



CHARTER SCHOOLS:  
AN IRRESISTIBLE FORCE?

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## **INTRODUCTION**

## Charter Schools: An Irresistible Force?

No public school reform has developed as rapidly, or has such potential long-range consequences as the charter school movement. The first charter school law was passed in Minnesota in 1991 and the first charter school was established in St. Paul in 1992. Today 37 states plus the District of Columbia and Puerto Rico have a charter school law on the books, although some are so weak they are ineffective. Nonetheless, there are more than 1700 of them, enrolling more than 350,000 students, a growth so rapid that the knowledge about them cannot keep up with the reality.

President Bill Clinton has advocated the creation of at least 3,000 such schools by the year 2002, a target which is probably not only achievable but may prove to be well short of what will exist at that time. States, beginning with Minnesota, that have created such laws tend to strengthen them once the results prove to be positive, which is overwhelmingly the case. The federal government also appropriates millions of dollars each year to assist the creation of the schools. Thus, while the following summarizes events of the past decade it is to some degree incomplete even as it is being written.

### **Background**

In one sense it is curious why it took so long for this idea to take shape because it is essentially the pattern in higher education, where colleges and universities receive a charter to operate basically as autonomous institutions, all of them are schools of choice, none of them have the power to compel attendance or levy taxes, where students receive financial aid in one form or another, not least of all from public funds, and the institutions themselves, whether public or private, secular or sectarian, receive public dollars in a multiplicity of ways - direct grants, indirectly through student aid, appropriations for specific purposes such as research projects, etc.

Charter schools at the elementary and secondary level haven't yet arrived at these conditions, particularly with reference to religious schools, because of the application of the First Amendment of the U.S. Constitution at the K-12 level in a more narrow fashion than at the postsecondary level. However, despite a great deal of variation among charter schools, as is true in higher education, the key elements of relative autonomy and the inability to levy taxes or to compel attendance exist throughout the nation.

The idea for K-12 charter schools may have originated with a July 1968 report by the Committee for Economic Development, although they used the term "clinical schools." They suggested schools with considerable autonomy, which could contract with private agencies and would be independent of local school districts and collegiate schools of education. This would enable them "to be administered by bodies having no involvement with conventional practices," although, of course, that would not prohibit them from being conventional, to whatever degree they might wish, if they so chose.

The first legislative response in this direction also came early on when the California legislature, in its 1969 session, considered establishing "urban self-determination schools." They would have their own governing board, be located in disadvantaged

areas and would be free of most requirements regarding certification so the teachers would be free to organize as they deemed appropriate, even to use older students on a part-time basis to teach basic skills to younger ones. It proved to be ahead of its time.

The next year, in remarks at a White House Conference on Education, Dwight Allen, dean of the University of Massachusetts School of Education, in a rare example of a major reform proposal coming from someone in such a position, advocated creating schools free of all state and local regulations. It was perhaps symbolic of the times that he didn't find it necessary to include freedom from federal regulations as one of his recommendations. In comments relevant today, he said schools weren't as bad as they were because they didn't have enough money, that he hadn't seen any direct relationship between dollars and results, that what was needed was a more imaginative use of the resources and that there was a need to develop sub-systems and alternatives.

John I. Goodlad, in an article in *The National Elementary Principal* of January 1971, urged "the deliberate development of schools whose sole reason for being is experimental" that would be permitted to abolish grade levels, use community resources, more effectively use technology and reschedule the school year, among other things. Dwight Allen continued to promote the effort, with an article in the March 1971 issue of *Psychology Today*, in which he proposed school districts setting aside 10-15% of their budgets for alternative schools, to which attendance would be voluntary, and which would, as he had said earlier, be free of all state and local rules, except for those protecting individual rights.

Minnesota is the state that became the leading edge with this reform. The state Department of Education began to consider the idea as early as 1971, although initially as school-site management, which is a variation that can exist short of actual autonomy, as has been tried in a number of places around the nation since then. In 1983, Ruth Randall became Minnesota's Commissioner of Education and began promoting the idea. The difficulty of following through is but one more instance of the ability of the public school system to resist, stall, and defeat any proposal too far afield from the norm.

The actual term "charter" seems to have originated in 1988 with Ray Budde, a retired University of Massachusetts professor of school administration. But to those who have been seriously involved with the charter school issue over a period of years it is Ted Kolderie, Director of the Center for Policy Studies in St. Paul, MN, who is the "father" of the movement. He has been a major leader since it marked a real beginning in 1988, and

continues so today.

Ironically, given the subsequent opposition by the teacher unions, a major thrust forward came that same year when American Federation of Teachers President Al Shanker promoted it in March during an address to the National Press Club in Washington, D.C. He said teachers should be able to start schools with a "charter" from the local school board. Perhaps more importantly, he followed through by taking part in a retreat in

Minnesota in October of 1988 which was attended by a few state legislators. One of them, Sen. Ember Reichgott, shortly thereafter drafted and introduced a charter-schools proposal. When it stalled, she reintroduced it again in 1990 and in 1991. This time she was successful and Gov. Arne Carlson signed it into law on June 4, 1991.

## **Minnesota**

The original Minnesota law was considerably weaker than many that have been passed since, or than now exists in Minnesota itself. Only a school board could issue a charter. But an unrealized loophole was created when the law failed to specify that the charter school must be in the district that authorized it, thus permitting a local board to approve a charter school that could be somewhere else.

