also contribute to attrition

2. Teacher Innovation and Autonomy

Charter school theory touts freedom of teachers from educational bureaucracies as giving talented teachers autonomy to engage in innovative educational practices tailored to their students' needs. A study of teachers in California charters showed that the reality was somewhat removed from the rhetoric.⁴⁰ The authors found that charter school teachers valued their freedom but that they were also overworked and faced burnout. Many charters were smaller, with smaller class size. Teachers had more freedom to design curriculum and to choose instructional material, which was more available in charters. However, most teachers indicated they did not change their teaching practices greatly, and they engaged in little of what they classified as education innovation. As a group, they received intense satisfaction from their jobs, but could not maintain a pace that often required them to be in their job 6-7 days a week for up to ten hours a day. This propensity for burnout was reflected in the fact that some California charters lost ½ of their staff each year. Charter teachers also

³⁶ The University of the State of New York, State Education Department, *Annual Report to the Governor, The Temporary President of the Senate, the Speaker of the Assembly and the Board of Regents on the Status of Charter Schools in New York State 2004 – 05*, at www.emsc.nysed.gov/psc/200405AnnualRptStatusCharterSchsNYS.pdf, p 5.

³⁷ Carnoy, *et al.* (2005), pp. 94-95.

³⁸ Carnoy, *et al.* (2005), p. 22.

³⁹ Burian-Fitzgerald, Marissa, *Average Teacher Salary and Returns to Experience in Charter Schools*, www.ncspe.org/publications_files/OP101.pdf, p. 25.

⁴⁰ Wells, (2002) pp. 159-177.

indicated that they valued membership in larger professional organizations such as unions and missed this in charter schools.

3. Teacher Job Satisfaction

Charter theory posits that teachers in charters will feel greater job satisfaction than their traditional public school counterparts as the result of autonomy and shared mission.⁴¹ National research indicated that 79% of charter teachers chose to work in charters because of shared philosophy. Although they tend to feel autonomous within their classrooms, there is great variation among schools in the teachers' perceptions of ability to influence school-wide policy. While the majority of teachers are satisfied with their teaching experiences, they do not necessarily view those experiences as new or different. While there is some variation in teacher satisfaction from state to state, there is greater variation from school to school. Factors that lead to greater job satisfaction include small school size, school-based decision making, clear administrative vision without micromanaging, professional development opportunities tied to the school's mission, a core of experienced teachers at the school, job security for teachers and staff, and absence of high teacher turnover.

4. Teacher Quality

Charter theory speculates that loosening of teacher certification regulations will enable charters to attract highly qualified teachers who have not been through traditional teacher training programs.⁴² Research has shown that high quality teachers can positively and significantly raise student achievement. Subject matter knowledge, as measured by a major or minor in the subject to be taught or by having passed a subject matter test, teaching experience, selectivity of college attended, courses in education or pedagogy, and receipt of mentoring from experienced teachers have been found to lead to better student outcomes.

Although we discovered no research discussing teacher characteristics in New York charters, and the experience with charters in other states is affected by the nature of state laws. National research indicates that charter teachers are less likely than public school teachers but more likely than private school teachers to be certified. Math teachers are less likely than public school teachers to have subject matter training or knowledge, as measured by a college major or minor in math or passage of a math subject matter test. Charter teachers are twice as likely as traditional public school teachers to have five years or less teaching experience, with one-half to two-thirds of charter teachers having five years or less experience. Studies have shown that teaching skill continues to grow during the first five years of teaching. Furthermore a teaching staff of inexperienced teachers loses the ability to mentor less experienced teachers. While limited teacher experience could be a function of the brief life span of the charter movement, it could also result from the need of charters to contain costs by hiring inexperienced teachers.

⁴¹ Bulkley and Wohlstetter, (2004) pp. 43-48.

⁴² Bulkley and Wohlstetter, (2004) pp.5-30.

Charter teachers are more likely to come from selective colleges (14% charter teachers and 10% traditional public school teachers).

Bulkley and Wohlstetter conclude that national research indicates the rationale for waiving teacher certification, attracting more qualified teachers, does not seem to have been realized.

