

Hopes, Fears, & Reality

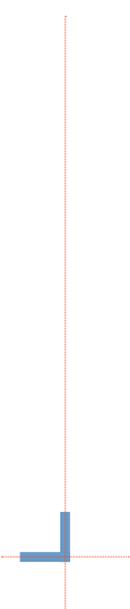


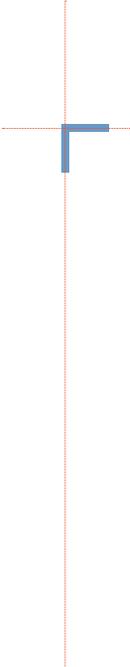
A BALANCED LOOK AT AMERICAN
CHARTER SCHOOLS IN **2007**

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About NCSRP

The National Charter School Research Project (NCSRP) brings rigor, evidence, and balance to the national charter school debate.

NCSRP seeks to facilitate the fair assessment of the value-added effects of U.S. charter schools and to provide the charter school and broader public education communities with research and information for ongoing improvement.

NCSRP:

- Identifies high-priority research questions.
- Conducts and commissions original research to fill gaps in current knowledge or to illuminate existing debates.
- Helps policymakers and the general public interpret charter school research.

The Project is an initiative of the Center on Reinventing Public Education.

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CHAPTER 6

Smart Charter School Caps: A Third Way on Charter School Growth

Andrew J. Rotherham

In many states, the debate about charter schools has come to focus on the question of “caps”: Should there be a cap on the number of charter schools? How many charter schools should be allowed to open statewide? Or in a locality? Or in a particular year? These debates are vestiges of early charter school politics, under which charter supporters reassured skeptics by promising that the numbers of charter schools would grow slowly after demonstrating their value. Many legislators who voted for the first charter bills wanted to make sure that chartering would grow at a measured pace to allow quality control and to give school districts time to adjust to competition.

Currently, twenty-five states and the District of Columbia cap the growth of charter schools in some fashion.¹ Not surprisingly, in states with charter school caps, the result is a contentious political debate, generally between teachers unions and charter school supporters, about whether or not to have a cap or how many schools should be allowed. However, as Lisa Stulberg demonstrates in a recent report from the National Charter School Research Project (NCSRP), other factors bear on this debate as well, including less obvious constituencies that for different reasons can also be hostile to charter schools.²

In New York, for instance, for several years the debate over charter schools largely focused on whether or not to lift the cap of 100 schools. Little attention was paid to broader issues of charter school policy. How charters can play a role in broader systemic reform or how authorizers can most effectively regulate charter school quality were issues that went largely unexamined.³ For many parents, the immediate result of this

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logjam is a persistent lack of high-quality public education options in their communities and long waiting lists at existing charter schools.⁴ In New York, while the legislature debated the cap, 12,000 students were on waiting lists to attend existing public charter schools.⁵ In Illinois 10,000 are on waiting lists, and the number has reached 16,000 in Massachusetts.⁶

Today, there is reason to question whether the original rationales for caps are still valid. By now school districts have had a decade to adjust to charters. And, in communities where the public schools are failing to educate significant numbers of students, it is worth asking why existing institutions should be shielded from competitive pressures brought on by new providers. At the same time, government oversight of charter schools has also developed. Many (though far from all) authorizers exercise quality control over the schools they allow to open, while resources to support authorizers, including a national association, have developed. It is plausible to believe that it makes sense to expand the numbers of charter schools gradually, without setting finite limits on their numbers. This essay tries to go beyond the debate over numbers of charter schools to ask: What is the best way to ensure charter school quality and most effectively give parents and students more options within public education?

Existing approaches to charter school caps are the wrong tool for that job. Assuming charter school critics are concerned with school quality (rather than simply seeking to curb the spread of charter schools), statutory caps as a policy approach are too blunt an instrument to address quality. Today's charter school caps fail to differentiate between good schools and bad ones, and between successful charter school authorizers and those with a poor track record. Meanwhile, they limit public schooling options and choices for parents. As Stulberg points out, caps are products of political "horse trading," not primarily an educational solution.⁷

Finite caps should be replaced by "Smart Charter School Caps," described below. This new approach promises to sensibly manage the growth of charter schools, while fostering public school quality overall. Smart Charter School Caps offer a political and substantive grand bargain that moves beyond today's tired back and forth about caps and expands opportunity for underserved students. The experience of the past 15 years offers policymakers clear lessons about how to design more effective charter policy.

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CHARTER SCHOOLING IN THEORY AND PRACTICE

In theory, there is no need for statutory caps on the number of charter schools in a state; the marketplace should determine supply. If schools are not popular with parents, the schools will have insufficient resources to operate because money will follow students to other schools. In practice, however, three issues complicate what looks so straightforward in theory: (1) the capacity of those seeking to open schools may be limited; (2) the agencies charged with overseeing charter schools may run into difficulties; and (3) parental information about charter schools may be lacking. In different ways, each of these issues can contribute to the existence of low-performing charter schools and hinder the growth and development of outstanding ones.