The schools must be established by licensed teachers, there could be no more than eight in the entire state, and no district could have more than two. The schools could not charge tuition, nor could they have a religious affiliation. The law did permit a private school to convert to charter school status, something that the relatively few laws in subsequent states permit. Like other laws since, the funding supplied did not provide for startup costs, a reason for the subsequent failure of a few schools. On the other hand, they would be exempt from most statutes and rules, and could be limited to as little as one grade, or focus on certain subjects, such as the fine arts, science or a foreign language. The charter would be good for five years, and renewable.

This proved to be a sound beginning for what has become a juggernaut for improved education. Minnesota, as indicated, has since amended the law and made it more flexible -- for example, raising the limit on the number of schools to 15, then 40, and finally removing it entirely.

Almost immediately, evidence appeared that, contrary to critics claims, the existence of viable alternatives would have a positive impact on the traditional school districts. In Forest Lake, Minnesota there had been requests for the school district to develop a Montessori elementary school as an option for interested parents. It was repeatedly denied on the grounds that it wasn't possible for a number of reasons. When the charter school law passed, a move was started to apply for a Montessori school charter.

Remember that the charter didn't necessarily have to come from the Forest Lake school board. Almost immediately local administrators discovered that the heretofore insurmountable obstacles to such a school didn't exist after all. The fact that some students, exceptional teachers, and money, might disappear may or may not have had something to do with it but, in any event, the district gave parents the Montessori school that they had been requesting, without going through the charter school procedure.

The first charter school, which continues to operate successfully to this day, was started

in St. Paul by two public school teachers, both members of the teacher union, Milo Cutter and Terry Kraabel. In 1991 they had started an after-school program for 40 students who had been expelled from school. With the creation of the charter school law they applied to the board for a high school for dropouts. The local board approved in April of 1992, the state board approved two months later, and on September 7, 1992 the City Academy opened its doors as the nation's first K-12 charter school.

Its enrollment has varied but it was, and is, a small school, growing by 1997 to about 90 students and a staff of nine. It serves 16-21-year-old dropouts, the initial group of whom were recruited directly off the streets, although subsequent enrollees come from varied sources, including referrals from the St. Paul school district. The school is community based, with students spending four days a week in interdisciplinary courses, often in unusual settings, and one day each week obtaining work experience in the city. The Academy is housed in a neighborhood recreation center, usually has no more than five students per class, has no principal, since the teachers run the school, and has no office staff. One 21-year-old student was reading at the third grade level, while a 15-year-old was ready for college. Virtually all of its students successfully graduate from high school and typically 90% go on to college.

As Ms. Cutter has explained, the staff has no one to blame if things go wrong. When they have a labor problem they "sit down at a table, pull out a mirror and figure it out." The law requires that a majority of the board be teachers but, in this school, that is no problem. Salaries are above average. Enrollment, of course, is 100% by choice, which Cutter says is a powerful idea.

Over the years the National Education Association has found it necessary to moderate its total opposition to charter schools, has authorized starting eight itself, although it is having trouble getting its members to cooperate, probably due in no small part to the NEA's own rhetoric for years against the concept, so it is now sowing what it reaped. One interesting result is that NEA's five-year Charter Schools Initiative has Milo Cutter serving as an advisor.

### **California, Arizona, and Michigan**

With 37 states, the District of Columbia and Puerto Rico having charter school laws, obviously there are too many to cover in any detail. Even those with effective laws, as evidenced by the number of schools that have been created, present too much data to report. But the three listed states merit at least a passing mention since, for an extended period of time they had more charter schools than all of the other states combined, and even now they each have more charter schools than other individual states, thus they provide more experience with which to view this phenomenon.

Despite the usual strong opposition from the teacher unions, California became the second state to pass charter school legislation when Gov. Pete Wilson signed a bill into law on September 21, 1992. Just as each of the 50 state school codes are different, so are the charter school laws, thus no overall detailed summary of their provisions is possible.

Among the distinctive provisions in California were an original limit of 100 schools, compared to only 8 in Minnesota, a provision allowing a school district to convert all of its schools to charter status, and the receipt by charter schools of compensatory and special-education funds. One particularly unusual feature of the California legislative process was that two bills were passed, one originated in the House the other in the Senate. One required that charter school teachers be certified, the other did not. Wilson chose to sign the one permitting teachers to be hired without certification.

Certification became mandatory in 1998 but other amendments that year strengthened the law in other ways, such as raising the cap to 250 charter schools and allowing for an additional 100 each year thereafter. Charter schools were provided with more fiscal equity while legal autonomy and local district denials of a charter proposal not only could continue to be appealed to county board of education, as provided in the 1992 legislation, but could be appealed to the state board of education as well.

All in all, the now-current version of the California law has been rated as being in a tie with Michigan as the second strongest such law in the nation, with Arizona being first.

The Arizona law, enacted in July of 1994, permitted each local district to approve as many charter schools as it wished but, as has been the common experience in the nation, relatively few did so. Only 22 of the first 164 schools were approved by this route, the remaining 142 being chartered by either the state Board of Education or a newly-created State Board for Charter Schools. The state also appropriated \$1 million to assist the charter schools with start-up costs. By early 1999 the state had more than 270 charter schools in operation, the most of any state.

Next came Michigan, whose law also permits local school districts to approve charter proposals but also granted the power to state universities, community colleges and intermediate school districts for a grand total of more than 600 chartering agencies. For

supporters of the charter school movement this proved to be a wise decision since only about 5% of those with this power have chosen to exercise it. The largest single source is Central Michigan University which has authorized dozens of such schools and set up its own internal agency to monitor their progress.

