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August 23, 2010

MEMORANDUM

TO: Legislative Education Study Committee

FR: David Harrell

RE: STAFF REPORT: A SAMPLING OF THE NATIONAL CHARTER SCHOOL LANDSCAPE

Introduction

The National Association of Charter School Authorizers notes that, with charter laws in 40 states,[1] "charter schools can be characterized as a national education reform effort. Yet, each of these charter school laws contain [sic] state-specific provisions that define the purposes and operating terms for these independent, autonomous public education options. Furthermore, implementation of these laws within jurisdictional boundaries has greatly influenced how the charter school sector has developed from state to state."

According to several sources, more than 5,000 charter schools are currently serving more than 1.5 million students – approximately 3.0 percent of all public school students. In addition, the National Alliance for Public Charter Schools estimates that approximately 365,000 students are on charter school wait lists throughout the country.

To provide something of a national context for an examination of charter schools in New Mexico, this report reviews a sample of circumstances, initiatives, and issues found among charter schools throughout the country. The topics addressed are:

- effects on student achievement;

[1] According to the National Center for Education Statistics, the 10 states without charter school laws are Alabama, Kentucky, Maine, Montana, Nebraska, North Dakota, South Dakota, Vermont, Washington, and West Virginia.

- teacher turnover in charter schools;
- fiscal concerns;
- virtual charter schools;
- charter management organizations;
- performance contracts; and
- other state initiatives.

Effects on Student Achievement

A staff report to the Legislative Education Study Committee during the 2009 interim noted that, according to standard measures and recent studies, charter schools in New Mexico, as a group, seem to be performing at approximately the same levels as traditional public schools (see *Staff Brief: Charter School Update*, November 16, 2009).[2] The same assessment seems to apply to charter schools nationwide as well although definitive conclusions seem elusive.

Arguably the most important aspect of charter schools – their effect on student achievement – is also the most difficult to assess. As one recent study explains, ". . . there remains considerable debate as to whether, how, and under what circumstances charter schools improve the outcomes of students who attend them." On a similar note, a recent research brief by Vanderbilt University and the National Center on School Choice begins with this assessment of the academic effects of charter schools: "The rapid growth in charter schools during the past two decades has occurred despite inconclusive evidence that they are academically superior to their traditional public school counterparts." The brief then cites five studies since 2004, one of which found positive effects from charter schools, three of which found mixed effects, and one of which found negative effects.

Another recent analysis explains the difficulties inherent in drawing conclusions about the effectiveness of charter schools:

> Determining the influence of charter school attendance on educational attainment is difficult because students who choose to attend charter high schools may be different from students who choose to attend traditional public high schools in ways that are not readily observable. The fact that the charter students and their parents actively sought out an alternative to traditional public schools suggests the student may be more motivated or their parents more involved in their child's education than is the case for students attending traditional public schools. Since these traits are not easily measured, the estimated impact of charter high schools on educational attainment could be biased.

[2] Preliminary results of New Mexico schools' adequate yearly progress continue the trend of charter schools posting somewhat higher rates than traditional public schools: 25 percent for state-chartered schools and 28.3 percent for locally chartered schools, compared to 21.7 percent for traditional public schools (see *Written Report: Preliminary Adequate Yearly Progress Results from 2010 Assessments*, August 23, 2010).

One way that researchers attempt to mitigate this factor is by establishing an experimental group comprising students who enrolled in charter schools through a lottery and establishing a control group comprising students who entered a charter school lottery but did not gain admission. According to Jeanne Allen, President, The Center for Education Reform, ". . . the only way to determine charter school success is to compare the achievement of students in a charter school with the achievement of students in the public school they would have otherwise attended."

Perhaps the most recent study to employ that approach is *The Evaluation of Charter School Impacts*, funded by the Institute of Education Sciences and conducted by Mathematica Policy Research, published in June 2010. Through an examination of 36 charter middle schools in 15 states, this study found that:

- on average, charter middle schools are neither more nor less successful than traditional public schools in improving student achievement, behavior, and school progress;

- the impact of charter middle schools on student achievement varies significantly across the schools studied in terms of subject area and student demographics. In general, the charter schools were more effective for lower income and lower achieving students and less effective for higher income and higher achieving students; and

- charter school students and their parents (the lottery winners) were more satisfied with their schools than the other students and their parents.

