

Charter Schools: The Landscape and the Horizon

by Bryan C. Hassel

The charter school sector is now 2.9 million students strong across 42 states and the District of Columbia. When Minnesota passed the first charter school law in 1991, few would have predicted that the sector would become this large. And most state boards of education (SBEs) have some degree of responsibility for this growing set of schools.

Before consideration of state board roles and the sector's future, it is useful to consider why so many states have enacted charter school laws in the first place.

Why Charters? Theories of Change

The charter sector is not one thing: The schools within it vary widely, and the underlying motivations of charter school advocates are a mixed bag of theories about how to improve public education in the United States. These theories are not mutually exclusive; many advocates subscribe to more than one. Here are some of the big ones:

- **The autonomy-accountability bargain.** District schools, this argument goes, live under too many constraints, from state laws and regulations, to school board policies, to collective bargaining agreements. Free educators from those constraints, and they will be able to make schools work for the students they serve, adapting to their students' needs and adjusting over time. In exchange, hold them accountable for student results, closing schools that don't measure up. By opening new schools, closing bad ones, and expanding good ones, the "portfolio" of schools in a city or state will improve.
- **The laboratory.** The lab theory starts in the same place: Give educators the chance to try new approaches. Freedom

from constraints will enable innovations to flourish. But then the laboratory theory goes in a different direction. The point of charter innovations is to test new ideas, which can then be adopted more widely by other public schools.

- **The power of choice: free-market edition.** Other theories of charters emphasize the value of parental choice. One flavor of this theory emphasizes the importance of choice itself. Families, this argument goes, know what is best for their children. They should not be told they must send their children to the school down the street or put them on the bus to cross town. Instead, they should be able to choose from among many schools that may vary in culture, instructional approach, or other key variables. The public education system will thrive when students are better matched to schools via choice.
- **The power of choice: social justice edition.** Another flavor of choice theory goes like this: Better-off families already have plenty of school choice. They can move to the "right" neighborhood or town. They can work the system to gain admittance to the limited number of slots in special programs. Failing that, they can enroll in private schools or teach their children at home. But these options are not available to the vast swath of families who cannot afford to live in well-to-do areas, do not have the skills or knowledge to navigate special programs, and cannot afford private tuition. So chartering is about giving choices to the families and children who need better options the most.



From Zero to 3 Million

Whatever the driving forces behind charter schools, those forces have driven indeed. The number of states with charter school laws reached 25 by 1996 and is now at 43. The number of charter schools has more than tripled since 2001–02, with over 6,800 charter schools open in 2015–16 (figure 1). Just 400,000 strong in 2000–01, enrollment likewise grew, reaching nearly 3 million by 2015–16 (figure 2).

With US public school enrollment in the neighborhood of 50 million, charters still educate a relatively small share of the nation's children. Within a growing number of cities, however, charter schools enroll a substantial share of students. As recently as 2010–11, only 18 districts nationwide had as much as 20 percent of their students in charter schools. By 2014–15, the number had risen to 45. Table 1 shows the districts with the 10 highest charter market shares. New Orleans and Washington, DC, are well-known charter hot-spots. But others make clear that high-market share cities are all over the United States.

Who Attends Charter Schools?

Charter schools are open to all students and are often required to hold random lotteries for admissions if they are oversubscribed. Yet open enrollment does not mean charter students will mirror the demographics of their district peers. Nationally, charter schools enrolled a lower percentage of white students, a higher percentage of African-American students, and a

slightly higher percentage of Hispanic students in 2011–12, the last year for which comparable data are available (figure 3). The proportion of students who were eligible for free or reduced-price lunch was similar across the sectors (49.3 percent of charter students versus 45.3 percent).¹

With regard to English language learners (ELLs), a 2013 GAO study threw up its hands in an attempt to compare charter and district enrollment patterns, citing a lack of reliable data.² While the US Department of Education is developing data protocols that may address this challenge, it is impossible to make a comparison now.

