

There is no strong accountability at charter schools without the strong oversight of public officials.

by Jeffrey R. Henig

Charter Schools and Democratic Accountability

The hybrid nature of charter schools—which occupy a nebulous space between the private and public sectors—accounts for much of their appeal. On the one hand, charters are intended to act more like private businesses, innovating and responding to parents’ demands lest they lose their student “customers” and the governmental financial support that follows the students. On the other hand, charters were meant to be public institutions, open to all and accountable for meeting public needs as articulated through democratic processes.

Proponents of charter schools portray them as a model for marrying efficiency, responsiveness, and innovation to the collective interests, social justice concerns, and democratic accountability associated with government and civil society. But their private/public character complicates how we think about holding them accountable. Does the private market side of charters mean they should be accountable primarily to the goals, values, and desires of the families who choose them? Or does the public side of charters mean that they should meet the education needs of the broader community and be subject to closure when they fail to do so?

Twenty-five years of experience with charter schools makes it clear: Keeping the charter phenomenon aligned with public interest and public values depends critically on public officials and those who elect them. To lay out this case, I provide an overview of charter schools in theory and in practice, with particular attention to competing notions of what it means to say charters are “public” schools and what this in turn means in terms of their accountability to state and district school boards that act as authorizers or have other policy, regulatory, and financing roles.

Charter Schools and Market Theory

In 1991, Minnesota became the first state to pass enabling legislation for charter schools, driven less by economic theory than by the desire of a collection of parents, educators, and policy leaders for a less rigid, bureaucratic, one-size-fits-all vision of public education.

The law was passed during a period of sharp debate about whether private markets might be better than government in meeting public goals, in education but also in other policy arenas. President Ronald Reagan had created a special privatization commission in 1987 to explore ways transportation, housing, prisons, and health care might be turned over to private business. President Reagan twice tried to get Congress to establish a federal school voucher, and between 1981 and 1996 school voucher referenda had been proposed (and defeated) in five states and Washington, DC. The state of Wisconsin enacted the first large-scale school voucher program, the Milwaukee Parental Choice Program, in 1989, and Ohio passed a voucher program for Cleveland in 1995.

Against this backdrop, charter schools came to be seen by many as a testing ground for ideas about how market forces would work in the education arena. The original vision of charters as a form of public sector decentralization gave way, at least in national debates, to the vision of charters as a market-based reform.

Framed in terms of market theory, the primary method for holding charter schools accountable was to rely on parent choice and competition among schools. Traditional public schools, from this perspective, were seen as government monopolies. While it was true that dissatisfied parents in principle could choose to send their children to private schools or

move to a different school district, most could not afford to do so.

Public monopolies, some economists argued, had no incentive to improve quality: Even if students exited to private schools, the revenues to support the system would not diminish because they were generated by compulsory taxation. But if parents were empowered to leave bad schools and have the attendant public support travel with them, schools would be forced to compete to attract and keep families or suffer financially. Such a system requires that parents have the know-how to judge which schools are good for their children and the willingness and capacity to move to a different school based on information they gathered about relative school performance.

Theory Meets Politics

For some influential conservatives, pursuing charters was a politically more viable route to demonstrating that choice and competition would work in education. Charters did not raise the same concerns as vouchers did about dismantling public education or government entanglements with religious schools. Because popular support for the traditional model of public school systems was resilient, even those who preferred vouchers saw a tactical argument for provisions to assuage fears that choice would favor the already advantaged by “creaming” off white, affluent families.

States that passed charter laws struck a set of tactical bargains: accepting laws that established lottery-based admission to oversubscribed schools (so charters could not enforce their own selection criteria), prohibiting charters from charging tuition beyond the public funding that accompanied the student (so that schools could not use the tuition add-on as a way to exclude poorer families), and agreeing that charter students would take state-mandated achievement tests (so responsible officials would know whether charters were delivering on their promise of improving educational outcomes).

But the economic theories that made market advocates believe choice would improve education also made them deeply wary that public bureaucracies would do everything in their power to maintain a dominant role. They assumed that teachers, elected school boards, and others with vested interest in the existing

system would battle to protect it by blocking charters or making it more difficult for charters to compete.

Accordingly, organizations that supported charters as a form of market-based accountability fought for state policies that placed fewer obstacles in the way of opening charter schools and lightened the oversight and regulatory pressure that government could apply. The result was the institution of formal provisions that multiplied the number and types of charter authorizers, allowed certain nonprofit groups or institutions of higher education to issue charters, gave applicants opportunities to appeal to the state if initially turned down at the local level, and granted longer periods between charter renewals. In some instances, charter authorizers received limited funding and personnel for oversight, which succeeded in creating a culture in which authorizers were induced to believe that they needed powerful reasons to reject applicants rather than strong reasons to accept them.

