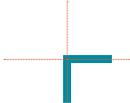


# Hopes, Fears, & Reality



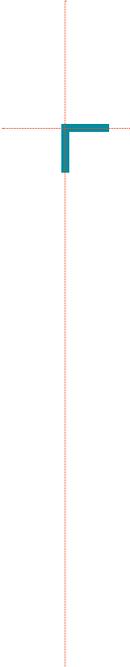
A BALANCED LOOK AT AMERICAN  
CHARTER SCHOOLS IN 2006

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# About NCSR

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

NCSR 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.

NCSR:

- 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 3

# A One-Day Ceasefire: What Charter School and Teachers Union Leaders Say When They Meet

*Lydia Rainey, Andrew J. Rotherham, and Paul T. Hill*

**T**here is no love lost between teachers unions and charter schools. In fact, most states passed charter laws in the face of high-pressure union lobbying and threats of political retribution. Unions oppose charter schools because the new schools bypass collective bargaining agreements and enable publicly funded institutions to hire non-unionized teachers. Indeed, many early charter advocates hoped to overhaul the hiring, firing, and prerogatives of teachers—and thereby break the unions' power.

Conflict between charter advocates and unions continues to this day. In state legislatures, unions are pressing to limit the numbers of charter schools; in state courts, union lawyers are asserting that the very concept of chartering is inconsistent with state constitutions and local school board control of public education. The venue of hostilities changes from time to time: In the past two years, teachers unions in California and Massachusetts openly agitated to get teachers in charter schools to unionize, while charter school associations and school heads resisted. In New York, the teachers union simultaneously lobbied against lifting the legislative cap on the number of charter schools while suggesting that the union might support a higher cap if charter teachers were allowed to opt in to local bargaining units.

While tensions and disputes between unions and charter advocates persist, the charter-union battleground has shifted subtly in the last 15 years as thousands of charter schools opened across the country. Even the most vociferous union foe of charter schools no

longer thinks that charter schools are an ephemeral educational fad that will soon disappear. At the same time, the naïve hopes of some early charter advocates that the unions could be broken or placated to make way for charter schools have also faded. The two sides are no longer battling over either the charter school movement's or the unions' right to exist. Today, the battle is primarily waged over how best to co-exist—and with that fledgling recognition, the two longtime adversaries have begun to explore some small-scale efforts at accommodation. More than ever before, charter leaders and union officials are beginning to deal with one another within charter schools, as teachers at some charters opt to bargain collectively. And a handful of local unions—notably New York City's United Federation of Teachers—have even joined the charter school movement in a fashion, opting to running a small number of charter schools on their own.

A sidebar (page 34) briefly explores some of the new teachers union-charter school collaborations. No one, of course, expects that these modest pilot efforts will lead either side to abandon its position. Yet it is important to explore the likely impact on individual charter schools and unions as more charters become unionized and as more unionized instructors teach in charter schools. Will grassroots exposure change charter schools or unions? Will existing conflicts only spread—or will first-person contact lead to more moderation?

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In May 2006, the National Charter School Research Project (NCSRP) and the Progressive Policy Institute convened a meeting in Washington, D.C., of 30 union and charter leaders to discuss the future of the charter school-union relationship. Every senior union official and charter association leader invited agreed to attend—evidence of the importance of the issues raised, if not of a desire to calm hostilities. Both the hosts and the attendees treated the meeting as a kind of diplomatic summit that might or might not have practical consequences.

This chapter summarizes highlights of the conference discussion and suggests next steps that might help charter and union leaders expand their current and somewhat narrow ceasefire zone. Conference participants were guaranteed anonymity to ensure frank discussion and are therefore not identified by name in the pages that follow.<sup>1</sup>

## BOTH SIDES SAY THEY WOULD LIKE TO DE-ESCALATE

Despite their many conflicts, union and charter school leaders both profess to be dedicated to the children they serve. Neither side wants their conflict to drive families out of public education or to lead to reductions in funding for public schools. Moreover, both camps recognize that the other is here for the foreseeable future. This recognition of mutual interests underlies the sentiment, shared by both charter school and union advocates, that the two sides would benefit from a temporary truce.