A 2012 GAO study found that students with disabilities made up 11 percent of public school districts' enrollment, compared with 8 percent of charter school enrollment.³ Subsequent research by the Center on Reinventing Public Education at the University of Washington observed that these national numbers mask significant variation at the state, district, and school level.⁴

That is a critical overall theme in the comparison of charter and district demographics. Averages are of some interest, but both sectors display wide variation across states, districts, and schools. State policymakers are well advised to understand the enrollment patterns within their own states, recognizing that individual districts and schools may also look quite different within their boundaries.

How Well Are Charter Schools Performing?

Policymakers naturally want to know whether charters or traditional district schools are

Figure 1. Charter Schools, 2000–2016

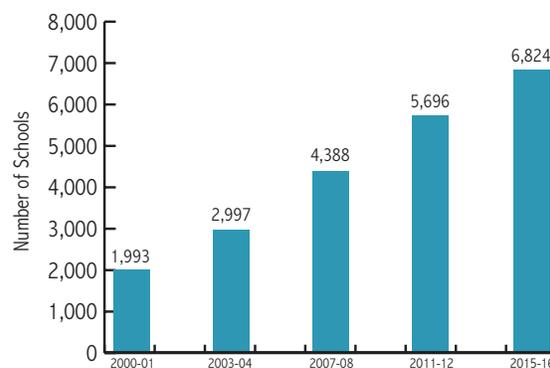


Figure 2. Charter School Students, 2000–2016 (millions)

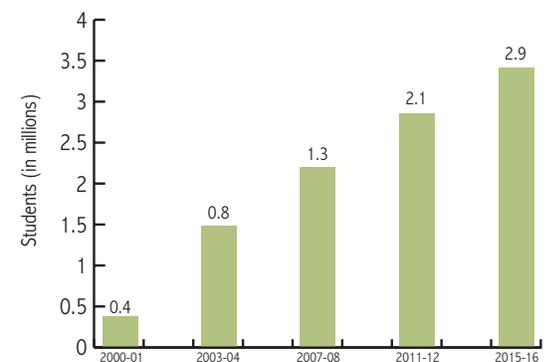
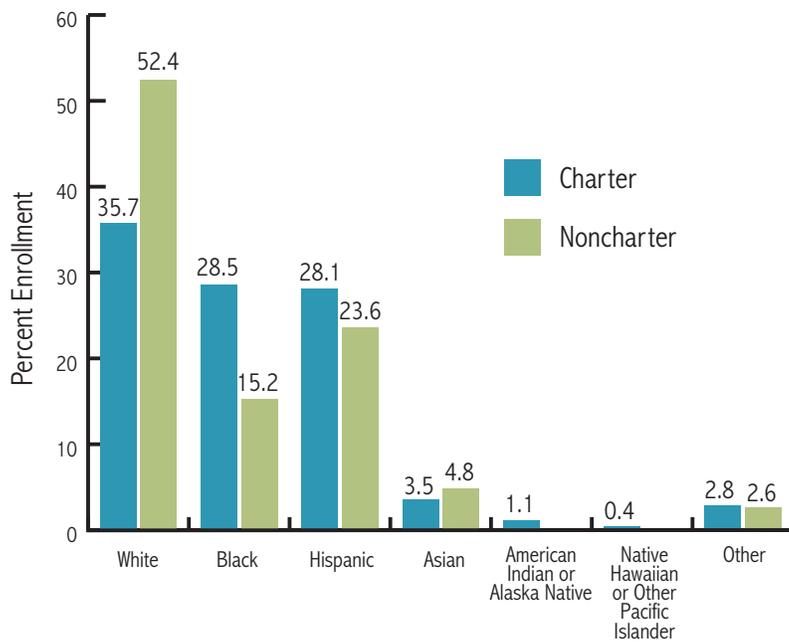


Figure 3.



“better.” An important caution is that charter schools are not one kind of school. Their instructional models, cultures, performance, and other essential variables vary enormously.