Many public school teachers and liberals also saw charters as a first step down a slippery slope toward vouchers and more complete privatization, and their political strategies were based on that belief. They mobilized to fight charter laws and, when they failed to accomplish that, to have caps placed on the number of charters and limits placed on the amount and type of funding they could receive.

But Democrats were divided on charter schools. While some hoped to cram the charter genie back into the bottle, others returned to the vision of the Minnesota founders and sought to reclaim the argument that charters represented sensible governmental flexibility, decentralization, and a pragmatic strategy for diversifying schooling options. So-called New Democrats, including then President Bill Clinton, embraced charters while rejecting both vouchers and the premise that market forces were reliable alternatives to good government. They argued that charters could be a valuable tool in the government’s arsenal for improving education. But they also noted that public officials would need to ensure they were self-consciously designed, effectively managed, and rigorously held accountable.

What Have We Learned?

When charter schooling first erupted on the scene, policymakers and citizens had little

Even those who preferred vouchers saw a tactical argument for provisions to assuage fears that choice would favor the already advantaged.

Charters are not like the Energizer bunny: Public officials cannot simply wind them up and hope they will keep on running in the right direction.

choice but to base their reactions on theory, ideology, or hunch. The phenomenon was too new, the range of specific state and local examples too variable, the time for either positive or negative outcomes to have become manifest too short for a robust, reliable research base to materialize. Twenty-five years in, there is still hot contestation around what the evidence shows about the nation's charter experiment and how it should be interpreted. But it is also the case that much has been learned.

While researchers wrangle over whether charters or traditional public schools are better on average or at the median, what has become increasingly evident is that both sectors contain many good and many bad schools. Indeed, the range of variation in school performance within each sector appears notably greater than the degree of difference between the sectors. Probably the most widely cited and influential research establishing this pattern comes from the Center for Research on Education Outcomes (CREDO), which is housed at Stanford University. CREDO has performed two major national studies as well as a large number of more focused studies on particular states and on the online charter sector.

CREDO's approach of comparing learning gains by charter students to those of composites of similar students in nearby traditional public schools is not without controversy.¹ But the relative breadth and detail of the data, rigor of analysis, and stature of the researchers have made its work central to the national discussion. So, too, has the fact that both critics and proponents of charters can point to CREDO's work to bolster their arguments.

CREDO's 2009 study covered 16 states (including the District of Columbia) that, among them, housed about 70 percent of the nation's charter school students.² It concluded that 17 percent of charters outperformed local options, and 37 percent showed results that were significantly worse than their students would have realized had they remained in traditional public school, and many took this to be an indictment of the charter sector. CREDO's 2013 study, which expanded its scope to 26 states, concluded that charters were improving, with 25 percent significantly stronger and 19 percent significantly weaker than traditional schools in reading and 29 percent of charter schools

significantly stronger and 31 percent significantly weaker in math.³ In separate studies, CREDO found charters in some places doing worse than traditional public schools (e.g., Ohio), while in other places they performed very well (e.g., New York City and Boston). Its 2015 study of online charters was sharply critical, showing that, compared against similar students in traditional public schools, most online charter students had "far weaker" academic growth in both math and reading, equivalent to losing, in one school year, 72 days of learning in reading and 180 days of learning in math.⁴

CREDO's results align with a number of other studies that make it clear that charters are not a panacea. Important for public officials with responsibility for overseeing charter policy and authorization, some of these studies indicate that stronger performance occurs where the authorization process is more centralized and has higher capacity. There are many dramatic stories about charter school abuse—where charters have mismanaged funds, engaged in outright fraud, or seriously compromised the quality of education provided to their students. These tend to be concentrated in states that, due to inattention or ideology, have adopted a casual stance toward regulation and oversight.⁵ Where charters are working well, in other words, their success depends on a combination of parental choice and good government and cannot be attributable to market forces alone.

Defining the Public in Public Charters

Whether one likes or dislikes charters, two things seem reasonably clear. First, charters are here to stay. They are embedded in many states and communities and are protected by devoted and potent constituencies. Second, charters are not like the Energizer bunny: Public officials cannot simply wind them up and hope they will keep on running in the right direction.

If charters are to augment rather than undermine the high aspirations Americans traditionally hold for public schools, they need to be made to do so. Keeping them on track requires parents to make responsible choices, but it cannot depend on parents alone. It requires charter operators and funders to make responsible choices, but it cannot depend on them alone. It also depends critically on public officials and those who elect them.