A large number of charter teachers work without full credentials. Uncredentialed teachers are more concentrated in urban charters. Similarly, EMOs are likely to employ significantly larger numbers of uncredentialed teachers, and charters run by EMOs tend to employ teachers with 2 years less classroom experience than do other charters.⁴³

E. Oversight

1. General

Oversight of charter school performance is provided by the chartering agency, with charters responsible for the filing of annual reports and financial audits. The chartering agency also conducts site visits, to monitor contractual compliance (the school's compliance with the terms of its charter). The State Education Department is responsible for regulatory compliance (compliance with applicable state and federal laws and regulations, such as laws for provision of services to students with disabilities and with limited English proficiency).

Some authors are critical of the level of oversight to which charters are subjected in New York State, arguing that charters receive greater oversight than underperforming traditional public schools, although this oversight appears to be flexible and designed to avert failure⁴⁴

Although one of the rationales of charters is to create an environment in which children at-risk of academic failure can meet the Regents' academic standards, the academic standard to which charters are held in the revocation or renewal of the charter is a much lower one.

Nationally, few charters have been terminated for academic reasons. The majority fail as the result of financial mismanagement or other financial problems.⁴⁵

However, the oversight may not always translate into greater academic accountability.

⁴³ Bulkley and Wohlstetter, (2004) pp. 111-142.

⁴⁴ Ascher, Carol, et al., (2003) ,*Charter School Accountability in New York: Findings From a Three-Year Study of Charter School Authorizers*, Institute for Education and Social Policy, New York University, www.nyu.edu/iesp/publications/charter/PDF_2003accountability.PDF .

⁴⁵ Bracey, Gerald, (2004) *City-wide Systems of Charter Schools: Proceed with Caution*, Education Policy Studies Laboratory, Arizona State University www.nyssbba.org/ScriptContent/VA_Custon/PDFs/grepsl-0403-115epru.pdf, p.2.

2. Oversight of Achievement in Charter Schools

Achievement in charters is relevant at three levels a minimal level is required to avoid revocation of the charter and closure of the school; another level, though not necessarily different, must be demonstrated for renewal of the charter; lastly, there is the question of whether charters, as an educational model, show sufficient achievement to justify their continued existence.

a. Revocation

To revoke a charter for inadequate academic achievement, the school's outcome on Regents' student assessment measures must fall to a level which would allow Commissioner to revoke registration of a public school, for failure to make adequate progress toward improvement of student achievement measures over the preceding 3 years.

b. Renewal

There is no clear-cut standard in the CSA, which requires a minimum level of academic achievement for charter renewal.⁴⁶ Although both SUNY and the Regents

⁴⁶ Education Law 2851(4), governing the renewal of charters, requires a progress report on the extent to which the charter has met its educational goals. Renewal requires meeting the same standards that must be met to receive the charter initially, including the findings that the applicant can operate the school in an educationally sound manner and that granting the application is likely to improve student learning and achievement. In its December, 2003 five year report on the educational effectiveness of charter schools in New York State, the State Education Department effectively admitted that it had no way of conducting a meaningful comparison of charter performance with that of public schools. This shortcoming has two causes. First, the only meaningful achievement data are results on the statewide tests:

Overall, the student performance data from the administration of standardized assessments other than the State tests leave the question of charter schools' academic effectiveness unresolved. Indeed, the data can hardly be said even to address the question of academic effectiveness. Partly this is a result of charter schools not communicating, for example, about the standardized tests they elected to purchase and administer. Partly it is a result of a similar lack of communication about the metrics the charter schools selected and reported. But another aspect of the problem of deriving meaningful generalizations based on data from standardized tests is that the charter schools have not made an effective effort to organize and present their data to make the case for their academic effectiveness.

To date, inferences regarding the academic performance of charter schools depend on data collected from the administration of the grade 4 and 8 State ELA and math assessments. These are the only assessments that are comparable longitudinally.

Second, the statewide tests may not be meaningful for comparison purposes, given that the state, in looking at achievement data, does not attempt to ascertain the comparability of charter and traditional public school populations:

When comparing charter school performance with that of the district of location, it is important to remember that the student population in the charter school may not be representative of the student population of the district. Some charter schools may draw from the lowest-performing district schools. On the other hand, data in a previous section showed that, on average, charter schools enroll a mostly minority and economically-disadvantaged population, and also generally enroll a smaller percentage of students with disabilities and limited English proficiency than do the districts of location. Further, the students with disabilities that charter schools enroll are unlikely to have severe disabilities.

purport to apply achievement standards in the decision to renew a charter, these standards are not written and have, upon occasion, been overruled by political considerations to renew the charters of underperforming schools.

