

5-26-2010

# NEPC Review: Charter School Autonomy: A Half-Broken Promise

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## Recommended Citation

Gulosino, C. (2010). *NEPC Review: Charter School Autonomy: A Half-Broken Promise*. Boulder, CO: National Education Policy Center. Retrieved [date] from <https://scholar.colorado.edu/nepc/220>

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| DOCUMENT REVIEWED:     | “Charter School Autonomy: A Half-Broken Promise”   |
| AUTHORS:               | Dana Brinson and Jacob Rosch   |
| PUBLISHER/THINK TANK:  | The Thomas B. Fordham Institute, with Public Impact  |
| DOCUMENT RELEASE DATE: | April 2010   |
| REVIEW DATE:           | May 26, 2010   |
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| SUGGESTED CITATION:    | Gulosino, C. (2010, May 26). <i>Review of “Charter School Autonomy: A Half-Broken Promise”</i> Boulder and Tempe: Education and the Public Interest Center & Education Policy Research Unit. Retrieved [date] from <a href="http://epicpolicy.org/thinktank/review-charter-school-autonomy">http://epicpolicy.org/thinktank/review-charter-school-autonomy</a> |

### Summary of Review

This report concludes that autonomy is a prerequisite for innovative and effective charter schools to emerge. Especially important is freedom from external bureaucratic control. Yet there is nothing in this report that addresses levels of autonomy in relationship to financial performance, resource allocation practices, academic results, and other key school characteristics and outcomes. Beyond anecdotal evidence, the authors fail to empirically demonstrate whether and how authorizers’ constraints have had an adverse impact upon any of the examined four key areas of school autonomy: staffing, instructional programming, governance, and culture.

## Review

### **I. INTRODUCTION**

The basic structure of charter school laws sets up a contract: in return for greater autonomy than that enjoyed by regular public schools, charter operators agree to be held accountable for meeting certain goals. That is, charters are expected to take advantage of fewer operating restrictions in return for promises to use that freedom responsibly and successfully.

The authors of *Charter School Autonomy: A Half-Broken Promise*<sup>1</sup> claim, however, that state-level and authorizer-level constraints on school autonomy have undermined the time, resources, and energy devoted to the operation of charter schools. This claim would have been more useful if it were backed up by solid empirical evidence. In particular, while the report provides some evidence concerning the type and source of some constraints, it is missing evidence establishing the level of constraints on charter autonomy or how such constraints adversely affect school performance. In recent years, studies on different aspects of charter schools have moved away from being largely rhetorical toward being increasingly empirical.<sup>2</sup> This report, unfortunately, does not follow that trend.

### **II. FINDINGS AND CONCLUSIONS OF THE REPORT**

The report focuses on the two levels of restrictions that can be included for charter schools: those freedoms not included in state-level grants of charter autonomy, and restrictions placed on charter school applicants by local authorizers. The following are the main findings of the report:

- Although state laws maintaining some limitations on charter freedom are the

primary source of impediments to charter school autonomy, 60% of charter school authorizers imposed additional impediments beyond state laws. On average, authorizer contracts restrict the charter schools' overall autonomy "grade," given by the report's authors, from a B+ to a B-.

- Charter school authorizers such as school districts, institutions of higher education and mayors have imposed the greatest impediments to charter autonomy, while nonprofit organizations, state departments and boards of education have imposed the least.
- Charter schools were likeliest to face restrictions on the hiring of uncertified teachers (95%), contract revisions (70%), staff compensation (47%), board composition (45%), special education (45%), budget (31%), policy waivers (39%), discipline policies (28%), and management contracting (25%).
- Charter schools have the greatest autonomy over curricula, school calendars, teacher work rules, staff dismissal, and procurement policies.

### **III. THE REPORT'S RATIONALE FOR ITS FINDINGS AND CONCLUSIONS**

The rationale underlying the report's conclusions is largely rhetorical, not empirical. The report asserts the relevance of flexibility (freedom from many policies and regulations affecting regular public schools) and autonomy (control over decisions) as central to charter school reform. It argues that freeing charter schools from overly stringent bureaucratic regulations imposed by autho-

rizer contracts, policies and practices would provide greater resources to develop innovative and effective charters.<sup>3</sup>

An issue that is not discussed in the report is that charter school autonomy comes at a price: state educational bodies that authorize charter schools bargain autonomy for accountability.<sup>4</sup> The purpose of this autonomy-for-accountability trade-off is to bring about a better balance between enforcement of accountability requirements and autonomy over school-level operations. Charter school autonomy is not an end in itself, but a necessary means for the accomplishment of the school's measurable expectations, justified pragmatically by its contribution to more effective performance. On the other hand, the accountability practices of charter authorizers are meant to protect the public investment and interest in quality education outcomes.