Not all public school people were antagonistic. When some charter schools opened in Dearborn the district itself introduced a system of in-district choice, which public school districts everywhere could do if they were willing to function in a more democratic manner, whether a charter school law is on the books in their state or not. Dearborn Superintendent Jeremy Hughes said the appearance of charter schools “certainly did get

us taking a second look at ourselves.” A superintendent of a suburban Grand Rapids district said, “We’re more creative because of the charter school law,” and another public official declared educational competition to be a good thing. Within two years after the law was passed one poll of residents in western Michigan found that 60% of the public believed charter schools were having a positive influence on the traditional system.

Perhaps the most outstanding example of what can occur under a charter school law exists in California where the first charter school to appear was a public school, the Vaughn Street School in the Los Angeles Unified School District, which, in 1993, became the Vaughn Next Century Learning Center. Thus the results were obtained in a school that had the same principal, Yvonne Chan, the same staff, the same student body, and the same facilities that it had as a public school but they were now free to largely control their own destiny.

Nor was this a privileged school, student body, or community. The school was overcrowded, with 1200 students, 95% Hispanic and the rest mostly African-American. 95% of them are eligible for the free lunch program for low-income students. Conditions had been so severe that when Chan had originally accepted appointment as the principal, after others declined because of death threats to the prior principal, she was assigned three fulltime bodyguards by the district. One of her first decisions as an independent charter school principal was to discontinue their use.

The school received \$4.5 million the first year which, for 1200 students, is less than \$4,000 per student, less than most urban schools in the nation spend. Yet the school, now largely run by the staff, finished the year with a \$1.2 million surplus, despite giving themselves a 10% pay raise (while the rest of the LAUSD district teachers were experiencing a 10% pay *cut*), increasing the school year to 200 days, and hiring additional staff, including a fulltime librarian, a nutritionist, a psychologist and a social worker. Attendance went from 84% to 99.72% that first year and test scores shot up 300% in percentiles, from the 14<sup>th</sup> to the 57<sup>th</sup>. The surplus funds were used to purchasing two houses adjoining school property, one a “crack” house, and, within ten months, a new 14-room high tech school addition was built. This was done not only with the hiring of local construction workers, but by paying high school students \$5 an hour to do some of the labor, such as plastering.

Obviously such progress could not be made with less money unless economies were instituted. Administratively, Vaughn is not only no longer under the control of the LAUSD board but it established no board of its own, with the teachers and parents (89 in 1995) running it through committees. While the staff had belonged to seven different unions while the school was part of the district, they did not continue with collective bargaining, although this was permitted by law. Staffers are free to continue paying union dues or agency fees on their own if they wish. Staff evaluation their peers was introduced.

Specific instances where savings occurred included spending only \$180,000 of a \$325,000 special education supplemental payment. It is not uncommon for special

education students attending a school or program of their choice to no longer require these services. The payroll was contracted to a local company for only \$120 a month, less than \$1500 annually, a fraction of what it would have cost to hire a payroll clerk. Busing costs were reduced almost 50%. Contracting for food services reduced the prior cost of \$400,000 by one-third while the entree options increased to three. The school nurse voluntarily transferred to another school and her \$70,000 cost was replaced with a \$28,000 contract with a nearby medical clinic which markedly increased the services available to students because doctors can perform functions that are illegal for a nurse to do. Vaughn is now a one-stop center for health and medical services. It has a new preschool program, one for gifted students, and an accelerated bilingual offering. Parents also provide voluntary services, with each contributing at least 30 hours a year.

Where necessary, the staff itself made sacrifices. Since California provided no startup funds for a charter school, the staff did the original organizing for the transfer to charter school status by agreeing not to be paid over the summer until August 15.

In 1997 the school broke ground again, this time adding a \$2.2 million facility with a community library, ten new classrooms, technology and science labs, and even a teacher training center which would function in collaboration with the California State University campus in Northridge. They also planned another increase in the school year, to 240 days. By then Vaughn, rather than having the lowest test scores in the nation's second largest school district, had its fourth graders achieving above the 50<sup>th</sup> percentile, the national average, in reading, language and math.

All of this has received state and national recognition. In its fourth year Vaughn became the nation's first charter school to be named by the U.S. Department of Education as a National Blue Ribbon school. The California Department of Education gave it a Distinguished School Award.

Chan says the secret of success has four components, its "four aces in the hole": autonomy, accountability, achievement and an alliance of adults that helps students. She adds that her own role has changed from a top-down direction to one where the staff and parents decide what needs to be done and she sees that their program is carried out and the goals achieved.

While this may be the most spectacular success story of the still-young charter school movement, it is by no means the only one and a reason why it is growing so rapidly.

## **Pennsylvania**

Although only Minnesota passed a charter school law in 1991 and California in 1992, by the beginning of 1997 twenty-five states had done so, plus the District of Columbia. Four more were added in 1997, including Pennsylvania, whose law was signed by Gov. Tom Ridge in June.

Even before its passage, at least one suburban superintendent was looking forward to its enactment, saying that "anybody who doesn't want to do a charter hasn't realized what

the governor is saying,” whose vision foresaw all of his district’s schools becoming charter schools, and who optimistically said, “When I dream, there are no parameters.” Unfortunately for him, while his dreams might have no parameters his school board did. Being more typical of the public school establishment, they wanted no part of the new law and opposed the creation of any such schools in their district, whether by outside or inside advocates.