Somewhat surprisingly, several of the very union leaders who led anti-charter campaigns in state legislatures and launched lawsuits against charter schools expressed support at the conference for exploring whether charter schools can create opportunities for useful experimentation with teacher-management relations. No union leader agreed to stop opposing charter schools. But a few agreed with charter supporters that the unions could benefit from exposing their members to the relaxed work rules, autonomy, and accountability for results intrinsic to charter schooling. Charter schools, the union reps argued, could help unions develop the professional working conditions that their members crave. As one union leader put it, “I think we need to have the opportunity within charter schools to experiment with [management] structures, new kinds of collective bargaining, and also with different types of pay systems.”

For their part, charter school leaders would like to stop battling teachers unions in state legislatures and courts. Many charter advocates believe that these conflicts amount to a war of attrition that has stunted the charter movement’s growth, both by limiting the numbers of charter schools allowed, and by draining time, financial resources, and political capital. Though no one denied that unions had many advantages in this war of attrition, one researcher suggested that the unions’ preoccupation with 3,400 charter schools keeps them from improving the other 96,000 traditional public schools.

In the end, most charter leaders flat-out opposed the unionization of charter schools. Yet many admired the efforts of Los Angeles’ Green Dot Charter Schools to build teacher collective bargaining into their schools’ basic operating plans. Charter leaders noted, however, that teachers in Green Dot schools were organized by a separate union whose leaders had been critical of traditional teachers unions.

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## WHAT'S GOOD FOR TEACHERS?

For all that charter leaders and union representatives would prefer to de-escalate tensions, both groups believe the other side clings to beliefs and practices that are bad for teachers and antithetical to good teaching.

Charter school leaders affirmed their belief in individual schools' need to hire whomever they choose and to pay teachers based on performance and demand for skills, rather than on seniority. They claimed that a system of free, mutual job contracts between schools and teachers will attract qualified people into teaching, encourage schools to build satisfying professional working environments, and provide the best pay and most appealing jobs to the highest-performing teachers. As one charter leader claimed, "We're not competing on pay, we're not competing on security—what we are competing on is the promise of professional satisfaction."

By contrast, union leaders thought professionalism was best served by delineating clear roles, work rules, rights, and responsibilities for teachers. They did not trust that school entrepreneurs would respect teachers, and they relayed anecdotes about hostile work atmospheres in charter schools where teachers were allegedly treated as commodities and fired for irrelevancies (including suggesting the need for a union). One said, "What I hear in charter schools is a complete derogation of teacher knowledge, of teacher skill." Another union leader foresaw the elimination of teacher input in charter school decisionmaking and an overall lack of respect for teachers in a "charter model dominated by corporate chains."

The two sides, in short, were not inclined to see shades of gray. Charter leaders, for example, did not acknowledge the smooth collaboration between principals and teachers that exists in a number of unionized schools; union leaders, meanwhile, did not acknowledge that the majority of charter schools are run not by corporate chains, but rather by educators and people dedicated to teaching children.

These conflicting views about fostering good teaching were deeply held, but they were based largely either on personal experience in a few schools or conference gossip. Advocates on both sides of the divide were unable to show convincingly whether teachers have greater voice in a school when a union represents them or whether they fare best in a school where teachers have market power and management must work to keep them. Nor could attendees do much more than allege that a particular form of teacher

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employment or share in decisionmaking had predictable consequences for students. To be sure, both sides knew what they liked—formal representation anchored in collective bargaining for union participants, and quality-enforcing market forces for the charter advocates. But the evidence used to document each side’s claims was surprisingly thin.

## WHO SPEAKS FOR THE MOVEMENT? HARD-LINERS VERSUS MODERATES

From the first minute of the meeting, it was obvious that both unions and the charter movement contain a wide range of opinions, and that it was difficult to know whether individuals prone to confrontation or collaboration typically represented their side. Charter leaders noted that some union leaders who expressed support for accommodation at the conference had also campaigned to roll back charter authorizing laws, sued public officials who sponsored charter schools, and threatened to block the hiring of teachers trained in universities that authorized charter schools. Similarly, union leaders noted that charter leaders who talked about finding common ground accepted funding from sources that openly favored breaking teachers unions and putting all schools in private hands.

Nonetheless, conference participants generally agreed that it is hard to say what proportion of either side holds these irreconcilable views. As the discussion progressed it became apparent that the charter and union movements are both big tents. Though many participants could see little basis for collaboration, at least a few prominent national labor leaders admitted that “charters are here to stay,” while a minority of the charter managers present said they would not only tolerate but promote the formation of unions in their schools.