Responsible regulation and oversight require tough decisions that will at times rub against family preferences. As charter authorizers have discovered, and as many charter supporters now concede, parents will often rally around even the worst of charter schools. Where and how proactively public officials intervene depends partly on what they see happening in their own jurisdictions. Charter performance varies based on local context and the specifics of local operators, so officials may need to fine-tune their judgment rather than rely on a universal thumbs up or down about charters in general. But deciding when and how to intervene also depends on how officials and those who select them understand the role of government and democratic accountability for the collective good.

The notion that public education critically contributes to stable, robust democracy has deep roots in American thinking.⁶ And because of its critical importance, most accept that there is a need for a system of public schooling and a need for government to be both strong and judicious in how it nurtures that system. But policymakers and citizens differ in their understanding of what this means in operational terms. I think of this in terms of a continuum—from thin to strong democratic control.

The thin notion of democratic accountability argues that putting the “public” in “public school” requires only that they serve a public purpose and that governmental regulation of how and the extent to which they do this should be kept to the minimum necessary. From this perspective, not only charter schools but also both secular and religious private schools should be considered “public” as long as they contribute to the national well-being by producing a capable work force, innovative technical and entrepreneurial leaders, and informed, engaged citizens. A contemporary manifestation of this thin notion of public accountability can be seen in the lawsuit filed in July 2016 by the Electronic Classroom of Tomorrow (ECOT), an Ohio-based online charter school. Despite receiving about \$100 million in public dollars for the roughly 17,000 students it claimed on its books, ECOT argued the state does not have authority to require it to keep detailed attendance records.⁷

At the other end of the continuum, a strong notion of democratic accountability requires more. For public schools to meet their public responsibilities, a wide range of factors should

be considered in the process of identifying, measuring, balancing, and enforcing these needs, and this consideration should take place in a public arena where multiple values and interests are articulated, negotiated, and ultimately enforced.

This view emphasizes important, legitimate goals for public education beyond academic performance and parent satisfaction. These considerations raise tough questions about keeping values in tension: how to balance the need for order and respect for authority versus the need for innovation and critical thinking, the need to prepare workers versus the need to prepare citizens, the need to promote tolerance for difference versus the need to inculcate common core values, the need to respect parent preferences versus the need to protect children, whose health and well-being their parents may sometimes put at risk.

Applied to charter schools, a strong notion of democratic accountability calls for robust attention to the processes by which charters are approved and extended. Charter authorizers are the most direct extension of public authority, but their nature, capacity, and behavior vary widely. One measure of their capacity is the ratio of charters to authorizer staff. According to the National Association of Charter School Authorizers (NACSA), the schools per full time equivalent (FTE) employee ratio for large authorizers was 1 FTE for every 10.59 schools in 2014–15. The number of schools per FTE has increased every year since 2010–11, when the ratio was 1 FTE for every 6.37 schools overseen. More than 10 percent had 21 or more schools per FTE in their portfolio.⁸

In addition, the large number of authorizing organizations in some states has encouraged a pattern of “authorizer shopping,” wherein would-be charter operators scout around for an authorizer least likely to aggressively scrutinize their application.⁹ And though it is as yet insufficient, there is some evidence of a relationship between authorizers and school performance. One high-quality study, for instance, compared the performance of students across different types of authorizers. Students at schools authorized by universities and other nonprofits performed less well than those at schools authorized under public entities like the state board of education or local school districts.¹⁰ State boards that are interested in identifying positive steps for improving the authorizer landscape in

A strong notion of democratic accountability calls for robust attention to the processes by which charters are approved and extended.

Jeffrey R. Henig is professor of political science and education at Teachers College, Columbia University.

cont'd from pg 21

economies of scale, and resources like facilities, enabling them to help more students than they could by simply opening more schools.

Without leadership, however, local collaboration efforts will get mired down. States must enter the fray—not just because it's nicer to get along. States can pull the available levers to promote district-charter collaboration because it can help them meet their goals of greater equity and public school improvement. States can help districts and charters leverage what they learn from one another and better coordinate the benefits to all students—regardless of what kind of public school they attend.

The costs of *not* collaborating fall squarely on students and families. Critically, district-charter collaboration can help states achieve key goals, like developing effective, evidence-based support and intervention strategies for struggling schools, as called for in ESSA.

Bottom line: State boards of education can lead on school improvement and equity by leading on support for district-charter collaboration. States that leave matters to chance risk leaving many students and their families behind, and they squander opportunities to meet the goals they set. ■

¹Robin J. Lake et al., “Fixing Detroit’s Broken School System,” *Education Next* 15, no. 1 (Winter 2015).