The debate over the proposed law followed the usual pattern, with most public school groups opposed. First they sought to block its passage or, failing that, trying to weaken it as much as possible. Despite this, Pennsylvania’s law, while not in the top tier, is rated as one of the better ones in the nation.

Among its strengths are the lack of a cap, so as many schools can be created as can have their proposal approved. A middle ground was struck on the issue of teacher certification, with a requirement that at least 75% must meet this standard. Even where certification is not mandatory, as in the first several years of California’s law, virtually all teachers are certified anyway, both because enough certified teachers apply for positions in them, and because charter school operators realize the general public confuses being certified with being qualified and so, where possible, they seek to hire certified teachers.

Other features of the bill include defining a charter school as a public school, prohibiting the conversion of a private school to a charter school, prohibiting the charter school from having any religious affiliation and also prohibiting a for-profit company from receiving a charter, which many other states permit. Nor could a local board reject a charter proposal for fiscal reasons, although that has obviously become the case. In at least one instance, a member of a board rejecting a proposal stated publicly that “The cost of supporting charter schools is the most prohibitive thing.” So much for meeting his legal responsibility to uphold the laws. Such defiance could be part of the basis for an appeal.

The for-profit limitation is a particularly interesting provision because, aside from being the result of an appeal to emotion and class warfare, it is contradictory in a nation which supposedly treasures entrepreneurs and the free enterprise system, and it is inconsistent with the public school code under which local school boards can and do contract with for-profit firms for almost everything other than direct instruction - food service, transportation, building repair and construction, textbooks, school solicitors, and the like.

Furthermore, if a firm can educate students for less than \$6,500 a year in a district that itself spends \$10,000 per year per pupil (an actual example) is that not to the benefit of both students and taxpayers? If a for-profit firm can make a profit at \$6,500 a year, what does that say about the district’s spending \$10,000 to do the same thing, and perhaps not as successfully.

It might be noted that the nation is currently spending about \$350 billion a year for the K-12 public system. Since that money doesn’t just disappear, the idea that, even aside from the contracting out of the services mentioned, to pretend that teachers who may earn as much as \$90,000 a year and administrators who may earn well into six figures, not counting fringe benefits, are not “profiting” is to play games with words.

Should a charter be approved, the new school must be available to students at no additional charge; students living in the district granting the charter would receive first preference; and students outside the district can attend on a space-available basis, also at no additional cost. If there are more applicants than spaces available students must be chosen by lottery. Once the school is established preference in future years can be given to students who are siblings of students enrolled in the school. A charter school may be a regional school if its charter was approved by more than one local district; and the schools, like other public schools, may set reasonable requirements for admission, such as grade levels, or areas of concentration, such as technology or performing arts. The charter is granted for five years, and renewable, which is one of the few constants of initial charter school laws in general.

The major issue not satisfactorily resolved, in the view of charter advocates, and that resulted in the Pennsylvania law receiving a lower rating than would have otherwise been the case, was where the granting authority should rest, and whether or not there should be an appeals process.

While a top staff member of the Pennsylvania School Boards Association (PSBA), in June of 1995, publicly stated that “We have said from day one if the school board just routinely says no and rejects the applications there should be some appeal rights to the state and we would support that,” in fact when actual legislation appeared they argued strongly that, if charters were to be granted, only school boards should have that authority and there should be no appeals process. Failing that, they argued that the right of appeal should have to be addressed to the existing State Board of Education and, even then, an appeal should be granted only if the local board could be shown to have violated the applicant’s right to due process or where the board could be shown to have exercised a gross abuse of its powers to approve or deny a charter request, standards virtually impossible to meet.

The legislative compromise was an interesting one. The final version did limit the power to grant charters to local school boards. Nor did it initially create an appeals board. In effect, it gave the local boards time to show their good faith in carrying out the law as their oath of office requires. It called for the creation of a separate state Charter Appeals Board (CAB) on July 1, 1999. Other provisions became effective when Act 22 of 1997 became law in June. By law the board has seven members: the state Secretary of Education by virtue of office, plus a parent of a school-age child, a member of a school board, a college or university administrator or faculty member, a certified public school teacher, a businessperson, and a member of the State Board of Education. That, of course, happened on schedule, but the PSBA is still unhappy and seeks to have this provision of the law repealed.

If a charter school plan is denied by the local school board the reasons for the denial must be clearly stated by the board in a notice sent to the applicants. The latter may revise their proposal and resubmit it. If they still do not receive the charter, they may appeal to the CAB, if they obtain the signatures of 2% of the school district residents, or of 1,000 residents of the district who are over 18 years of age, whichever is less. If the local board fails to act on the application, its backers may take it directly to the CAB, without needing to acquire signatures, and the CAB, in effect, acts as the local school board. In

either case, the applicants need to show local support for their proposal.

Should the CAB overrule the local board and grant the charter, their decision is still subject to appellate review by the Commonwealth Court should the local district decide to exercise this option.

The claim that school districts would lose money if students left for a charter school first of all ignores the fact that the charter school is just another public school in the district, just as would be the case if the district itself opened another school. The main difference being, of course, not that money would leave the district but that the local board would not control the school. This argument suggests schools should continue to receive money for students for whom they are no longer responsible.

In fact, the legislation did provide some financial relief. School districts receive a one-time payment of approximately \$1,100 not only for each regular education student who had previously attended its schools but for each student who was formerly home-schooled or a dropout. Private school students who transfer to a charter public school similarly bring transitional funding of the \$1,100.