## A GLIMMER OF AGREEMENT ABOUT FUTURE UNIONIZATION AT CHARTER SCHOOLS

While participants on both sides generally adopted a hard line, moderates from the two groups agreed about the form of unionization that will be most compatible with charter schools in the future. A number of union representatives agreed with charter leaders that a charter school could not be governed by a traditional district-wide collective bargaining agreement without losing its financial, managerial, and instructional flexibility—that

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is, without becoming something other than a charter school. In particular they cited incompatible provisions in district contracts that govern the exact amount of time that can be spent on particular tasks and senior teachers' rights to transfer from one school to another regardless of whether the receiving school wanted them or could comfortably pay their salaries.

Union and charter moderates agreed that charter schools need to be their own bargaining unit, and that the contract should cover only those issues that teachers and management believe make their particular school fairer, a better place to work, and more effective.

### THE PERSISTENT ROOTS OF MISTRUST

All participants acknowledged that genuine, inherent conflicts of interest exist between charter schools and teachers unions. Some activists held out hope that sharing experiences in charter schools could increase collaboration in the future, but many were skeptical. Both sides expressed fears that the other would say nice things in a meeting such as ours, but would resume fighting as soon as they returned to their school districts.

Most union members agreed with one of their colleagues who said, "we will never believe [that charter leaders] are concerned about children as long as they include people who want to run schools for profit." Union leaders were also rankled by charter schools' employment of teachers on an at-will basis, which they took to mean that teachers could be dismissed or ignored at management's sole discretion.

Charter school leaders noted that several union leaders present at the conference were willing to discuss the advantages of charter schools in theory but were simultaneously lobbying against charter school laws and bringing lawsuits against school districts that sponsor charter schools. Charter leaders also cited examples of union leaders from elsewhere in the country, in Cincinnati, Minneapolis, Chicago, and Seattle, who were voted out of office for being "too collaborative."

*Both sides expressed fears that the other would say nice things in a meeting such as ours, but would resume fighting as soon as they returned to their school districts.*

## BUILDING CONFIDENCE AND ELIMINATING THE EVIDENCE VACUUM

This first meeting of charter school and union leaders resembled the opening talks between factions in a civil war. The muskets were left outside the room but were at the ready if needed. Still, all participants hoped to talk further.

Much as is the case in international diplomacy, breaking the union-charter school stalemate will require both sides to compromise and figure out ways to reframe their fundamental interests. If both sides continue defining those interests as hard-liners do now—keeping all public school teachers in district-wide collective bargaining agreements versus breaking unions and giving school operators near total discretion over hiring, wages, and working conditions—nothing much will change.

The contentious relationship between union and charter activists will only lessen in the future if two things happen:

First, both sides need to take what diplomats would call “confidence-building” measures.

For union leaders, the price of working with the charter school movement is that they mostly likely will be obliged to stop lobbying for strict caps on the numbers of charter schools, for regulations that would hamstring charter schools, and against proposals to spend as much on students in charter schools as in other public schools. Similarly, union leaders cannot expect to work with charter schools if they continue threatening and suing around issues that affect charter schools.<sup>2</sup> Union leaders will also need to clarify what they mean by the two attributes they frequently cite as missing in traditional schools, but especially in charter schools: “teacher voice” and “professional working environments.” Union leaders are quick to point out when these qualities are missing, but hard-pressed to describe how a school could successfully embody these ideals.

For charter leaders, the opportunity to work with union leaders will likely require them to become much clearer about what “at-will” employment and due process mean in charter schools. Charter leaders cannot expect to be taken seriously by teachers unions if they even tacitly countenance workplaces that fail to adhere to basic principles of due process for public employees. Movement-wide standards about teacher hiring, firing, and consultation about instructional decisions would be important inducements to unions to participate in charter schools. These basic

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protocols could still leave room for schools that make extraordinary time and effort demands on teachers who willingly accept them, and allow for unique features in collective bargaining agreements at individual schools.

Second, independent researchers and education experts can help soften conflict by creating a hard body of data and facts about union teachers in charter schools in place of the name-calling rhetoric that now prevails in the charter school-union counterpoint.

Remarkably little is known about the professional lives of teachers in charter schools. Yet that evidence vacuum only seems to inflame the fervor with which the two sides make competing claims. Not surprisingly, both sides prefer to believe what they believe—and routinely make claims based on those beliefs in public debates and before state legislatures.