On another point, the study found "no statistically significant relationships between achievement impacts and the charter schools' policy environment, including the extent of its decision-making autonomy, the type of authorizer and how the authorizer held the school accountable, and whether it was operated by a private organization."

Responding to this point, one analysis of the study suggested that the positive outcomes associated with the charter schools were more the result of particular practices – small school size, extended learning time, and different strategies for different subjects and different students – than of charter status *per se*. This analysis further suggested that effective "charterness" may rely more "on tools we already knew worked – providing struggling students with time, attention, and resources"; and that, "in supporting charters for charters' sake, some of us are missing the causation forest for the correlation trees." These points notwithstanding, however, the analysis also notes that charter schools have provided a valuable educational service by "unpack[ing] school effects, . . . something regular public districts might do more themselves."

Finally, part of the difficulty in assessing the performance of charter schools may stem from the standard of comparison. According to a 2009 report to the Michigan legislature, "Measuring any school's unique program through the blunt instrument of peer comparison alone is like using a straight ruler to measure the dimensions of an apple. . . There are so many variables at play in evaluating charter schools that broad comparisons are difficult and sometimes unfair to the schools on one or both sides of the equation." This study contends that the most reliable measurement is not to compare one school with another but to assess a

charter school against its own "track record of achievement." Thus, this report featured profiles of each charter school and found that:

- some schools "are doing extremely well at educating pupils and managing resources, while others are simply not making the grade";

- there is a need to balance appropriate levels of regulation with opportunities to innovate; and

- additional legislation is needed to ensure that ineffective schools are closed.

Teacher Turnover in Charter Schools

Using data from the National Center for Education Statistics and a survey of teachers, the National Center on School Choice and Vanderbilt University found that charter school teachers leave the profession and move between schools "at significantly higher rates" than teachers in traditional public schools – 130 percent greater and 76 percent greater, respectively – with the rates even greater for teachers at start-up charter schools than for conversion charter schools.[3] Contributing factors seem to be the younger average age of charter school teachers and the lesser likelihood of their having an education degree or state certification. This study also found that teachers' dissatisfaction with some aspect of the charter school was the most common reason for voluntary departures and that, despite fewer regulatory obstacles, charter schools seldom dismissed poor-performing teachers.

Fiscal Concerns

In March 2010, the Office of Inspector General (OIG) with the US Department of Education released a report stating that charter executives, officials, and politicians accused in fraud cases have inflated student enrollment figures and changed student grades to increase the amount of funding they receive, and then used the money for personal expenses. According to this report, more than 40 criminal investigations of embezzlement have been opened against charter school officials since 2005, resulting in 18 indictments and 15 convictions. The OIG places much of the responsibility for these violations on inadequate oversight by the charter authorizers.

Among the specific cases noted in the report:

- the chief administrator of a charter authorizer in Philadelphia was sentenced to prison and ordered to pay more than $200,000 after being convicted of participating in a grade-inflation scheme;

- three charter school officials in Humble, Texas pleaded guilty of altering student enrollment records between 1999 and 2002, resulting in an additional $2.5 million in federal funds to the school; and

[3] With the exception of schools in Restructuring 2 in the school improvement cycle, New Mexico law provides only for start-up charter schools, not conversion charter schools.

- in Illinois, the principal of a Chicago charter school was indicted for using the school's checking account to purchase more than $55,000 in personal items.

Virtual Charter Schools

Just because of their different format and environment, virtual schools raise a number of questions and issues. For example, recent legislation in Massachusetts allows public schools "to operate almost entirely in cyberspace," as described by one media account. While such schools have been welcomed by the communities that would open them, they have raised concerns among state officials about the prospect of uncontrolled growth. When the virtual school is also a charter school, additional issues seem to arise.[4]

According to one study from 2004, during the five-year period 1999-2003, an estimated 60 cyber charters came online in 15 states. Some of the challenges that these schools face, according to this study, are:

- accountability for student performance and educational program quality;
- defining enrollment boundaries and funding responsibility; and
- the influx of home-schooled students.