We suspect both lack of adequate funding and lack of clear standards make assessment of progress an ‘eyeball’ or ‘gut’ review rather than a meaningful study of whether any particular charter is actually improving outcomes in a statistically significant way. Given that SED has recommended successful charters be renewed for a period of 10 years, clarification of the standard for renewal becomes even more important.

c. Success as a social experiment

The last step in measuring achievement, and one that has not been sufficiently addressed in most existing research, is the standard of achievement to which to hold charter schools as a group. The academic literature reviewing achievement in charter schools is mixed about the success of charters. Much the early research is flawed because it does not attempt to match charter populations with a similar population in traditional public schools, which would require disaggregation of students by demographic characteristics. Other commentators criticize point-in-time rather than longitudinal analysis,⁴⁷ which makes it difficult to determine whether student success is attributable to a particular school.

In New York State the ability to generalize about achievement is further hampered by the fact that the charter movement is relatively new and many charters have not yet produced performance data (4th and 8th grade tests, Regents exams and high school graduation rates) that can be compared to that for traditional public schools.

⁴⁷ A point-in-time analysis looks at performance of children on a standardized measure of achievement at a particular point in time (i.e. performance of fourth graders on the New York State math and English language arts exams). The inference is that if students in charter schools do well, it is because the charter has been successful at its mission of educating children. This inference may or may not be valid, given the revolving door of some charters and traditional public schools. Thus, a charter student’s poor performance may be attributable to the traditional public school and a traditional public school student’s poor performance may be attributable to poor education previously received at a charter, given the flow back and forth during the school year and from one school year to the next.

A more accurate and more expensive way of measuring charter success is to employ a value added approach to achievement. This method tests a child at the time of entry into the charter and at the end of every year to measure the value added to achievement or knowledge during the year. This is a longitudinal appraisal that provides a more accurate record of student achievement over time.

Because of the cost of longitudinal analysis, few studies have employed this approach. However, researchers agree that it is the better and more accurate way of measuring academic achievement.

New York State is in the process of converting to a statewide electronic record-keeping and data analysis system for public and charter school students. When operational, it will enable schools to measure value added to a student’s achievement on a longitudinal basis.

A 2004 review of charter achievement nationally noted that Florida, Massachusetts, Minnesota, and Wisconsin had no way of comparing charter achievement to that in traditional public schools.⁴⁸ A meta-analysis of charter studies indicates students in charters not exceed their peers in academic achievement.

Another 2004 study compared charter school students nationally with traditional public schools they would have been likely to attend and found that in the areas of reading and mathematics charter school students were more likely to be proficient and that the proficiency advantage increased with the length of charter school operation.⁴⁹ The study suggested that charter schools are especially likely to raise the achievement of students who are poor or Hispanic. Two aspects of this study are worth noting. In New York State the data showed no statistically significant difference between achievement in charter schools and traditional public schools. Secondly, in drawing her final conclusions, Hoxby excluded data from charters that targeted at-risk or gifted students because she assumed such schools could not be compared to neighborhood schools. Charter schools targeting at-risk students performed significantly lower than their traditional public school counterparts. If achievement data from charter schools targeting gifted and at-risk students had not been removed from Hoxby's data, it is likely that achievement at traditional public schools would have exceeded that in charters. Without data to support the assertion that charters for at-risk students differed demographically from traditional public schools, the validity of Hoxby's results are called into question. Other authors were unable to replicate the Hoxby results using data from Washington, D.C. Moreover, several statistical models used in the D.C. analysis showed traditional public schools to be outperforming charters at a statistically significant level.⁵⁰ Furthermore, Hoxby's study has been criticized for making comparisons based on different standardized tests administered in charter and public schools, a flaw that would further call into question the validity of her conclusions.