No recent studies have tested the assumptions about union teachers and charter schools that now put unions and charter school leaders at odds.<sup>3</sup> Based on existing data, education experts cannot answer:

- Why many teachers leave charter schools after one to three years.
- What proportion of teacher turnover is initiated by school management, and what proportion reflects teachers' longstanding career plans (for example, to enter graduate school).
- What "at-will" employment means in practice at a charter school, and how the meaning of at-will employment varies from one charter school to another.
- Whether some charter schools manage teacher turnover effectively, and if so, how they do it.
- Whether senior teachers in charter schools play different mentoring and school-stabilizing roles than they had played in conventional public schools.
- Whether the experience of teachers is different in stand-alone charter schools or those run by providers that manage multiple schools.

In politically charged debates like the union-charter school standoff, no one can be sure that partisans on both sides will use research data scrupulously and fairly as it emerges. Nonetheless, real-world data is preferable to mere conjecture—and evidence that bears directly on the fate of union teachers in charter schools could quiet frightened members of the unions' rank and file. Hard data from charter schools could also curb some of the poisonous claims made in lobbying by both sides.

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A second, potentially promising approach to generating more real-world data is to have union and charter school leaders visit, discuss, and inform their members about unionized charter schools, including schools run by teacher cooperatives and unions themselves (see sidebar, page 34). As one union leader said, “If we could create models that people could see, feel, touch, they would say, ‘Oh, there’s fairness here, but you don’t have to have that 200-page behemoth [district collective bargaining contract].’ That would be great for all the district schools as well. But you have to walk people through that model.”

Ultimately, the conflict between charters and unions is no schoolyard squabble. Both sides have fundamental interests at risk, and the outcome of that conflict has serious consequences for the future of charter schools. At the very least, the continued union-charter school estrangement has effectively helped cap the growth of the charter school movement. But are the disagreements so deep that they can be managed only through conflict in legislatures and courts? Or is some progress possible through hard talk grounded in better facts and shared experience? No one can say for sure. But answers aren’t likely to be forthcoming until the two groups begin to take on the messy tasks of accommodation, of talking to each other, and of developing a better grounding in facts. In the years ahead, NCSRP will seek to be both an honest broker in that discussion and a neutral purveyor of real-world data about the experience of union teachers in charter schools.

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## TALES FROM THE TRENCHES

### GREEN DOT PUBLIC SCHOOLS

Green Dot Public Schools is a management organization that operates six secondary charter schools in the Los Angeles area. Steve Barr, who previously co-founded the “Rock the Vote” campaigns, started Green Dot in 1999 with the “vision of transforming secondary education in California.” From the get go, Barr urged his teachers to unionize because he felt that reform of large urban school districts would be impossible without union involvement. But there was some self-interest in his encouragement as well: he didn’t want to face a hostile unionization campaign at a later date.

Today, Green Dot teachers have their own collective bargaining unit, which is affiliated with the California Teachers Association but separate from the LAUSD teachers union (Unified Teachers Los Angeles, ULA). The union, named the Asociacion de Maestros Unidos, has a three-year, 28-page contract. It includes many reformist elements: just cause instead of tenure, professional workdays instead of defined minutes, and teacher performance evaluations. Green Dot management also agreed to revisit the tenets of the contract each year if needed. In turn, teachers are paid 10 percent more than they would be by LAUSD, and are empowered to participate in decisions affecting each school, including creating a new model for management-teacher collaboration and developing a professional work environment. Barr cites the following evidence of success: 1) Green Dot received 800 applications for 80 teaching positions in 2006, and 2) Green Dot’s ninth grade reading intervention project, where 40 percent of Green Dot ninth graders test well below fourth grade reading level, yet 90 percent reach grade level by the end of their freshman year.<sup>4</sup> For more information on Green Dot schools, visit [www.greendotpublicschools.org](http://www.greendotpublicschools.org).

### AMBER CHARTER SCHOOL

In 2001, a year after Amber Charter School opened, the United Federation of Teachers (UFT) approached the school about partnering. The next year, Amber Charter School signed a unique, 6-page labor contract that is completely separate from the over 200-page contract UFT holds with the district. The school and union have negotiated three times since 2002.