Nor was this all. Pennsylvania school law rates and reimburses school districts according

to what is called an Aid Ratio, which indicates the relative wealth of the district with the statewide norm. The poorer the district, the higher the aid ratio, and the higher the transitional funding. Finally, transitional funding amount can be even higher, \$1,800, for each special education student who left. In their ongoing objection to the law, the supporters of the status quo fail to mention these features of the law and, perhaps, aren't even aware of them.

Even the amount that leaves a local district with each student is severely limited which is why, as noted, a district spending \$10,000 per student per year might "lose" less than \$6500 for each regular student who leaves. That leaves them a "profit" of \$350,000 for each 100 students who leave, plus another \$110,000 or more in transitional funding for the 100, plus thousands of dollars more for dropout, homeschooled, and private school students they didn't even have.

The actual amount is based on what the district spends per student, which varies among the state's 501 school districts, *less* a long list of expenditures. These include special education, nonpublic school programs, community/junior college programs, student transportation, facilities acquisition, construction and improvement costs, debt services and fund transfers and federal programs. The result is hardly the financial disaster some district officials contend they will face. Which is why, though the laws among the states vary, no local school district has gone broke although there are now, fall of 1999, more than 1700 charter schools enrolling an estimated 350,000 students.

As for the charter schools themselves, the state does provide some additional funding for special education students and intermediate units. The latter, who can and do provide

special education services to local school districts, must be willing to provide the same services at the same cost to charter schools if the latter request that they do so.

Despite the shortness of the notice, the Commonwealth's first charter school was authorized in August. The Keystone Charter School was approved in western Pennsylvania as a regional charter school serving at-risk students in grades 6-12 from school districts in Mercer County, south of Erie and adjoining the Ohio border.

One reason why was that the state did a relatively novel thing by passing a program even prior to the charter school law's enactment which gave the state Department of Education funding to award competitive planning grants to those who thought they might like to be ready to propose one when and if charter schools were authorized. During the two calendar years beginning with January of 1997, the Department awarded more than \$2.5 million to 192 different groups and sponsored a series of workshops which the department said was attended by thousands of Pennsylvanians. The grant did not require that recipients ultimately apply for a charter, as many did not, nor could it assure them that an application they might make would be approved, as many were not.

During the first year there were 51 applications for school boards, 33 of which were

approved, 11 of 17 in Philadelphia and 22 of 40 in the rest of the state, although a number of these were also multiple approvals within a given district, such as Pittsburgh and Chester-Upland near Philadelphia. Thus the 33 charters, which PSBA officials cited as evidence of good faith on the part of school boards, in actuality represented only a handful of the state's 501 districts. Admittedly, many districts did not receive an application but in other instances, in addition to rejections, the applicants were greeted with such hostility that they withdrew their proposals which, if counted as rejections would have raised the negative total higher, and correspondingly reduced the approval rate.

School boards' antagonism was emphasized further the second year, which suggested the first year's results were abnormally high because proposals were only made where acceptance seemed likely. After all, preparing and filing a proposal is a cumbersome process, can be costly if legal and professional assistance is required, and therefore not to undertaken lightly if the outlook for success is dim.

In any event, remarks prepared for the state Senate by one of its members on April 20, 1999, which gave the first year figures cited above, noted that in the second year, Philadelphia approved only 12 of 25 proposals, lower than the first year but still a 48% acceptance rate, but in the rest of the state only two of 56 applications were approved, a dismal 4% success rate. While it is likely that not all proposals were equally meritorious, for local school boards to reject 96% of all submissions has to raise doubt as to their willingness to not only consider proposals on their merit but, as suggested earlier, even question whether they are acting in good faith and honoring their sworn oath to uphold the laws of the state.

The aggregate for the first two years, the Senator noted, was 54% for Philadelphia but a questionable 21% for the rest of the state. As questionable as that is, the sharp downward trend from the first to the second year gave him further pause.

Noting that the PSBA has “taken up the cause against charter schools by conducting seminars on how to go about the process of denying charter school applications,” the Senator, a member of the Senate Education Committee, suggested to his colleagues that “We will have to look in the future to the possibility of allowing other institutions, other than school districts, to create charter schools, institutions such as community colleges, institutions such as our State institutions of higher education...perhaps our private institutions as well” (which, as noted, Michigan does very successfully). He added that “We are not in the business of protecting and preserving systems that are not providing the proper educational opportunities for the students of this state.”

If, as has been said, “unions are the result of bad management,” it might be added “school reform is the result of bad school management.” The charter school movement is far enough along, with a more than adequate track record, to be derailed. Even an attempt to slow it down or modify it can only be achieved to a limited degree. Obstruction tactics may not only fail to slow it down more than temporarily but may, as the Senator implied, result in accelerating it.

In fact, while the law is only a bit more than two years old, and its full impact is still to be determined, it has been amended twice, both times clarifying and strengthening it rather than weakening it as opponents wish to do.

One amendment makes it now possible for charter schools to not only aim for a target group of students, specifically “at-risk” students, but limit admission to them whereas the original law permitted some targeting but a charter school could not prohibit other students from enrolling.

The other amendment resulted from the Philadelphia School District’s attempt to avoid providing transportation of its students to a charter school, particularly one which had not received its charter from the district and which was located outside of the district’s boundaries. At first they refused to pay for such transportation but the law said that, in such an instance of refusal, the necessary funds could be taken directly from the district’s subsidy from the state. The district’s next step was a law suit.