Within that context, researchers have attempted to shed some light on differences in average performance. The first national study on charter schools’ academic performance, published in 2009 by Stanford’s Center for Research on Education Outcomes (CREDO), highlighted quality issues throughout the sector, with more charter schools lagging their district peers than outperforming them. But the 2013 study showed significant improvement. Whereas charter students gained seven days less in reading than their district peers in the 2009 study, for example, they gained eight days more than their peers in districts in the 2013 research.⁵

CREDO’s 2015 study of urban settings found even larger differences, with charter students achieving an extra 40 days of learning in math and 28 days in reading. Cities such as Boston and Newark—where charter school learning gains substantially outpace traditional public schools’ gains—outnumber cities like Fort Worth and El Paso, where charters are performing worse by a ratio of 2:1.

Charters’ critics often try to discount such findings, attributing the success of charter schools to selection bias: the idea that charters

are serving a different student population that is more prone to academic success. In response, a second set of studies randomly separate students into two groups—those who applied and were admitted to charter schools and those who applied and were not admitted—based on the charter schools’ lottery selection systems. Because applicants were selected for admission at random, researchers are better able to attribute subsequent difference in their learning to their charter school attendance.⁶ These studies suggest there is higher performance in reading and math for charter school students overall, with particularly strong benefits for subgroups of low-income, urban, and minority charter students. There is also evidence that charter school students who previously had low levels of academic achievement benefit from a charter school environment. However, there is only limited evidence that these same benefits exist for ELLs and students with disabilities, and two studies indicate that nonurban charter school students actually perform worse than their traditional public school peers.

All of these studies use student test scores on reading and math assessment as the measure of student performance. As states deploy new measures in their accountability systems, a broader range of comparisons will be possible.

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Table 1. Cities with Top Charter Market Shares

Rank	District	Enrollment Share (percent)
1	New Orleans Public Schools (LA)	92
2	Detroit City School District (MI)	53
2	School District of the City of Flint (MI)	53
3	District of Columbia Public Schools (DC)	45
4	Gary Community School Corporation (IN)	43
5	Kansas City Public Schools (MO)	40
6	Camden City School District (NJ)	34
7	Philadelphia City School District (PA)	32
8	Indianapolis Public Schools (IN)	31
8	Dayton City School District (OH)	31
8	Cleveland Municipal School District (OH)	31
8	Grand Rapids Public Schools (MI)	31
8	Victor Valley Union High School District (CA)	31
9	San Antonio Independent School District (TX)	30
9	Natomas Unified School District (CA)	30
9	Newark City School District (NJ)	30
9	St. Louis Public Schools (MO)	30
10	Inglewood Unified School District (CA)	29

Source: National Alliance for Public Charter Schools, A Growing Movement: America's Largest Charter Public School Communities and Their Impact on Student Outcomes Eleventh Annual Edition (2016).

The Charter Policy Landscape

State policy sets the context for all of the activity in the charter sector, at multiple levels. Legislatures set the broad parameters of chartering by passing charter school statutes. Some state boards of education or state education agencies (SEAs) enact regulations or policy to put the statute into action. Finally, additional policy setting happens within the agencies that authorize charter schools—deciding which operators obtain charters, overseeing charter performance, and making high-stakes decision about the renewal—or revocation—of charters.

State charter laws diverge in some critical ways:

- **Caps.** Some cap the number of charter schools or the percentage of students who can be in charter schools. Others allow an unlimited number.
- **Autonomy.** Some give charter schools automatic exemptions from most state education laws and regulations, with the exception of health and safety, nondiscrimination,

accountability, and other bedrock elements. Others offer such exemptions but only if charters apply for them and are approved (sometimes by the state board of education). Still others subject charter schools to most laws and regulations, offering only limited exemptions. States also differ in how they treat specific questions of autonomy, such as whether charter teachers must be certified, whether charters can be operated by for-profit management companies, and whether charters must participate in the state pension system.

- **Authorizing.** In some states, only districts can issue charters. In others, state policymakers give charter schools one or more alternate routes, which may include the SBE/SEA, institutions of higher education, nonprofits, municipalities, and independent charter boards that do nothing but oversee charter schools. Some states have imposed systems to hold authorizers accountable for good practice and/or the performance of their schools.