In direct opposition to the Hoxby findings, the American Federation of Teachers issued an analysis of the 2003 National Assessment of Educational Progress (NAEP) data,⁵¹ finding that charter school students had lower scores than traditional public school students on 4th and 8th grade math tests and on 4th grade reading tests and that the differences were statistically significant. It also found lower scores for 8th grade reading but that the difference was not statistically significant. Looking at performance of students who were eligible for free and reduced price lunch, the gaps remained statistically significant. Looking at the performance of black and Hispanic students in charter and traditional public schools, there was no statistically significant difference in performance. Hoxby criticized the NAEP study because it sampled approximately .045% of charter school students nationally. Others have criticized it,

⁴⁸ Bulkeley and Wohlstetter, (2004) pp.161-164.

⁴⁹ Hoxby, Caroline, (2004) *Achievement in Charter Schools and Regular Public Schools in the United States: Understanding the Differences*, www.innovations.harvard.edu/cache/documents/4848.pdf.

⁵⁰ Buckley, *et al.*

⁵¹ Howard, Nelson, F. *et al.*, (2004) *Charter School Achievement of the 2003 National Assessment of Educational Progress*, , www.asu.edu/educ/eps/EPRU/articles/EPRU-0408-63-OWI.pdf.

alleging students who attend charter are inherently harder to educate than those attending traditional public schools.⁵²

Subsequent analysis of the 2003 NAEP data, disaggregating results for various student characteristics, have confirmed the AFT conclusions.⁵³ This analysis of the 2003 NAEP mathematics results compared results of students in traditional public schools, charter schools, and different types of private schools. This study attempted to overcome criticism of earlier NAEP analysis by controlling for demographic difference (socioeconomic status, race/ethnicity, gender, disability, limited English proficiency, school location) in the populations served by the schools. With disaggregated data the authors concluded there was no statistically significant achievement benefit to attending either a charter or private school. With respect to charter performance, the authors found that they performed a statistically significant 4.4 points lower than traditional public schools in 4th grade tests and a statistically insignificant 2.4 points higher in 8th grade tests. The authors noted that the relatively small size of some of the private school populations indicated the conclusions about private schools should be viewed as suggestive only.

The *Charter School Dust Up*, occasioned by the furor surrounding the American Federation of Teachers' analysis of National Assessment of Educational Progress (NAEP) data, provided an in-depth discussion of achievement in charter schools.⁵⁴ It reviews and critiques the academic literature about charter school achievement and concludes that there is, on average, no evidence that charter schools outperform traditional public schools.

The authors considered the assertion that competition provided by charters increased performance in public schools and found the studies to be mixed, with a study of Florida schools finding a significant positive effect and other statewide studies failing to find this effect.⁵⁵

As the result of this controversy, the authors claim the following consensus is emerging about valid analysis of academic achievement:

1. Student and family characteristic such as race/ethnicity, economic deprivation, parental education levels, disability, and limited English proficiency affect student performance and must be considered in assessing achievement;
2. Current measures of economic disadvantage may be insufficiently precise. The measure of whether a student is eligible for free or reduced price lunch tells that a family's

⁵² But see discussion in section V.C of this paper.

⁵³ Christopher Lubienski and Sarah Theule Lubienski in *Charter, Private, Public Schools and Academic Achievement: New Evidence from NAEP Mathematics Data*. The authors of this study noted that even though the data were cross-sectional rather than longitudinal, thereby prohibiting a value-added analysis of achievement, the extensive and varied disaggregation of data made it likely their findings would be replicated in a longitudinal analysis.

⁵⁴ Carnoy, (2005) p. 9.

⁵⁵ Carnoy, (2005) pp. 95 – 96.

income is at or below 185% of the poverty level. To provide more meaningful accountability, states and the nation must require collection of more comprehensive student data.

3. To meaningfully measure achievement, comparison of test results must be longitudinal – the same cohort of children must be followed over multiple years so that tests measure the value, which a year at a particular school adds to their educational achievement.