The contract departs from the traditional salary schedule in three ways: it has a modified step system based only partially on seniority and partially on improvement in practice; second, to move beyond seniority pay increases, a teacher must complete a professional growth project approved by the joint union-management committee; and finally, salary increases for education degrees and college credits are only awarded if they are in a field where the school needs to develop expertise.

The contract also spells out a grievance procedure that requires a teacher to first address a co-director of the school. If the grievance remains unresolved, the teacher can appeal to the school’s governing board. A union participant at this symposium explained the intent: “By no means did we want to reproduce the due process which exists in the public schools—part of the problem with that is that it takes so long.” School leaders argue that being part of the union increases their ability to find teachers that fit their bilingual education program. The school’s accountability reports tout high levels of student attendance and achievement.<sup>5</sup> For more information on the Amber Charter School, visit [ambercharter.echalk.com](http://ambercharter.echalk.com).

### UFT ELEMENTARY CHARTER SCHOOL & UFT SECONDARY CHARTER SCHOOL

In September 2005, the United Federation of Teachers opened the UFT Elementary Charter School in the East New York neighborhood in Brooklyn; in 2006, they opened a secondary school in the same area. The union set out to show that “freed from bureaucratic regulation and the school district’s

micro-management,” they could create schools “that exemplify a collaborative labor-management relationship . . . and prepare students for high levels of academic achievement.”<sup>6</sup>

The schools adhere to all the essential provisions in the current collective bargaining contract between New York Public Schools and the UFT, although the schools do use the contract’s waiver procedure to opt out of specific provisions of the district contract.

To maximize what union leaders call “teacher voice,” the schools are teacher-run. Instead of principals, they have school leaders that report to a 13-member board of trustees. Classes in the elementary school have two teachers and are limited to 25 students. Each teacher receives a comparatively large budget for classroom materials (\$800 versus \$200 in other New York public schools). The schools are too new to have demonstrated results, but their website promises highly qualified, accomplished teachers, a safe and disciplined environment, and rigorous curriculum. To learn more about the UFT’s charter schools, visit [www.uft.org/chapter/charter/](http://www.uft.org/chapter/charter/).

### EDVISIONS SCHOOLS

EdVisions oversees a network of 27 small schools, located primarily in Minnesota and Wisconsin, that promote teacher ownership and personalized, project-based teaching.

These schools aim to create a truly professional teaching environment via a teacher co-op management structure. Since there is no management apart from teachers at these schools, the schools effectively blur the line between teachers and managers that is the foundation of unionization. Teachers share leadership duties and control hiring, budgeting, and the educational programming. Peers conduct performance evaluations and the schools use performance-based pay and at-will employment. As for results, EdVisions points to academic results as well as high levels of student engagement. For more information on these schools, visit [www.edvisions.com](http://www.edvisions.com).

### NOTES

1. For the full report of the conference see Paul T. Hill, Lydia Rainey, and Andrew J. Rotherham, *The Future of Charter Schools and Teachers Unions: Results of a Symposium* (Seattle: Center on Reinventing Public Education, National Charter School Research Project, October 2006).
2. See, for example, Catherine Candisky, "Justices Consider Charter Schools' Constitutionality," *Columbus Dispatch*, November 30, 2005.
3. An early study (1998) for the NEA examined the working environment, benefits, and union role for teachers in charter schools. The study found, among other things, that 40% of charter teachers report that their working conditions are spelled out in individual employment contracts, that levels of salaries and benefits are generally about the same (50%) or greater (30%) than their previous teaching assignment, and that charter teachers cite the "freedom to teach the way I want" as their most common reason for choosing to teach in a charter school and believe that this freedom is key to their success. For more information see: Julia E. Koppich, Patricia Holmes, and Margaret L. Plecki, *New Rules, New Roles? The Professional Work Lives of Charter School Teachers* (Washington, DC: National Education Association, 1998).
4. See [Eduwonk.com](http://eduwonk.com), September 3, 2006, <http://eduwonk.com/>.
5. See [http://ambercharter.echalk.com/site\\_res\\_view\\_folder.aspx?id=d6c3d26e-dcf2-4772-b42c-0d0511bb29fd](http://ambercharter.echalk.com/site_res_view_folder.aspx?id=d6c3d26e-dcf2-4772-b42c-0d0511bb29fd).
6. See [http://www.uft.org/chapter/charter/secondary/sec\\_mission.pdf](http://www.uft.org/chapter/charter/secondary/sec_mission.pdf).