■ **Accountability.** Many charter laws leave accountability to authorizers with only very general guidance. A few states are more specific, requiring charter schools to close if they fall below certain performance thresholds.

■ **Funding.** Some state statutes seek to give charter schools a proportionate share of all public school resources: federal, state, and local. More commonly, states guarantee federal and state funding but leave local funding and/or facilities funding out of the equation. As a result, in most states charter schools receive a lower average level of per-pupil public funding than school districts or have to allocate a portion of their operational dollars to cover capital costs.⁷

State Board Roles

SBEs and SEAs play critical roles related to charter schools. First, charters fall under the state's jurisdiction because they are public schools, and specifically for any policies that are not waived by the charter law. These always include federal policies around special education, English language learners, and use of federal funds—it is not within states' power to exempt charter schools from any of that. And many areas of state policy continue to apply to charter schools even in the states with wide autonomy: assessment, accountability, financial stewardship, and more.

In this general policymaking role, a good rule of thumb for state board members is always to ask, how will this policy change affect charter schools? A policy that is well suited for the district context may work less well for charters. Understanding this in advance and then making whatever modifications or exemptions make sense can preempt a world of trouble down the road.

Second, state boards often develop and ratify the regulations that put a charter statute into action. State laws often fall short of providing the detail needed for implementation. This can be a good thing, enabling policymakers with more knowledge of the education field to take the policy to a more specific level. At the same time, it also introduces a risk of overregulation. While reasonable people can debate the merits of specific policy exemptions for charters, it is also the case that there is no point in

having charter schools if they face all the same constraints as traditional public schools face.

Third, SBEs and SEAs often play some role in charter school authorization. Table 2 shows the range of possibilities. For a state board member, job one is understanding where your state falls. From there, members can see to it that the SBE and the SEA are carrying out their responsibilities as effectively as possible.

Big Issues on the Horizon

State board members are also in a strong position to scan the horizon for emerging issues and help their states get ahead of the curve. Here are six.

Chronically Failing Schools. States have struggled to make progress with chronically low-performing schools, despite a substantial federal investment over the last half-decade. With new flexibility under the Every Student Succeeds Act, states can rethink their approaches. They could consider enlisting operators of high-quality charter schools to run failing schools, an approach known as “restarts.”⁸ States can make this happen directly, as Louisiana, Tennessee, and other states have done through “recovery school districts” or “achievement school districts,” in which states have assumed control of struggling schools and then turned to charter operators to manage them. Or states can take an indirect role, encouraging districts to use this approach. Indianapolis, for example, is employing charter operators to lead Innovation Network Schools in the wake of Indiana legislation making that possible.

High Market Share. Charter schools make up a significant portion of public school enrollment in an increasing number of cities (table 1). When charters reach 20 percent or more, new issues emerge. Do families need help navigating the wider array of choices? Should there be a common enrollment system rather than asking families to submit applications school by school? How charters treat special populations also looms larger. Where charter schools are just 2 percent of the market, few would expect them to serve a representative slice of the student population. But at 40 or 50 percent, it becomes fair to ask whether charters are doing their part to meet the needs of the city's students, including those who need more support due to disabilities,

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Table 2. Charter Authorizing Roles for SBEs/SEAs

State	Is the Sole Authorizer	Jointly Authorizes (with local board)	Is One Authorizer among Others	Is the Appellate Body	Has Role in Supplying Members for Independent Charter Board	Oversees Authorizers
Alabama					•	•
Alaska		•		•		
Arizona			•		•	
Arkansas			•	•		
California			•	•		
Colorado				•		•
Connecticut	•					
Delaware			•			•
DC				•		•
Florida				•		
Georgia		•		•		•
Hawaii				•	•	•
Idaho				•		•
Illinois					•	•
Indiana				a	•	•
Iowa		•		•		
Kansas		•		•		•
Louisiana			•	•		•
Maine					•	•
Maryland			•	•		
Massachusetts	•	• b		•		
Michigan						•
Minnesota		•		•		•
Mississippi					•	•
Missouri				• c		•
Nevada						•
New Hampshire		•	•	•		
New Jersey	•					
New Mexico			•	•		•
New York		•	• d			
North Carolina	•					
Ohio			•			•
Oklahoma			• e	•		•
Oregon				•		
Pennsylvania	f		•			
Rhode Island	• g	• h				
South Carolina					•	•
Tennessee		•		•		•
Texas			•			•
Utah				•		
Virginia		i				
Washington						•
Wisconsin				•		•
Wyoming				•		•