Advocates argue that annual achievement in charters is less important than in public schools because charters are responsive to both parents, who may remove their children, and chartering agencies, which may revoke or fail to renew charters. Given the furious debate over comparability of academic achievement, it may be unrealistic to ask parents to make rational decisions about a school's academic success or failure. A review of charter closures shows few are closed for poor academic performance, while the majority close as the result of financial mismanagement. In a recent national study, over half of chartering agencies reported difficulty in closing one or more failing charters. These data raise questions about whether the purpose of the publicly funded charter experiment is to improve student achievement or whether it is to give parents choice, irrespective of educational outcome.⁵⁶

In Charter School Performance in Urban Districts: Are They Closing the Achievement Gap?, Ron Zimmer and Richard Buddin, took a longitudinal look at achievement of charters and traditional public schools in the Los Angeles and San Diego school districts, the largest and 15th largest districts in the nation and concluded that students in charters did not outperform students in traditional public schools in any statistically meaningful way. Charters account for 4% and 2% of elementary and secondary students in L.A. and 2% and 8% in San Diego. In L.A., Hispanics were underrepresented in both elementary and secondary charters, while blacks were substantially overrepresented. In San Diego, Hispanics were underrepresented at the elementary level and overrepresented at the secondary level, while blacks were substantially overrepresented at the elementary level and overrepresented, although not as significantly, at the secondary level. In L.A. the number of students with limited English proficiency (LEP) was twenty percent lower in charters than in traditional public schools, while in San Diego, it was five percent lower. The authors concluded that charter schools had, at best, mixed results for students of different racial/ethnic categories and LEP students. While in some cases, charters did improve the performance of blacks and Hispanics, gains were not consistently greater than those of traditional public school counterparts.

The state of research into achievement of charter school students relative to their traditional public school peers is perhaps best summed up by Bryan Hassel's review of charter achievement literature for the Charter School Leadership Council, in which

⁵⁶ Carnoy, (2005) pp. 109 – 126.

he concluded that the research is inconclusive at best and at worst often flawed.⁵⁷ Although Hassel found that in general studies showed charter schools outperforming traditional public schools, the results were inconsistent. He suggested a need to follow individual students over time and to explore why some charters were more successful than others. Hassel concluded that chartering was an experiment worth continuing, but with refinement to improve the overall quality of charter schools over time.

While it is hard to generalize, given the dearth of studies about overall success of charters, the New York State experience has been one of some charters with grossly inadequate student performance, some with exceptionally good student performance, and many providing an education comparable to that provided by traditional public schools.

The most recent charter school report, listing schools performing at the top and at the bottom on NYS exams, confirms this mixed bag.⁵⁸

On the grade 4 English Language Arts (ELA) exam, the top performers were as follows (percentages are for the percent of students scoring at or above Level 3):

- Harlem Day Charter School, New York City: 100.0%
- Renaissance Charter School, New York City: 95.7%
- Roosevelt Children’s Academy Charter School, Roosevelt: 87.3%
- Carl C. Icahn Charter School, New York City: 86.2%
- Genesee Community Charter School, Rochester: 83.8%.

On the grade 4 English Language Arts exam, the weakest performers were as follows (percentages are for the percent of students scoring at or above Level 3):

- Pinnacle Charter School, Buffalo (baseline year): 18.4%
- Stepping Stone Academy Charter School, Buffalo: 20.4%
- Brooklyn Excelsior Charter School, New York City: 29.9%
- COMMUNITY Charter School, Buffalo: 32.5%
- Charter School of Science and Technology, Rochester: 33.9%.

On the grade 4 math exam, the top performers were as follows (percentages are for the percent of students scoring at or above Level 3):

- Carl C. Icahn Charter School, New York City: 100.0%
- International Charter School of Schenectady, Schenectady, 100.0%
- Tapestry Charter School, Buffalo: 100.0%
- Our World Neighborhood Charter School, New York City: 95.8%
- Harlem Day Charter School, New York City: 94.4%

⁵⁷ Hassel, Brian, (2004) *Charter School Achievement: What We Know*, Charter School Leadership Council, www.charterschoolleadershipcouncil.org/PDF/Paper.pdf.

⁵⁸ These data on academic achievement are taken from The University of the State of New York, State Education Department, *Annual Report to the Governor, The Temporary President of the Senate, the Speaker of the Assembly and the Board of Regents on the Status of Charter Schools in New York State 2004 – 05*, at www.emsc.nysed.gov/psc/200405AnnualRptStatusCharterSchsNYS.pdf, pp.3-5.

- Renaissance Charter School, New York City: 92.0%
- Roosevelt Children’s Academy Charter School, Roosevelt: 91.8%
- Genesee Community Charter School, Rochester, 90.7%.