#### **IV. REVIEW OF THE VALIDITY OF THE FINDINGS AND CONCLUSIONS**

The report finds wide variability in terms of the restrictiveness of charter school laws across states. Arizona, California, Pennsylvania, and Texas, for example, all received A's from the report's authors for the amount of autonomy they afford their charters.<sup>5</sup> (Because the authors favor autonomy, a higher grade is their shorthand way of identifying the state laws they prefer.)

The report asserts that "the states that scored high on the autonomy index also tend to be the ones with lots of charter schools," and it suggests that "states extending high levels of autonomy to schools also tend to be freer with charter caps and enable organizations other than districts to authorize schools, both of which encourage more charter schools to form" (p. 5). These assertions are flawed and unwarranted.

In Table 1 (see Appendix), using data from the National Association of Charter School Authorizers,<sup>6</sup> it appears that the patterns of the report's high levels of autonomy are associated with the presence of at least three types of authorizers per state. Except for Wisconsin, states with a variety of authorizing options (i.e., Arizona, California, Minnesota, Ohio, and Texas) also are associated with high charter school enrollment and the number of charters that are established. Contrary to what the report claims, the level of school autonomy varies not by the type of charter authorizer but by a variety of authorizing options. Table 1 disputes the report's claim that higher education institutions (HEIs) and school districts/local education agencies (LEAs) are associated with low levels of autonomy. Rather, states with more authorizing options are linked to patterns associated with high autonomy grades and total number of charters. With multiple types of chartering authorities, charter applicants may have fewer barriers to entry and more opportunities to self-select based on preferred authorizing standards/practices.

Moreover, the report fails to draw a distinction between either (a) the total number of charter schools authorized by the state and the rate of charters authorized per year, or (b) the percentage this represents of the total number of schools in the state. For example, although New York and Minnesota have a similar number of approved charter schools, the former has 29 charters<sup>7</sup> due to open for the 2010 school year, while the latter has one.<sup>8</sup> Similar caution should be exercised when comparing the total number of charters authorized at the district level (the most prevalent authorizer in the report's sample) and the rate of charters authorized by the districts per year.

The report also explores different autonomy restrictions, which vary by authorizer, charter type and state law context. But it fails to

examine the context of local pressures and other players that create barriers to autonomy and school entry. For example, the high autonomy restrictions in Tennessee and Maryland may be a consequence of high entry barriers through bargaining or political opposition that limited the number of providers willing or available to step forward to create new charters. The report fails to triangulate across interviews with different respondents (e.g., teachers, principals, school administrators and support staff, charter board members and founders, and EMOs/CMOs) to determine the level of constraints placed on autonomy. Rather, much of the evidence of constraints on charter school autonomy comes from a limited pool of stakeholders at or near the center of the chartering world.

The accounts on state-imposed restrictions rely entirely on anecdotal evidence to determine the degree of autonomy experienced by the sampled schools across the fourteen indicators. Outside of anecdotal data, there is no empirical evidence to link authorizers' impact on any of the key areas of school autonomy to adverse academic outcomes or financial performance. The report fails to associate potential adverse performance outcomes with any restrictions to school autonomy and to thereby examine the actual status of the 100 charters in its study sample.

Finally, the report uses cross-sectional interviews to capture a snapshot of the varying levels of autonomy restrictions. This approach doesn't allow for any meaningful causal conclusions. In particular, whether the level of constraints (autonomy index) imposed by state authorizers has increased across years is beyond the scope of this report. A longitudinal analysis of authorizers' impact on autonomy would have indicated its relationship to factors such as total number of charters, total charter enrollment and school outcomes.

There are also four additional concerns, all of which seem immediately relevant to the report's intent, which are not addressed in the report. Although any single (relatively short) study cannot address all these items, I offer them here as questions readers might ask in relation to the report's suggested causal inferences.

- Has the number of authorizer contract restrictions increased or decreased over time or stayed the same? Are authorizer constraints most stringent at the application phase (entry-level)? Does the experience gained from authorizing and overseeing charter schools (high-quality oversight and accountability processes) result in fewer or more restrictions over time?
- Is there a relationship between autonomy scores/grades and the number of years the charter schools have operated in the state? Is there an association between restriction levels and the revocation of charters from year to year? Are charter revocations (more specifically, the rate of charter renewals) and closures (the rate of actual closures) better measures of authorizer restrictions than autonomy scores? Which elements of authorizer contracts are most likely to lead to school closure?
- What exactly are the impacts of the supposedly overly restrictive statutes and authorizer contract restrictions on each of the four key areas of school autonomy—staffing, instructional programming, governance, and culture? Can the impacts be quantifiably measured using outcome measures at the school level? Does the level of authorizer restrictions vary over time, and does it have an adverse impact on academic outcomes and financial performance of charter schools?