Sources: Education Commission of the States, “50-State Comparison: Charter Schools” (2016); National Association of Charter School Authorizers, “Types of Authorizers: State Charter Statutes” (2016).

Box 1. What Is a Charter School?

Charter schools are public schools of choice that operate with some independence from traditional school districts. Often operated by nonprofit organizations, they receive freedom from many of the laws and regulations that apply to public schools. In return, they are held accountable for their students' performance by their "authorizer," including the possibility of losing their charter and closing their doors if they fall short. As public schools, charters are open to all students, cannot charge tuition, and must abide by common public school policies related to health and safety, nondiscrimination, and good stewardship of public funds.

English language acquisition, behavior issues, and so on. Fiscal issues become more pressing. Charters may be desperate for space, while district buildings lie vacant or underutilized. Transportation costs grow as more students choose to attend school far from home. And the list goes on. Often these issues are hard to address because neither the district nor the charter sector is putting the overall interests of the city first. State boards, in conjunction with municipal and civic leaders, may be best positioned to bring a "whole city" perspective to bear, advancing the ball on these issues in ways that the charter and district parties may struggle to do.

Supply. Often, states treat their charter sectors with a "if we build it, they will come" mentality. Yet in many places the supply of excellent charter school operators is not sufficient to meet demand. Simply setting up a structure for charters is not enough in such instances. State board members committed to quality charter schooling may additionally consider investing resources in incubating new school operators, incentivizing existing high-quality operators to expand their footprint, or attracting high-quality charter networks from elsewhere.⁹ The supply problem may be difficult for any one

community to meet—especially smaller towns and rural areas. The state may therefore be in a strong position to make a difference, likely working through intermediate organizations like state charter support organizations or city-based education organizations.¹⁰

Innovation. One of the hopes policymakers have for the charter sector is that it will produce innovative school models that can spread and serve more students. Creating dramatically different schools within the traditional sector is challenging; chartering offers a chance to start something new, to iterate and improve the model over time with little restriction, and then to scale it. Yet some observers have suggested that despite many notable innovations, most charter schools resemble traditional schools.¹¹ For state board members who feel the same, the board is a good perch from which to see what kinds of innovation might be valuable and then to encourage state policymakers to direct resources toward stimulating more of it.

Virtual Charters. One category of charter schools in the news lately is virtual charters, also known as cybercharters or online charters. Students at these schools work from home rather than coming to a brick and mortar facility. Often, they have a statewide catchment,

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Footnotes for Table 2

^aAppoints members of appeal panel.

^bBoth the state board and the local school committee must approve within-district "Horace Mann" charters, some of which must also be approved by the local teachers' union.

^cIn addition to hearing appeals from rejected applicants, the state board may also disapprove the granting of a charter by any of the state's authorizers.

^dThe state board of regents, the State University of New York, or local school boards may approve charter school applications, but the state board is the only entity authorized to issue a charter.

^eCan only sponsor charter schools for charters in low-performing group homes serving youth in the custody or supervision of the state.

^fSEA is the sole authorizer for "cyber charters."

^gSole authorizer for nondistrict charters and "mayoral academies."

^hJointly authorizes district charters with local school committees.