On the grade 4 math exam, the weakest performers were as follows (percentages are for the percent of students scoring at or above Level 3):

- Stepping Stone Academy Charter School, Buffalo: 33.9%.

On the grade 8 ELA exam, the top performer was as follows (percentages are for the percent of students scoring at or above Level 3):

- KIPP Academy Charter School, New York City: 71.5%.

On the grade 8 ELA exams, the weakest performers were as follows (percentages are for the percent of students scoring at or above Level 3):

- John V. Lindsay Wildcat Academy Charter School, New York City: 8.3%
- Buffalo Academy of Science Charter School, Buffalo: 13.6%
- Enterprise Charter School, Buffalo: 16.3%
- Stepping Stone Academy Charter School, Buffalo: 20.0%
- Charter School for Applied Technologies, Kenmore-Tonawanda: 27.3%.

Based upon their 2004-05 State assessment date, five charter schools have been identified as being furthest from State standards. They are:

- Ark Community Charter School, Troy: grade 4 ELA;
- Enterprise Charter School, Buffalo: grade 8 math;
- John V. Lindsay Wildcat Academy Charter School, NYC: HS ELA and HS math.
- Pinnacle Charter School, Buffalo: grade 4 ELA; and
- Stepping Stone Academy Charter School, Buffalo: grade 4 ELA and grade 4 math.

While the CSA requires an annual comparison of charter schools with that of comparable district schools, SED has elected to fulfill this requirement by comparing charter test results with those of the community school district in which the charter is located in New York City and the overall district statistics in the rest of the state. As we have indicated earlier in this discussion, SED’s elected method of comparing achievement is neither academically sound nor in compliance with the CSA. Without knowing whether or the extent to which a charter school’s student makeup, disaggregated by ethnicity and special needs, matches that of the district or community school district, there is no way we can make meaningful comparisons of achievement between the two.

d. Other measures of achievement

Sandra Vergari discusses other measures that might be considered to gauge charter success. These might include: performance on student outcome indicators such as attendance, discipline, graduation, student and parental satisfaction, and post-school outcomes; teacher satisfaction and development of teacher expertise; the effect of charters on equity across demographic groups.⁵⁹

⁵⁹ Vargari, (2002) pp. 260-266.

VI. THE HEALTH OF CHARTER SCHOOLS

B. Nationally

Amy Stuart Wells, in *Where Charter School Policy Fails: The Problems of Equity and Accountability*, portrayed the charter school movement as entering a recession, with fewer entities applying for charters as the movement aged.⁶⁰ She speculated that the recession could be traced to exhaustion on the part of charter operators and to the fact that a limited number of individuals were capable of or willing to devoting the educational, and administrative expertise and the time necessary to develop a successful charter school. For some charters EMOs have provided the educational and administrative expertise, and in some cases the finances, necessary to get a charter off the ground, but often at a price. For-profits require a portion of the charter outlay to support their shareholder return, and the need to generate a profit may conflict with a community vision for small schools and those that are responsive to specific community needs. Thus, the structure imposed by an EMO can be equally as oppressive as the central educational bureaucracy that charters were created to avoid. Wells asserts that the charter movement will fail to fulfill its initial rhetoric because they are inadequately supported by the policies under which they are created. Nationally, although charters vary greatly, they all receive greater autonomy in return for greater accountability. Yet Wells indicates the movement is not structured to provide adequate support for committed educators, especially those serving the most disadvantaged children. Furthermore charter laws often fail to provide an infrastructure for holding charters accountable and have few consequences for academic failure.

B. New York State

In New York State there continues to be strong demand to create new charters, as evidenced by the continuous supply of applications for new charters and proposals to lift the current 100 school cap. New York's demand may outpace the current national demand for two reasons. First, the CSA is relatively new and the market is not yet as mature or saturated as it is in other states. Second, by virtue of the per capita funding for charter education, New York State is a relatively attractive market for the proprietary EMOs.

However, demand for new charters does not tell the whole story. Approximately 25% of the charters, which have or would have come up for renewal, are no longer in existence.⁶¹

VIII.. THE INTERACTION BETWEEN CHARTERS AND TRADITIONAL

⁶⁰ Wells, (2002).