- What differentiates charters from traditional public schools in terms of measures of school performance, and how might this difference be attributed to autonomy?

## **V. THE REPORT'S USE OF RESEARCH LITERATURE**

The report's limited research citations are generally studies from other pro-charter think tanks and organizations rather than from academic literature. There is a dearth of references to peer-reviewed research, such as the large body of literature that addresses the link between governance and transparency<sup>9</sup> and the autonomy-for-accountability trade-off,<sup>10</sup> which includes accountability for results in terms of performance,<sup>11</sup> public accounting of costs for quality control,<sup>12</sup> transparency in the allocation of resources,<sup>13</sup> and compliance with laws that are not waived in areas such as health and safety and special education.<sup>14</sup>

## **VI. REVIEW OF THE REPORT'S METHODS**

The report is based on the examination of charter school laws in the 26 states that contain the largest percentage of charter schools, as well as the authors' inspection of charter school contracts for 100 schools associated with some of the nation's most active authorizers, and their interviews with expert stakeholders tied to those schools and authorizers—charter school leaders, authorizers, and state association representatives.

This approach raises several potential sources of bias and methodological inadequacies. First, the individuals who were interviewed may have only a narrow perspective focused on their own job functions. They may also have a bias in favor of fewer constraints on charter autonomy. Second, this group of interviewees may exclude key informants with

knowledge and insights about the policies and practices within a given state or school. For example, teachers and school administrators may be in the best position to determine whether purported constraints affect the way schools are governed, the allocation of teaching resources, instructional programming, schools' culture/mission, schools' financial position, or schools' level of academic performance. Without triangulating across interviews with such diverse respondents, it is not possible to obtain a reasonably accurate picture of constraints on operational autonomy.

But perhaps the most obvious and important flaw in this study is the arbitrariness of the report's scoring, weighting and grading system. The report's interpretation of the effects on autonomy of each state's statute language leaves a lot of room for arbitrariness in the metric scores and grade ranges. Moreover, those grade ranges are designed to present an evaluative judgment regarding the "impact on autonomy" of the laws and authorizer contracts, which translates into a judgment of the extent of their school-level restrictions on autonomy. In addition, there is an unavoidable assumption that must be accepted before a reader can give credence to the study's review of 100 charter school contracts: the weights assigned to each of the 14 areas of charter autonomy cannot be justified unless it is assumed that each plays a role in bringing about an impact on school performance. But no systematic evidence is offered to back up that assumption. In the end, the report's weighting of autonomy measures and the assigning of letter grades across a range of average scores are essentially an arbitrary exercise.

## **VII. USEFULNESS OF THE REPORT FOR GUIDANCE OF POLICY AND PRACTICE**

The rhetoric of the report and the approaches used suggest a clear goal of championing

charter school autonomy, but the positive impact of such autonomy is assumed, not proven. The report shows little regard for providing a careful analysis of the question at hand: whether autonomy can stimulate school innovation and effectively allocate resources. The report's methods do not measure up to this purpose, and the report's significant biases and omissions undermine its potential for valid findings.

The report does not further our understanding of this issue and is of little or no help in

guiding policy for charter school authorizers, state legislators, school district leaders, donors, school leaders, teachers, parents, or even charter school supporters. Even after more than a decade of experience, surprisingly little is understood about the entities responsible for authorizing and overseeing charter schools.<sup>15</sup> This new report does not help, but it does highlight the need for a careful, empirical examination of the evolving nature of state laws on charter schools, incorporating amendments and lifting prohibitive caps on charters.