First, uneven capacity among charter school authorizers to open good schools has contributed to the uneven charter school quality. Entities authorized to open charter schools vary from state to state and are defined by state law. School districts, state boards of education, other statewide institutions, and public universities are common authorizers.⁸ Through work by organizations like the National Association of Charter School Authorizers, charter school authorizing is rapidly improving and there are many examples of outstanding authorizers. But overall capacity and quality remain uneven. A 2005 analysis found that 90 percent of authorizers were local school districts and two-thirds lacked a dedicated office or staff to oversee charter schools. Half of all authorizers had authorized just a single school.⁹ Just like running a school district, quality authorizing is an intensive and data-driven process that requires resources and focus. It cannot be a sideline to other school district operations.

At the same time, opening and operating high-performing public schools, especially schools serving disadvantaged students, is intense and challenging work. Not everyone seeking to open a charter school has sufficiently thought through and planned for the challenges of running a school in a challenging, high-poverty environment—nor has everyone the ability to run such a school. As authorizers have become better at their work, an increasing number of charter applications are rejected or substantially revised to ensure quality. For instance, Indianapolis Mayor Bart Peterson, who is widely regarded as an excellent authorizer and is a recipient of Harvard’s prestigious Innovations in American Government Award for his charter school work, has authorized only 19 of the more than 90 charter school applications he has received.¹⁰

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Likewise, the contentious political environment around charter schools creates perverse incentives for focusing on quality or closing low-performing charters. In an environment of politically constrained growth due to charter school caps, some charter school proponents and parents fight against any effort to close charter schools.¹¹ Understandably, parents will fight to keep a low-performing but safe school open when they perceive other neighborhood schools to be unsafe. In theory, a cap on the number of charter schools should make authorizers willing to shut down low-performing schools to make room for more promising schools, but, in practice, matters are more complicated as politics, stakeholder resistance, and the legal challenges of closing schools come into play.¹² Further complicating the politics, some charter school advocates see quality as a secondary issue to growth when charter schools are almost constantly under attack by opponents of charter schooling. Why, they ask, would charter supporters seemingly attack some charter schools and call attention to problems while all charter schools—good and bad—face such vociferous and organized resistance from opponents?

Finally, substantially expanded choice in education is a relatively new phenomenon, so the marketplace remains relatively unformed. Today's wave of choice-based reforms only dates to the early 1990s. Consequently, parents still struggle to find good information about schools, and especially information in a format that is useful for them. Parents are also still learning to navigate a more choice-driven environment. As a result, while parents want what is best for their children, a gap sometimes remains between this desire and actual decisionmaking. In other words, parents sometimes choose lousy schools.

These factors account for why, to date, charter schools have had mixed success in terms of outcomes and why “average” charter school test scores are often no better than other public schools. Yet these averages obscure a substantial number of higher-performing charter schools, which offer an opportunity for policymakers to expand schooling options for students while enhancing quality.

Research shows, for example, that substantial performance variation exists between different types of charter schools. For instance a 2007 report found that in California, charter schools managed by charter management organizations (CMOs) generally out-performed other charter schools.¹³ CMOs are nonprofit networks of schools and include high-profile organizations such as the Knowledge is Power Program (KIPP) and Achievement First, as well as numerous smaller CMOs operating around the

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country. In similar fashion, an analysis by education analyst Bryan Hassel found that longitudinal studies show that many charter schools are in fact outpacing similar public schools.¹⁴

Moreover, the charter school landscape shows that while some failure is inevitable in any human endeavor like schooling (and in education, school failure is hardly unique to the charter sector), low-performing charter schools are not, in fact, a randomly occurring phenomenon. Instead, quality is keenly related to state policy and authorizing practices.¹⁵

Unfortunately, almost from the inception of charter schools, the debate about them has been political. Some early charter school laws were compromises to head-off proposals to create private school voucher programs.¹⁶ And, school districts, teachers unions, and many state policymakers have, understandably, never embraced an idea such as charter schools that promises to significantly alter the power arrangements in education. That is why, for example, teachers unions and school districts in Washington State fought to overturn that state's charter school law before even a single school had a chance to open and demonstrate results.

Yet in the 15 years since the first charter school opened its doors in Minnesota and President Bill Clinton championed the idea as a way to expand choice within public education, researchers and policymakers have learned a great deal about charter schooling. Those lessons include better charter school authorizing, more effective accountability strategies, and a more textured understanding of how charter schooling works in practice. This learning can be applied to make charter school policies more effective for students than they are today and move past the political stalemate that characterizes the charter school caps debate.