⁶¹ Forty-four charters have had action taken on their charter. Of these, 11 are no longer in existence. Five did not receive renewal; 3 had charters revoked prior to renewal; 2 surrendered their charters prior to renewal; 1 agreed not to seek renewal.

PUBLIC SCHOOLS

Early studies of charters in other states indicate that traditional public schools have not changed their operations as the result of competition or innovation from charters.⁶²

There seems to be a split in New York State between New York City and up-state, in how school districts view and relate to charter schools, with the city being more receptive to charters. The difference may be explained partially by the relative unimportance of the charter phenomenon in New York City Board of Education, where charters account for less than one percent of the student population.

One writer suggested that New York City has embraced charters and used them as an ingredient for driving system-wide change as the result of strong support from both the Mayor and Chancellor and the lack of union opposition.⁶³

IX. WHITHER GOEST THE EXPERIMENT - A DISCUSSION OF CHARTERS IN THE LARGER CONTEXT OF EDUCATION THEORY⁶⁴

For every important social problem there is a simple answer that is wrong.
Henry Menken

In *Questions You Should Ask About Charter Schools and Vouchers*, Seymour Sarason, professor emeritus of Yale's Department of Psychology, and education doyen, places the charter debate in the larger context of what is wrong with education in America. The book is valuable for its discussion of the extent to which the charter movement does and does not address these shortcomings.

Sarason, a proponent of charters as a limited educational experiment, states at the outset that "schools (and school systems) are fantastically complicated institutions whose traditions, personnel, and culture are deeply intractable to change."⁶⁵ He bemoans implementation of the charter experiment, opining that the manner in which charters have been conceived and implemented makes it unlikely there will ever be a "secure evidential basis for judging their outcomes."⁶⁶

Sarason notes that charter proponents posit the sets of power relationships within traditional public schools as prohibiting change, innovation, and improvement. The charter movement constitutes a radical change in the way power is distributed within

⁶² Bracey, (2004) pp. 8-12. The lack of change in response appears to have two causes. First, early studies indicate that charters may be less innovative than originally assumed. Second, there are few mechanisms in place whereby charters and traditional public schools can learn from each other.

⁶³ Lake, Robin J., (2004), *Seeds of Change in the Big Apple: Chartering Schools in New York City*, Progressive Policy Institute, www.ppionline.org/documents/NewYork_0921.pdf.

⁶⁴ Sarason, Seymour, *Questions You Should Ask About Charter Schools and Vouchers*, Heinemann (2002).

⁶⁵ Sarason, (2002), p.ix.

⁶⁶ Sarason, (2002), p.2.

the education community and between educators and the community at large. Power is given to parents to choose an education system, and power is given to individual schools to be free of the traditional district system. An underlying assumption of the charter movement is that, given choices, those individuals who spend the most time with children, both parents and teachers, will bring their attitudes and experiences to bear in the area of education reform.

At the outset, Sarason emphasizes the charter movement, like every movement for educational reform, should begin with the most fundamental question in education – what is the most important purpose of schooling, which if not realized, makes all other purposes problematic. Opponents and proponents of charters agree that schools are not accomplishing their mission of educating all of the nation’s children and believe that remediation of this defect should be at the top of our national agenda.

Sarason argues that schools, which are ill equipped to make scientifically valid judgments about the success or failure of their programs, should be required to provide data relevant to the achievement of their stated purpose, and society should fund a means for unbiased and scientific analysis of data, so that education research is taken out of the realm of personal prejudice and placed on more sound scientific footing. In the context of the charter movement, none of the legislation contains funding for serious, independent evaluation. Sarason argues that this failure will leave us totally incapable of drawing conclusions about why some charters succeed and others fail. He blames society, as reflected in the legislative process, for neither mandating nor funding the collection or analysis of relevant data, analogizing the state of education research to the state of development of new drugs and medical technology prior to creation of the Federal Drug Administration, when physicians and pharmaceutical companies could develop and market drugs without standardized oversight. This shortcoming has created “far more heat than illumination” in evaluation of the charter movement.

Sarason further opines that the charter movement, like many prior school reform movements, demonstrates little overt knowledge of the history of education reform. To his mind, this shortcoming will doom it to failure, as any meaningful reform movement must take into account the history of past reform efforts, so as to avoid earlier mistakes and pitfalls.