Their argument was that the quarter-century-old state law requiring districts which bus their students to provide busing for students attending *nonpublic* schools within ten miles of the district’s boundaries was not applicable to charter schools because they are, by law, identified as *public* schools. In fairness to the Philadelphia School District, this was at least a debatable point. The General Assembly settled the issue by passing a provision explicitly requiring the district to provide transportation which will now serve as a precedent for other districts.

Success is emerging in Pennsylvania as in other states, although the period of experience is shorter. In July of 1999 the Charter Schools Project at Duquesne University in

Pittsburgh issued a report which summarized some of the statistics of the charter schools within the state. Twenty-three of the first thirty-two were in urban areas with all 18 of those scheduled at that time to open in the fall also being similarly located. While the report didn't specifically address the often-heard charge of "creaming" of the public schools best students by schools of choice, such as charter schools, it said the latest available figures on enrollment found that 72% of charter school students are African-American, only 19% white, while 9% are Latino and 1% Asian.

Perhaps the most publicized success story in Pennsylvania has been the Mosaica Academy Charter School in Bensalem, PA, a northern suburb of Philadelphia. In fact, its 450 students come from nine different school districts, over half of them from Philadelphia, since charter schools, unlike ordinary district public schools, have no specific attendance area. Nor can they levy taxes to meet their costs nor compel any student to attend.

The Bensalem school, as is common nationally, was oversubscribed by both students and teachers when it opened. The incoming students were tested in September of 1998 again in June of 1999, using the Iowa Test of Basic Skills. Michael Russell, an independent educational-assessment analyst at Boston College summarized the results, which were announced by the school.

Students in all grades, K-6, advanced more than one year in reading in the first year. Fourth graders learned more than 4<sup>th</sup> graders do nationally, gaining the equivalent of more than two years in math and language arts. . All grades gained more than one year's achievement in both math and language-arts.

These gains were backed up by parental satisfaction. One parent, in a letter to *The Philadelphia Inquirer*, wrote, "I have only great things to say about what they have done for my son," who, she noted, had formerly attended a private school. Further, that school had labeled him as being an ADD child, one who has Attention Deficit Disorder, and were insisting he be placed on Ritalin, as are some two million or so public school students in the nation. She refused and, by changing schools, found that in the new environment there was no suggestion that he had such a problem or needed the drug. No wonder that she termed herself "A very happy mom!"

More than this anecdotal evidence was presented in March when the school reviewed applicants for the new kindergarten to be added for the 1999-2000 year. With openings for some 50 students, the results for many were disappointing. Since siblings of students already enrolled in the school are given priority, 40 of the potential openings were immediately filled -- 26 from Philadelphia, nine from Bensalem Township, four from Bristol Township and one from Neshaminy. Then the school, which had promised no social promotions, held another nine spots for current kindergartners who were facing possible retention in the next year. That reduced the available openings from 50 to only one.

Unsuccessful parents were unhappy, to say the least, especially with so many of the

openings going to students from Philadelphia, and only nine going to Bensalem school district students, the district that granted the charter and where the school is located. All of which was compounded by the sentiment expressed by a Bensalem mother who left in disgust, saying she had hoped to enroll her son in the school because her friends all “raved” about its foreign-language instruction (Spanish begins in kindergarten), longer school day and year, use of technology, and its heavy degree of parental participation.

One of the more unusual Pennsylvania charter schools, which justifies the hope of charter advocates that distinctly new types of schools will appear if school choice exists, is the Susq-Cyber Charter School, now in its second year. Authorized by the Berwick, Bloomsburg and Milton area school districts, It is an online internet school which not only serves traditional students but some who are homeschooled and some that may be homebound, including those diagnosed by doctors are having school phobia, something

most people probably don't even know exists. Not only that, the school administrator is the former superintendent of the Bloomsburg public school district.

As this is being written a proposal for another internet-based charter school, The Contact Charter School, is being proposed in Philadelphia to serve high school students, although its sponsors say they had never heard of the Susq-Cyber Charter School. Their idea is in part based on online schools in Oregon and Florida. They do plan for students and staff to perhaps occasionally meet in person, including the possibility of field trips and social events.

At the same time, success is not, nor was it expected to be, universal. One school, in the Chester-Upland School District, a southwest Philadelphia suburb, had its charter revoked because it had not been able to locate suitable facilities and thus fully develop its proposed educational program. By contrast, it might be noted, the school district itself was declared distressed several years ago and taken over by the state, which continues to oversee it by means of a Control Board which replaced the regular elected school board. An attorney for the charter school noted that if the standard applied to his school were applied to the school district it would have been closed down 20 years ago.

Finally, charter schools, as public schools, are covered by bargaining laws in states where they exist. It is indicative of the opposition from teacher unions that, while charter school teachers can exercise this right, very few do. In fact, as with the Vaughn Street School in California, if they formerly were union members they tend to drop out when they join a charter school (one-quarter of the first several hundred of which, including that first one in St. Paul, were started by teachers).

Union supporters tried to remedy this “defect” this year by attempting to amend the California law and require teachers at charter schools, without their approval, to belong to the union and be covered by the contract in the district where they are located. This would seem to be a violation of the prohibition on union shops but it won't have to be tested this time because the legislative attempt failed. It also demonstrates why charter schools and their staffs are joining together to oppose attempts to regulate and/or re-

regulate them which could restrict their ability to create alternatives to the traditional system.