SMART CHARTER SCHOOL CAPS

As a public policy, some constraints on the growth of charter schools make sense. At the most general level, one characteristic of charter schooling that differentiates the reform from school vouchers is greater public sector involvement and oversight. Not just anyone can open a charter school. More specifically, states that have allowed relatively unfettered growth of charter schools have experienced quality and accountability problems in their charter school sectors, and many have been forced to revisit their laws.¹⁷ But, today's caps on charter schools are a crude and simultaneously ineffective

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way to address quality problems, and they unnecessarily limit publicly available options for parents.

One strategy for moving past today's political stalemate is to embrace Smart Charter School Caps. By applying the basic principle of intervention in inverse proportion to success, states could create a more vibrant charter sector and a higher-quality one. Smart Charter School Caps allow for deliberate capacity-driven growth of charter schools, direct new resources to high-quality schools, and work within today's political reality that charter schools remain a controversial and leading-edge reform.

Here's how Smart Charter School Caps would work:

- *Deliberately support and grow proven models.* Rather than today's absolute caps, states would eliminate any cap for "proven" schools that have demonstrated outstanding gains for students based on state assessments. For instance, there could be no cap on proposals to replicate schools that, over multiple years, perform in the top 10 or 15 percent of similar public schools or in the top quartile of public schools overall for several years. States could base their performance requirements only on intrastate data or could also consider schools that have performed well elsewhere, for instance interstate networks such as KIPP or Achievement First. At the same time, states would provide funding and support for facilities and planning to help such schools replicate and grow in under-served communities.
- *Allow new schools to open.* To promote innovation and a diverse set of charter schools, states would leave an annual cap on the number of new schools with a plausible and well-developed application and operating plan but no track record yet. States could also provide support for them through funding and ideas like charter school incubators.¹⁸
- *Be realistic about authorizer capacity.* Ideally, Smart Charter School Caps should recognize that authorizers, whether districts or state-wide agencies, would have to demonstrate the capacity to sponsor more schools. To do this, states could eliminate any cap for authorizers that have a proven track record of (1) opening high-quality charter schools meeting some performance threshold for student performance and (2) closing persistently under-performing schools.
- *Make charters part of systemic reform.* Smart Charter School Caps should result in the creation of more high-quality public charter schools, including substantially more options in communities where good options for parents do not now exist. This would raise short-term challenges for school districts that lose a significant number of students to public charter schools. Transitional aid—funds to help these districts transition through the loss of students—is a reasonable intermediate step because school districts do have some temporarily fixed costs during transitional periods. However, unconditional aid to districts facing charter com-

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petition may actually discourage systemic reform by allowing districts to avoid addressing the problems that caused them to lose students.

- *Link aid to space.* To encourage districts to cut excess fixed costs and develop the capacity to compete for students, transition aid should be linked to requirements that school districts make excess facilities available for new public charter schools. A recent NCSR report suggested that districts should also have to “earn” transition aid by presenting a convincing plan to respond to charter competition rather than being paralyzed by it.¹⁹ It is unrealistic to expect school districts to adapt overnight to a substantial loss of students, but it is likewise unrealistic to expect taxpayers to finance costs for students who are being served by other public schools. Conditional transitional aid addresses both problems at once. The threshold at which districts lose enough students to need transitional assistance is also when they should begin to lease or sell existing facilities to reduce fixed costs and develop plans to attract more students.

Some states incorporate different aspects of these proposals into their charter caps now, for instance authorizer-specific caps. And small elements of these ideas exist around the country. For example, Ohio provides flexibility on charter granting to schools with solid performance records. However, no state has adopted an intentional policy to deliberately grow their charter school sector by adopting quality-sensitive caps while aggressively supporting proven school models. Smart Charter School Caps mean that the growth of charter schools, while still driven by parent demand, is steadier and without the potential for a “gold rush” to open new schools when caps are lifted or substantially modified.

In the short term, Smart Charter School Caps would favor larger networks of charter schools like CMOs. But by annualizing caps on new schools, rather than making them fixed and permanent, new schools aspiring to be “one-offs” rather than replicable networks could continue to open each year, and authorizers would be able to focus more resources on working with such schools.

Politically, Smart Charter School Caps take away the argument that charters are no better than other public schools by focusing on quality and giving clear priority to proven models that have cleared the quality threshold. Against the backdrop of today’s educational challenges it is hard to argue for limiting schools that have proven to be substantially better than average and much better than the status quo. This is why, although many charter advocates do not want any caps on charter schools, Smart Charter School Caps offer a politically deft compromise with the potential to move past today’s logjam in states with arbitrary caps.