In general theoretical terms, Sarason describes the goal of the charter movement as being primary prevention in the education arena – the prevention of student problems and adverse outcomes. The goals of primary prevention rest on an understanding of the factors contributing to the conditions sought to be prevented. Any effort at primary prevention may require adults (both teachers and other professionals and lay people such as parents and community leaders) to reform their attitudes and practices. Thus in formulating a theoretical model, it must be considered that teachers, educational professionals and parents, are part of the problem. To get to the point where primary reform can succeed, one must overcome the inhibitory attitudes and practices of those participating in the reform. Sarason believes it is a mistake to

formulate the goal only in terms of behavior one wants to prevent in students without looking at how one might reform those with the greatest impact on students – educational personnel.⁶⁷ In support of his position, he suggests that few educators believe their formal academic training prepared them for the reality of the teaching profession.

Sarason discusses the funding of education and criticizes the conclusion drawn by many charter advocates that because increased funds have not resulted in increased achievement, increased funds are unnecessary. Although expenditure of money on ill-conceived reforms is a recipe for failure, the converse that additional funds are unnecessary for meaningful reform is equally misconceived. The whole point is that to throw money into a problem, without any knowledge of whether the proposed solution is viable, is premature.

Predicting that implementation of the charter movement without modification is another recipe failed educational reform, Sarason makes a number of suggestions for change:

- Consider the charter movement an experiment with a limited number of pilots;
- Increase the time between charter approval and opening. Opening a school is a tremendously complicated process, which is not facilitated by the compressed time period between charter approval and school opening;
- Consolidate the chartering function in one agency to alleviate the danger of applying different standards in the grant, evaluation, and renewal of charters;
- Amend funding mechanisms so that traditional public schools do not lose money when charters open;
- Amend funding mechanisms so that funds available to charters mirror funding available to traditional public schools. Sarason points out that the potential benefit of charters is to demonstrate educational strategies and innovations that are efficacious for similar (often at-risk) populations. The purpose is not whether such innovation can occur on the cheap but whether it can improve outcomes;
- Adopt and fund adequate measures of evaluation. Sarason characterized the current failure of charter legislation to provide for meaningful evaluation as inexcusable. Evaluation should include funds to enable the charter to chronicle its successes and failures of development and operation in a diary fashion. It should also include funds for meaningful data collection and analysis according to rigorous academic standards. Sarason suggests that each charter student should be matched with a cohort in a traditional public school he or she would have attended, so that longitudinal data may be collected and analyzed. Data should be available to the public.⁶⁸

⁶⁷ We would also add parents to this group.

⁶⁸ Sarason envisions ever increasing specificity of charter research as we learn what works and what does not. He analogized charter development to development of the airplane.. Initial charters will be considered Model A. Once the initial research is in on model A, it can be further refined by granting more charters to define Model B, etc. This approach would further enable policy makers to identify

- Create mechanisms to share successes and failures of the charter movement with other charters and traditional public schools.

X. CONCLUSION

As the preceding information indicates, the charter movement is an exceedingly complex and multifaceted educational experiment easily mischaracterized by pundits on both sides of the debate. We hope this summary will be helpful as the League grapples with a more nuanced position on charters, in the hope that the lessons learned by charters will ultimately be available to benefit all of New York's children.

unintended consequences of charters and to engage in a cost benefit analysis to determine whether continued support is warranted.

APPENDIX A

2005 REVENUES AND EXPENDITURES FOR SIX
NEW YORK CITY CHARTER SCHOOLS.

School	Received From District	Total Expenditures	Facilities Expenditures	Instruction Expenditures ⁶⁹
AMBER	\$8,335	\$12,728	\$0	\$12,728
HARLEM DAY	\$8733	\$14,222	\$655	\$13,567
HARLEM VILLAGE	\$8069	\$12,863	\$944	\$11,919
HARLEM CHILDREN'S ZONE	\$9115	\$12,616	\$0	12,616
HARBOR SCIENCE	\$8843	\$10,151	\$447	\$9704
SISULU-WALKER	\$8590	\$9734	\$1797	\$7937

⁶⁹ Instruction expenditures is total expenditures minus facilities expenditures.

7937