Pennsylvania has a bargaining law, Act 195 of 1970, but, until early in 1999, charter teachers had not utilized it. Then teachers in the West Oak Lane charter school in Philadelphia, ironically, a school which originated with a Democratic state legislator with a pro-union record, decided to do so. They said this was not because of salary (most charter school teachers in Pennsylvania are employed on one-year contracts) but because of the alleged lack of such things as books, computers and a discipline policy. Even here, on the positive side, it might be noted that only 15 of its 530 students did not plan to return in the fall of 1999, while another 730 students applied for the 80 openings the school anticipated.

All in all, while it might have been expected that more charter schools would have appeared in Pennsylvania, given the advance interest in the planning grants, the actual number of those who followed through, the interest in such schools from students, parents and teachers, as evidenced by the appearance of more students and teachers than they could accommodate, and the success of almost all of those that did get approval, indicates that charter schools will be a continuing story in Pennsylvania, as in the nation.

### **Charter Schools and Religion**

As noted, charter schools are, by law, public schools and thereby prohibited from being religious schools, because charter schools are the direct recipients of public funds. That, however, does not necessarily prohibit them from participating in some manner, just as it has been held constitutional to provide religious schools with publicly funded benefits for their students, such as student transportation; supplies, such as textbooks; and even instruction, such as special education. It should not be surprising then, given the rapid development of charter schools, with more underway, for consideration to be given to what this might mean for religious schools, both in a negative way, if some of their students are drawn away, and in a positive sense if there are ways they could participate in the charter movement.

To date, little has happened beyond consideration and discussions, with opposition coming as much from some elements of the religious community as from the public school, and separation of church and state, sectors.

As early as October of 1996 Charter Consultants in Illinois prepared a proposal for a charter school in Fairmont City, which would have incorporated the school within the town's Catholic school. This ran aground on the shoals of opposition from both the directors of the Catholic school and the Diocese, which effectively killed community support for the idea.

At the end of 1998, New York State, with the aggressive backing of Gov. George Pataki,

passed a charter school law. A number of questions have been raised as to its religious implications. For example, can a charter school establish a non-denominational 'meditation room' for students and staff? What about a 'moment of silence,' the display of religious artifacts and symbols, etc. The answers, as provided by lawyers at the Institute for Justice in Washington, D.C., responding to specific inquiries about the New York Law, are generally "perhaps," or "probably," depending on the circumstances. Religious artifacts and symbols are permissible if presented as a teaching resource or aid when considering cultural or religious implications of a religious holiday, or as part of a history course where the items are relevant and their display temporary in nature.

Charter schools can even teach classes about religion, just as traditional public schools

may. This was indicated by the 1963 U.S. Supreme Court *Abington v. Schempp* decision, from Pennsylvania. The court's decision said "it might be well said that one's education is not complete without a study of comparative religion or the history of religions and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities."

As interesting as these, and similar, questions may be, however they are resolved does not go to the heart of basic questions regarding religious interests and charter schools.

The Institute for Justice views hold that religious organizations or groups may raise money for a charter school but, in so doing, cannot imply the school is sectarian or to any degree under the control of a religious body. They similarly believe that religious persons, specifically including nuns or various clergy, could teach in such a school, but there could be a problem if there were too many of them.

A charter school could probably lease space from a religious institution. In fact, some are doing so in various states, including Pennsylvania, but often the lease is for a former religious school or property not in use by the religious entity at the time of the lease. Similarly, a charter school could permit religious organizations using their facilities outside of regular school hours, as long as this is part of a general policy that permits other community groups to do so on a similar basis. Again, some traditional public schools are already doing this.

But can a religious school become a charter school? As such, no. Of that there would seem to be no question. The IJ attorneys suggest, at least in reference to the New York law but perhaps with a broader implication, that while religious groups cannot sponsor or control a charter school, they can submit an application for one, religious individuals may serve on a charter school board, and they may assist in establishing or operating such a school, but the school must be autonomous and religious groups should not be the primary vehicles for advertising the school or recruiting students, and recruiting may not be directed only at students belonging to that religion, or those religions.

In Chicago consideration has gone further but, to date, with results similar to those in Fairmont City in 1996. Chicago public schools CEO Paul Vallas, appointed to that

position by Chicago Mayor Richard Daley when the state legislature gave the Mayor control of the district a few years ago, has publicly encouraged participation by the Archdiocese of Chicago in the conversion of some parochial schools to charter school status, with religious activities taking part outside of the regular school hours. There were those, including clergy, in the Archdiocese, which is the nation's 110<sup>th</sup> largest school district, who were anxious to do so.

A task force looked at ways the Archdiocese could work with Catholics who wanted to start charter schools at least in vacant parochial school buildings. At the end of the summer the decision was made not to do so although an Archdiocese spokesman said the decision "does not preclude groups who may be Catholic seeking to organize a charter," which would have been true under the law in any event. While Vallas felt the decision would disappoint many in the parishes who would have preferred a more positive decision, that is where matters stand at this writing.

But the end of the story may not yet have been reached. Somewhere the attempt may be made to create a charter school, whether directly or by converting a religious school, to which any student may apply (after all, the enrollment at many parochial schools has very few if any Catholic youngsters), and schedule religious activities outside of the regular school hours. What the result may be is unclear, and will remain so until it is tried, or perhaps longer since the experience at one school may not be the same as at another. But there is at least the possibility that since the students are at such a school voluntarily many if not most or all of them may continue to voluntarily participate in the religious programs, just as the non-Catholic students do at a regular parochial school. And, it might be noted, which they do without being converted to the Catholic faith.