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To make determinations about quality, many states will have to improve their data systems. Prodded by *No Child Left Behind* and efforts like the Data Quality Campaign, states are already moving rapidly in this direction and can increasingly make better evaluations of school performance.²⁰

The federal government could also encourage states to adopt Smart Charter School Caps by favoring them in grant criteria for the federal Public Charter Schools Program or other support for charter schools and charter-like schools. The federal government could also launch a specific new schools effort incorporating this strategy as a complement to existing programs.²¹

Of course, caps are not the only state policies constraining the growth of charter schools. For instance, some states also effectively cap charter schools by starving them of resources, or by not allowing any entity besides local school districts to charter schools.²² Addressing these issues, as well as the problems with caps today, is integral to good state charter school policy.

CONCLUSIONS

Although many charter advocates do not want any caps on charter schools, Smart Charter School Caps offer a politically deft compromise with the potential to move past today's logjam in states with arbitrary caps.

Smart Charter School Caps will hardly eliminate all the challenges associated with charter schooling. But they are a step toward better public policy for charter schools and more options for parents and students. Smart Charter School Caps offer something for all sides in the charter school debate. While charter advocates do not “win” the cap debate through the elimination of caps, they get a clear path to more high-quality public charter schools and a more deliberate strategy to open and replicate effective models while still allowing new “mom and pop” charter schools to thrive as well. Critics of charter schooling do not get the outright ban on charters that some seek, but they do get a regulatory structure that emphasizes quality and manages charter school growth on a rational basis, which is what everyone wants.

Most importantly, students in underserved communities get the chance to have more good public schools open where they live. Considering the educational status quo, on-time high school completion rates of only about 50 percent for minority students and a four-grade-level racial achievement gap for 17-year-olds, the question for policymakers is not whether to expand schooling options in underserved communities, but how.²³ Smart Charter School Caps point a way.

NOTES

1. Todd Ziebarth, *Peeling the Lid Off State-Imposed Charter School Caps* (Washington, DC: National Alliance for Public Charter Schools, 2007).
2. Lisa Stulberg, *Beyond the Battle Lines: Lessons From New York's Charter Caps Fight*, National Charter School Research Project (Seattle: Center on Reinventing Public Education, 2007).
3. Ibid.
4. Todd Ziebarth, *Peeling the Lid Off*.
5. Ibid.
6. Ibid.
7. Stulberg, *Beyond the Battle Lines*.
8. See National Association of Charter School Authorizers, www.qualitycharters.org, for more information. See also Louann Bierlein Palmer, *“Alternative” Charter School Authorizers* (Washington, DC: Progressive Policy Institute, 2006).
9. Gregg Vanourek, *State of the Charter Movement 2005: Trends, Issues, & Indicators*, (Washington, DC: National Alliance for Public Charter Schools, 2005).
10. Andrew J. Rotherham and David Harris, *Get Mayors In the Schooling Game* (Washington, DC: Education Sector, 2007), http://www.educationsector.org/analysis/analysis_show.htm?doc_id=471201.
11. Andrew J. Rotherham, “The Pros & Cons of Charter School Closures,” in *Hopes, Fears, & Reality: A Balanced Look at American Charter Schools in 2005*, ed. Robin J. Lake and Paul T. Hill, National Charter School Research Project, 43-52 (Seattle: Center on Reinventing Public Education, 2005).
12. I have argued elsewhere that the one strategy to create a better climate for closing low-performing charter schools is actually more good charter schools, thus reducing the zero-sum dynamic for parents. See Rotherham, “The Pros and Cons of Charter School Closures.”
13. EdSource Online, http://www.edsource.org/pub_abs_charterperf07.cfm.
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16. Bryan C. Hassel, *The Charter School Challenge* (Washington, DC: Brookings Institution, 1999). See also Lance D. Fusarelli, *The Political Dynamics of School Choice* (New York: Palgrave Macmillan, 2003).
17. Bryan C. Hassel and Michelle Godard Terrell, *The Rugged Frontier: A Decade of Charter Schooling in Arizona* (Washington, DC: Public Policy Institute, 2004); Nelson Smith, *Texas Roundup: Charter Schooling in the Lone Star State* (Washington, DC: Public Policy Institute, 2005); Alexander Russo, *A Tough Nut to Crack in Ohio: Charter Schooling in the Buckeye State* (Washington, DC: Public Policy Institute, 2005). See also Gary Miron, “Strong Charter Schools Are Those That Result in Positive Outcomes,” paper presented at AERA Annual Conference, April 11-15, 2005.
18. Charter school incubators are facilities where new schools can start, attract students, and subsequently move into larger and more permanent space.
19. Stulberg, *Beyond the Battle Lines*.
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21. Education Sector, “Open New Schools in Low-Income Neighborhoods” in *Eight for 2008: Education Ideas for the Next President* (Washington, DC: Education Sector, 2007), http://www.educationsector.org/research/research_show.htm?doc_id=464943.
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