ⁱState board does not authorize, but must review and recommend outcomes to local entity.

drawing thousands of students from across the state. Whatever the overall promise of online learning, the track record of large virtual charter schools has been weak so far. Stanford’s CREDO computed that online charter students achieved 180 fewer days of learning per year in math than comparable district school students and 72 fewer days of reading learning. The authors concluded that the results leave “little doubt that attending an online charter school leads to lessened academic growth for the average student.”¹² These results present a challenge for state boards. On the one hand, state boards with any influence over charter authorizing are well advised to cease and desist from authorizing statewide virtual charter schools similar to the ones producing the aforementioned results. On the other hand, states should not give up on the idea of virtual schooling for the fraction of students who need a virtual option. Policymakers need to find ways to stimulate online models that are vastly different from prevailing cyber schools, such as seeking an elite corps of excellent teachers whom the state enlists to teach online.

Authorizing Quality. Policymakers have become increasingly aware of the importance of authorizing to the success of the charter strategy. Authorizers determine who receives a charter in the first place. They set the performance expectations by which charter schools will be judged. And they make the decisions about which charters to close, renew, or expand. The quality of a state’s charter sector hinges on the quality of its authorizing. Thanks to the National Association of Charter School Authorizers, these agencies have access to top-notch technical resources and advice. Still, authorizing is not where it needs to be. State boards can play a pivotal role in boosting authorizer quality—whether they are the authorizers themselves or oversee other authorizers. One challenge is to exert quality control without imposing bureaucratic constraints and paperwork on a sector that needs flexibility to serve its function in the public education system. The best way to do that is to focus oversight increasingly on the outcomes achieved by the schools in an authorizers’ portfolio, a prospect that is more and more in sight as state data and assessment systems improve.

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Conclusion

Few would doubt that charter schools are an enduring feature of the educational landscape in most US states, and that presence is likely to grow. Whether because of the choice they provide, the promise they hold to create better schools through greater flexibility, the market pressures they create, or the innovation they spark, charter schools can play a role in state policymakers’ strategies for ensuring great schools for all students. That will not happen by chance. State board members who think strategically about the charter opportunity and act accordingly have the best chance of making good on the promise of charter schools. ■

¹National Alliance for Public Charter Schools, “Public Charter School Dashboard: Students,” 2011–12, <http://www.publiccharters.org/dashboard/students/year/2012>.

²Government Accountability Office, “Education Needs to Further Examine Data Collection on English Language Learners in Charter Schools,” GAO-13-655R (Washington, DC: GAO, July 2013).

³Government Accountability Office, “Charter Schools: Additional Federal Attention Needed to Help Protect Access for Students with Disabilities,” GAO-12-543 (Washington, DC: GAO, June 2012).

⁴Robin Lake et al., “New York State Special Education Enrollment Analysis” (Seattle: Center on Reinventing Public Education, 2012).

⁵CREDO’s studies have their critics. CREDO makes a practice of posting critiques and responses to this webpage: <https://credo.stanford.edu/research-reports.html>. Its national studies, however, remain the only ones to use student-level data nationwide to compare charter and district students.

⁶Since these studies can only include charter schools for which the number of applicants exceeds the number of slots, the results may not generalize to less popular charter schools.

⁷This overview is of limited use to a policymaker in a specific state. Resources to help policymakers understand how their own state compares to others include the National Alliance for Public Charter Schools’ ratings of state laws against their model law (revised October 2016) and the Education Commission of the States’ 50-state roundups.

⁸For more information about school restarts, visit www.schoolrestarts.org.

⁹See Public Impact: Emily Ayscue Hassel, Bryan C. Hassel, and Joe Ableidinger, “Going Exponential” (Washington, DC: Progressive Policy Institute, 2011).

¹⁰To see charter school support organizations by state, visit <http://dashboard.publiccharters.org/> and click on any state with a charter law. For a state-by-state list of city-based education organizations focused on increasing the number of high-quality schools, see <http://education-cities.org/our-members/>.

¹¹Public Impact, “Raising the Bar: Why Public Charter Schools Must Become Even More Innovative” (Indianapolis and Chapel Hill, NC: MindTrust and Public Impact, 2015).

¹²James L. Woodworth, et al., *Online Charter School Study 2015* (Stanford, CA: CREDO, 2015), 23.