A number of states have made inroads into this field:

- According to the 2004 study, one of the earliest was the SusQ-Cyber Charter School, which was created by five school districts in Pennsylvania in 1998. It was followed two years later by Western Pennsylvania Cyber Charter School. When they enrolled in that school, students were issued a personal computer, a printer, Internet access, and a pre-packaged curriculum in the form of computer software; and they were assigned a teacher (called a facilitator), who was required to make weekly contacts with the students by phone. One issue that arose was the refusal of many of the school districts from which that cyber charter school drew its students to forward tuition payments. As additional cyber charter schools were formed in Pennsylvania, one study of them found that they all had contracted with third-party curriculum providers to deliver instruction.
- Already in operation for several years, the Georgia Cyber Academy, a charter school, is attempting to expand from K-8 into high school, but the state Charter School Commission rejected the petition recently, in part because the school did not meet state performance benchmarks in math. Parents have been highly supportive. According to

[4] In 2009, the Charter Schools Division recommended that the Public Education Commission (PEC) deny the applications for a state charter submitted by two applicants wanting to create virtual charter schools: Sandia Academy and Senator Dennis Chavez Academy. The PEC denied the applications and the Secretary of Public Education upheld that decision on appeal. Sandia Academy filed suit in district court, with a hearing on August 10, 2010. Although not one of the factors that the Charter Schools Division cited as grounds for recommendation against the application, the division attorney issued an opinion that, given the definition of the term "school" in state law, the PEC "does not have the authority to approve virtual charter schools that are not brick and mortar, discernible as buildings, designated to educate students in particular places"; and that the Secretary of Public Education cannot grant waivers of the requirements in law to allow the creation of virtual schools in New Mexico.

one parent: "It's not for everyone, but for the people it works for, it's a wonderful choice." The Georgia Cyber Academy spends $3,200 per student, approximately half the average cost that traditional schools spend. Two other would-be cyber charter schools – Kaplan Academy of Georgia and Provost Academy Georgia – recently withdrew their applications, hoping to negotiate for a higher funding level.

- As part of a two-year pilot program, Indiana recently approved a second virtual charter school, allowing it to enroll up to 280 students in grades 1 through 8; and the state allowed its existing virtual charter school to expand services to grade 6. According to the Indiana Department of Education, virtual charter schools must meet state and federal regulations and administer state assessments. Supporters of the program, like the State Superintendent of Public Instruction, say that online programs provide an option for parents who want or need their children to learn at home. Opponents contend that virtual charter schools constitute tax-supported home schooling.

- Another example is the California Virtual Academy at San Mateo, which, according to the *New York Times*, is the creation of K12 Incorporated, a publicly traded company that operates virtual schools in 25 states and abroad, generally through management contracts of three to 10 years. The school operates on the honor system, the *Times* story continues, "because, short of fingerprint or facial recognition, there is no way to be sure who is tapping at the keyboard." One point of disagreement with this school is the cost. According to school officials and K12 Incorporated, the school operates at a loss because it receives less funding than traditional schools. However, a scholar of virtual charter schools at Teachers College, Columbia University, contends that, nationally, cyber charter schools receive the same funding as traditional schools and that they have minimal overhead and minimal accountability.

- Finally, in 2007, the Wisconsin legislature required an evaluation of the 15 virtual charter schools operating in that state. In its report to the Joint Legislative Audit Committee, published in February 2010, the State Auditor reported, among other points, that:

  - enrollment in virtual charter schools has increased every year since school year 2002-2003;
  - the 5,250 student open enrollment limit in virtual charter schools will likely be reached within the next few years; and
  - on statewide assessments, virtual charter school pupils typically scored higher than other public school pupils in reading and lower in mathematics.