## Appendix

**Table 1: State and School Autonomy Grades**

| State | Year Law Passed | Authorizers             | # of Charter Schools | # of Charter Students Enrolled | State Charter Law Autonomy Grade | State Autonomy Grade Ranges |
|-------|-----------------|-------------------------|----------------------|--------------------------------|----------------------------------|-----------------------------|
| AZ    | 1994            | LEA, ICB, SEA           | 507                  | 106,030 (9%)                   | A                                | A-                          |
| CA    | 1992            | LEA, RIA, SEA           | 820                  | 315,509 (5%)                   | A-                               | A- to B+                    |
| CO    | 1993            | LEA, ICB                | 157                  | 66,043 (8%)                    | C                                | C- to D+                    |
| CN    | 1996            | LEA, SEA                | 18                   | 5,408 (1%)                     | C+                               | C+ to C                     |
| DC    | 1996            | LEA, ICB                | 57(on 97 campuses)   | 29,305 (38%)                   | D-                               | D-                          |
| FL    | 1996            | LEA                     | 416                  | 129,645 (4%)                   | B                                | C to F                      |
| GA    | 1993            | LEA, ICB                | 85                   | 47,394 (2%)                    | C+/C+                            | C+ to D/F                   |
| ID    | 1998            | LEA, ICB                | 36                   | 12,796 (4%)                    | B-                               | B to D-                     |
| IL    | 1996            | LEA                     | 39 (on 106 campuses) | 37,512 (2%)                    | B+                               | B-                          |
| IN    | 2001            | LEA, HEI, MUN           | 53                   | 20,576 (2%)                    | B                                | B to C                      |
| LA    | 1995            | LEA, SEA                | 77                   | 30,684 (4%)                    | B/B-                             | D/B-                        |
| MD    | 2003            | LEA, SEA                | 36                   | 12,570 (1%)                    | F                                | F                           |
| MA    | 1993            | SEA                     | 62                   | 27,695 (3%)                    | B+                               | B+                          |
| MI    | 1993            | LEA, RIA, HEI           | 240                  | 106,275 (6%)                   | B                                | C to D+                     |
| MN    | 1991            | LEA, RIA, SEA, HEI, NFP | 152                  | 37,165 (4%)                    | B                                | B to C+                     |
| NH    | 1995            | LEA, SEA                | 10                   | 1,217 (0%)                     | B-                               | B- to C+                    |
| NM    | 1993            | LEA, SEA                | 72                   | 13,505 (4%)                    | D-                               | D-                          |
| NY    | 1998            | LEA, SEA, HEI           | 144                  | 47,602 (1%)                    | B-                               | C+ to C                     |
| NC    | 1996            | SEA, LEA, HEI           | 96                   | 35,265 (3%)                    | B+                               | B+                          |
| OH    | 1997            | LEA, RIA, HEI, NFP      | 328                  | 102,910 (5%)                   | B                                | B to B-                     |
| PA    | 1997            | LEA, SEA                | 135                  | 75,940 (4%)                    | A-                               | B+                          |
| TN    | 2002            | LEA                     | 22                   | 5,605 (0%)                     | D+                               | D+                          |



| State        | Year Law Passed | Authorizers   | # of Charter Schools     | # of Charter Students Enrolled | State Charter Law Autonomy Grade | State Autonomy Grade Ranges |
|--------------|-----------------|---------------|--------------------------|--------------------------------|----------------------------------|-----------------------------|
| TX           | 1995            | LEA, SEA, HEI | 281<br>(on 557 campuses) | 145,518<br>(3%)                | A-                               | A- to B+                    |
| UT           | 1998            | LEA, ICB      | 72                       | 30,123 (5%)                    | C+                               | C+                          |
| WI           | 1993            | LEA, HEI, MUN | 206                      | 336,533<br>(4%)                | C/F                              | F                           |
| <b>Total</b> |                 |               | <b>4,364</b>             | <b>1,251,342</b>               |                                  |                             |

*Notes:* (1) Local Education Agency (LEA), Regional/Intermediate Agency (RIA), State Education Agency (SEA), Independent Chartering Board (ICB), Higher Education Institution (HEI), Municipal Office (MUN), Not-For-Profit Organization (NFP). (2) Percentages shown in column five refer to the percent of charter school students to all public school students.

*Sources:* National Association of Charter School Authorizers (2009). *Principles and Standards for Quality Charter School Authorizing*; National Alliance for Public Charter Schools Dashboard ([www.publiccharters.org/dashboard/reports](http://www.publiccharters.org/dashboard/reports)); Brinson, Dana and Jacob Rosch (2010). *Charter School Autonomy: A Half Broken Promise*. The Fordham Institute.

## Notes and References

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- <sup>2</sup> Abdulkadiroglu, Atila, Joshua D. Angrist, Susan M. Dynarski, Thomas J. Kane, and Parag A. Pathak. (2009). Accountability and Flexibility in Public Schools: Evidence from Boston's Charters and Pilots. NBER Working Paper 15549. Retrieved April 2, 2010, from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1517008](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1517008)
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- <sup>4</sup> Hill, Paul T, Robin Lake, and Mary Beth Celio. (2002). *Charter Schools and Accountability in Public Education*. Washington, DC: Brookings Institution Press.
- <sup>5</sup> To determine whether the extent of state-level constraint on school autonomy can be linked to other variables, I re-analyzed this finding by adding state-level data for the total number of charters, total charter school enrollment, the year charter law was passed, and the types of entities with the authority to approve and oversee charter schools, based on the most current information from National Association of Charter School Authorizers and National Alliance for Public Charter Schools. Retrieved May 13, 2010, from <http://www.publiccharters.org/dashboard/reports> and from <http://www.qualitycharters.org/i4a/pages/index.cfm?pageid=3358>. While no consistent patterns in autonomy grades are seen across years, it is noteworthy that the two states (Tennessee and Maryland) with relatively new charter school laws are rated very poorly.
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The Think Tank Review Project is made possible by funding from the Great Lakes Center for Education Research and Practice.