²Steven Glazerman and Dallas Dotter, “Market Signals: Evidence of the Determinants and Consequences of School Choice from a Citywide Lottery” (Washington, DC: Mathematica Policy Research, 2016); Douglas Harris et al., “The New Orleans OneApp,” *Education Next* 15, no. 4 (Fall 2015).

³Marcus A. Winters, “Why the Gap? Special Education and New York Charter Schools” (Seattle and New York: Center for Reinventing Public Education and Manhattan Institute for Policy Research, 2013).

⁴Patrick Denice et al., “Understanding Student Discipline Practices in Charter Schools: A Research Agenda” (Seattle: Center for Reinventing Public Education, 2015); Betheny Gross et al., “Grappling with Discipline in Autonomous Schools: New Approaches from D.C. and New Orleans” (Seattle: Center for Reinventing Public Education, 2016).

⁵Paul Hill and Tricia Maas, “Backfill in Charter High Schools: Practices to Learn From and Questions to Be Answered” (Seattle: Center for Reinventing Public Education, 2015).

⁶Daniela Doyle et al., “Is Détente Possible? District-Charter School Relations in Four Cities” (Washington, DC: Thomas B. Fordham Institute, 2015).

⁷Christina Tuttle et al., “Understanding District-Charter Collaboration Grants” (Washington, DC: Mathematica Policy Research, 2016).

⁸ESSA also encourages states to use federal Charter Schools Program dollars to improve charter oversight.

cont'd from pg 29

their particular state can obtain tailored suggestions from NACSA’s online toolkit.¹¹

If they take seriously their responsibility to exercise strong accountability, state boards and state education agencies must address issues of basic capacity. But just as important as ensuring there is sufficient public muscle to enforce charter accountability is making sure that collective reason and values are steering the process over time. A commitment to strong *democratic* accountability requires that tough questions about competing values be discussed and decided in public institutions, like legislatures and courts, that are open to varying perspectives, subject to freedom of information requirements, oriented toward finding common ground where it exists, and committed to openly debating and resolving conflicting values and interests where it does not. ■

¹See, e.g., Andrew Maul, “Review of Urban Charter School Study 2015,” (Boulder, CO: National Education Policy Center, 2015).

²CREDO, *Multiple Choice: Charter School Performance in 16 States* (Stanford, CA, 2009).

³Edward Cremata et al., *National Charter School Study 2013* (Stanford, CA: CREDO, 2013).

⁴James L. Woodworth et al., *Online Charter School Study 2015* (Stanford, CA: CREDO, 2015).

⁵On charter abuses, see, e.g., The Center for Popular Democracy and The Alliance to Reclaim Our Schools, “The Tip of the Iceberg: Charter School Vulnerabilities to Waste, Fraud, and Abuse” (Brooklyn, NY, and Washington, DC, 2015).

⁶For a classic treatment, see J. Dewey, *Democracy and Education: An Introduction to the Philosophy of Education* (New York: Macmillan, 1916). For a contemporary one, see A. Gutman, *Democratic Education* (Princeton, NJ: Princeton University Press, 1999, rev. ed.).

⁷Molly Hensley-Clancy, “Online K-12 School Fights Attempt to Check if Students Really Show Up,” *BuzzFeed News* (September 2, 2016). A county judge rejected ECOT’s request to block the state’s department of education from collecting the attendance data. ECOT is appealing the state’s original challenge to its figures, and in mid-October the state approved half a million dollars to enable the state’s attorney general to pursue the case. Catherine Candisky, “ECOT Appeals Attendance Finding,” *Columbus Dispatch* (October 11, 2016); Alan Johnson, “State to Spend \$500,000 in Online Schools Legal Fight,” *Columbus Dispatch* (October 18, 2016).

⁸National Association of Charter School Authorizers, “Authorizing Data in Depth: Staffing,” <http://www.qualitycharters.org/research-policies/archive/soca-data-in-depth-staffing/>.

⁹Lyria Boast et al., “Authorizer Shopping: Lessons from Experience and Ideas for the Future,” NACSA Reports (Chicago: National Association of Charter School Authorizers, 2016).

¹⁰The relationship was statistically significant. R. Zimmer et al., “Charter School Authorizers and Student Achievement,” *Education Finance and Policy* 9 (Winter 2014): 59–85.

¹¹National Association of Charter School Authorizers, “State Policy Analysis: Toolkit,” <http://www.qualitycharters.org/research-policies/archive/state-policy-analysis-toolkit/>.