Charter Management Organizations

Charter management organizations (CMOs) are nonprofit entities that manage public charter schools. According to an ongoing national study of their effectiveness by Mathematica Policy Research Inc. and the Center on Reinventing Public Education, CMOs were developed to solve problems associated with the number and quality of charter schools. *Education Week* describes them as nonprofit alternatives to education-management organizations, which are typically for-profit ventures.

According to an article in *Phi Delta Kappan*, there are approximately four dozen CMOs currently in operation in the United States. Among the CMOs operating throughout the country are Green Dot Public Schools, based in Los Angeles; High Tech High, based in San Diego; and Achievement First, based in New Haven, Connecticut. One of the better-known CMOs is the Knowledge is Power Program (KIPP). Founded in Houston, Texas in 1994 by alumni of Teach for America, KIPP has grown into a national network of 82 schools that serve children from low-income backgrounds, according to a report in the *Washington Post*. An example of a state-specific CMO is White Hat Management, which manages 31 charter schools in Ohio.

One of the intended outcomes of CMOs was "to meld the benefits of school districts – including economies of scale, collaboration among similar schools, and support structures – with the autonomies and entrepreneurial drive of the charter sector." Although the final report from Mathematica is not expected until summer 2011, some preliminary findings were recently reported:

- most CMOs operate in large cities in a handful of states, with their schools typically serving low-income and minority students; and they tend to be fairly prescriptive with the curriculum and instructional techniques, human resource functions, and student behavior and support programs that their schools employ.

- schools overseen by CMOs differ from traditional district schools in several ways, among them:

    - they tend to offer more days of instruction and longer days;
    - for student achievement, they tend to rely less on parental involvement and more on the influence and effects of teachers; and
    - they are more likely to use compensation to reward performance of teachers and principals.

Also according to this study, private philanthropies fund the start-up and early operation of most CMOs, with the expectation that fees from affiliated schools would eventually make them more or less self-sustaining. That seems not to have been the case so far, however, as the study has found that many CMOs "are struggling to create the necessary economies of scale to sustain their central offices without heavy reliance on philanthropy."

Performance Contracts

According to survey results received by the National Association of Charter School Authorizers (NACSA), 90 percent of large authorizers – those that authorize 10 or more schools – sign formal contracts with the charter schools they oversee, as do 98 percent of responding district authorizers. These contracts typically emphasize the goals of the charter as contract terms and clarify the process for closing charter schools that do not meet their performance goals. NACSA also suggests that, in those instances where performance contracts are not required, one reason is the absence of such a requirement in the state's charter school legislation.

As one example, with the support of most of the state's charter schools, the State Charter School Board in Utah recently approved a new accountability measure for charter schools: in exchange for freedom from district rule, charter schools must enter into "achievement contracts" with the state, which will measure such components as students' progress over time, their readiness for postsecondary education, and community engagement. The training is to begin this fall, but officials expect full implementation to take up to two years.

Other State Initiatives

As the Education Commission of the States (ECS) has noted, a number of states have recently debated and adopted legislation to promote growth or quality in charter schools, whether in an effort to receive some of the federal funds through the Race to the Top competition or simply to strengthen charter school laws themselves. Among the activities that ECS reports:

- Illinois and Tennessee have both passed legislation to increase the number of charter schools that serve high school dropouts.

- Recent legislation in Ohio imposes a number of restrictions on the sponsor of any charter school that the State Auditor finds to be "unauditable," leading, perhaps, to the withholding of all state funds and legal action by the Attorney General to compel the school to put its financial records in order.

- Texas now allows public junior colleges to operate open-enrollment charter schools on their campuses or in the same county as the junior college campus.

- Legislation enacted in Michigan in 2009 allows the creation of up to 10 new charter schools known as "schools of excellence," authorized by school districts, community colleges, and public universities.

- The Missouri legislature has directed the joint committee on education to study the performance of students at each charter school in comparison with a demographically and geographically equivalent group of district students.

- Idaho legislation allows the creation of "professional-technical regional public charter schools" to provide programs in professional-technical education that meet certain prescribed standards and that operate in association with at least two school districts.

- Finally, ECS notes recent legislation in both New Mexico and Minnesota to require training for members of charter school governing boards.