### **Summary Observations**

The charter school movement is growing too rapidly for research findings to keep up. It was estimated, for example, that there were about 1300 at the end of the 1998-99 school year, yet by the opening of the 1999-2000 school year, just a few months later, there may have been as many as 1700.

With that caveat, here are some results, both summary data and specific variations as of 1998, with totals not always equally, or sometimes exceeding 100%, because of incomplete data, rounding, or the ability to make multiple choices:

The U.S. Department of Education estimates that 60% of charter schools have less than 200 students, and it is even less than that if only new schools are considered since some public schools that converted to charter status, like the Vaughn school in Los Angeles, had 1100 students or more, thus raising the overall average.

A back-to-basics curriculum was to be found in about one-quarter (24%) of the total, with another 29% using what some might consider to be a variation on the basics, E.D. Hirsch's Core Knowledge curriculum, and another 11% engaging in home or independent study.

The allegation of “creaming”, which continues, continues to be exposed as rhetoric. Actual evidence is not cited for the very good reason that actual evidence indicates the contrary. About 40% of the charter schools serve dropouts or “at-risk” students; 24% do serve gifted or talented students, as do regular schools with such programs as Advanced Placement; and 10% serve adjudicated students, those who have been engaged in some degree of serious problem activities.

New schools comprise about two-thirds (68%) of the total; one in five (19%) are converted public schools and one in seven (14%) are converted private schools.

Authorized chartering agencies vary greatly in the state laws, some omitting local boards altogether, and this is indicated in the estimates that 44% are sponsored by a state chartering body, 43% by a local school board, and 16% by a university or college, the latter being particularly true in Michigan.

One third of the schools (33%) are in a district building, one-quarter (24%) in a retail or commercial facility; one in eight (12%) are in a church facility; and one in five (19%) have multiple sites.

That individual teachers are as eager for options as students, whatever their union positions may be, is demonstrated by the example of a small school in Marblehead, MA which had 500 applicants for its seven teaching positions.

In California, two school districts became charter districts and others in the nation, such as one in Georgia, were considering doing so.

In rural Castle Rock, Colorado parents renovated an old supermarket for their school; in Marblehead, MA is was an old Elks hall.

Charter school sponsors not only include parents, teachers, and community activists, but the Teamsters Union, in Minnesota; the federal Drug Enforcement Agency, in Detroit; and the Urban League, a civil-rights group, in San Diego.

The Anchorage, Alaska school board approved a charter for a school to primarily serve home-schooled students while in California, 20 schools received charters to do the same.

The Boston (MA) University Charter School was created to serve students who are homeless or teenagers without parents. It is near an Army base which it draws upon for resources, including teachers.

When asked why they chose a charter school, with multiple answers permissible, 53% of parents said it was for its small size; 45.9% chose higher standards; 44% agreed with its educational philosophy, 43% were interested in the chance for greater parental involvement; and 41.9% said they did so because of the quality of the teachers.

When teachers were asked the same question, 76.8% said they agreed with the school’s

philosophy; 64.8% regarded it as a good school; 62.9% welcomed the opportunity to work with like-minded colleagues; 54.6% believed it had good administrators (and this might even have been higher except that some schools, including the first one started by Milo Cutter and Terry Kraabel in St. Paul, have no administrators - perhaps a plus for some teachers); and 54.2% said it was because of class size.

Finally, lest this be regarded as an experiment only to be found here, and recognizing that all nations do not use the term “charter schools,” the growth of independent or autonomous K-12 schools, is not limited to this nation. In 1988, England, led by then-Prime Minister Margaret Thatcher, passed a law establishing what are termed “grant-maintained” schools. This permits government schools to opt out of the local system and receive their funds directly from the national government (England has a unitary system of government with no largely autonomous states with their own constitutions, such as exists here) and become individually independent.

New Zealand in the past two decades has gone perhaps as far as anyone, abolishing all local school districts and boards, giving each school its own board and independence, providing national funding for each student, and allowing that student to go to any school of his (parents’) choice, whether public or private, secular or sectarian.

In Denmark, if a number of families get together and start a school and can keep it operating for a year the national government will thereafter provide most of the funds to keep it going.

A good place to conclude might be with Russia. In August of 1992 a law was passed which provides for each school, whether state, municipal or independent henceforth operating under its own charter. Non-government chartered schools receive the same public funding as the government schools. Schools may be organized by religious organizations (so much for the official atheism of the former communist regime’s 70-year history), private enterprises, whether domestic or foreign, individuals, or virtually any other source. All may have their own bank accounts and are encouraged to supplement their public funds by providing additional educational services or engaging in other appropriate activities.

Whatever one’s personal views may be, this is clearly not only a national but an international trend that indicates what some regard as a long overdue movement toward increased democracy and decentralization in K-12 education, or, at least, schooling, since education and schooling are not synonymous terms, although they are often erroneously used interchangeably.

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*Author’s note:*

While I am not involved with the operation of the Bensalem school, I was listed as the contact person which the law required, when the application was prepared. I am more directly involved with a charter school in Harrisburg, where I live, which was approved

by the state Charter Appeals Board (CAB) on Monday, November 8<sup>th</sup>. I was a career public educator and, for more than a dozen years, a top elected officer or staff member of teacher unions, including being president of the Pennsylvania State Education Association in 1970 when Act 195, the collective bargaining law, was passed.