

EDITORIAL

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The Expanding Charter Movement: Separate, Unequal, and Legal?

Charter proponents trumpet *choice* as the hallmark of a democratic public education system. They put a “parents right to choose” at the forefront of their argument for expanding the commercial charter school market and thus place the parent in the role of consumer. On its face, it sounds logical. In the eyes of choice advocates, to not support free choice would be of course, un-democratic, and un-American.

But what if “choice” results in greater social stratification and a dual, semi-private education system that separates the “haves” and “have nots” along socio-economic, cultural, racial, and ethnic lines? Reality might not match the increasingly manufactured positive perceptions about choice. There is something amiss with the large-scale charter movement.

Choices

The argument put forth by the purveyors of an expanded charter movement usually sound something like this: *Education is the civil rights issue of our lifetime. Students should not be made to attend schools that are persistently unsafe and that do not deliver a quality education. Parents should have the right to choose a school that is best for their children.*

On its face it sounds democratic and consumer-chic, yes? However, by allowing people to choose their “school” there is potential in the weakly regulated charter system that exists, for parents to choose certain schools

based on factors that create greater segregation along academic, racial, ethnic, special education, or socio-economic lines. Separate and perhaps unequal.

Certainty

There is certainty that the public school that most parents do not choose to leave will lose much needed funding because every child that attends the charter school takes a majority of his or her per-pupil funding with him/her. The parents and children who do not choose to leave are in essence punished with less funding provided to their public school. I am unsure how a decrease in funding is supposed to improve the education experiences for the children whose parents choose to remain in the public school. I am sure that the expansion of the charter school movement is creating a dual system of education that violates core aspects of the Jeffersonian vision for education. A vision that reformers like Horace Mann, Henry Barnard, Francis Parker, John Dewey, and other giants who supported a unified, democratic, free system of comprehensive public schools fought so long ago to help establish.

Research Results

Several large studies found that the expansion of the charter school market is siphoning students who are better-off economically and academically. In many cases the students in charter schools either come from homes that

are more economically stable (less poor), have higher prior achievement levels, do not require special education or ELL services, require less intense medical services, and generally have parents or guardians with more resources to support their education (Finnigan, et al, 2004).

Charter schools have a less diverse student population in terms of socio-economic characteristics than their peer public schools. Ascher, et al, (1999) reported that only 35% of charters, compared to over 70% of public schools had economically diverse populations. This means that charters serve either primarily poor or non-poor students (as is usually the case) in more cases than public schools that serve more economically mixed populations in a majority of the schools. Some of you might be saying, "Well that was in 1999, things have matured since then." Consider that others (e.g. Carnoy, et al, 2005; Miron, et al, 2010; Skinner, 2009), found the same level of economic concentrations and segregation today. So much for growing older and wiser.

The Miron et al, (2010) study found several interesting aspects of charters and segregation: (a) Only about 25% of charter schools operated by education management organizations (EMO) had a student population demographically similar to that of the surrounding public schools; (b) Charter schools administered by EMOs had extreme levels of economic segregation: either very wealthy or very poor; (c) Charter schools, as a whole, enroll fewer students with special needs than the surrounding public schools; (d) Charter schools provide fewer special education and ELL services and enroll far fewer of students who need those services (Baker, 2011a; 2011ab).

In some cases charter schools do not have to provide special education services if special education is not part of their mission

(Welner & Howe, 2005); (e) Virtual charter school students are likely to be white and not economically disadvantaged. Of course not all charters segregate in every situation, but as a market and a movement, their student populations are more segregated than the surrounding public schools. Of course there are some charters that are more inclusive, less segregated, and offer better programs than their surrounding schools, but that is not the overall characteristic of the population of charter schools. Those are the exceptions and not the rule. A system cannot be built on non-scalable exceptions.

False Advertising

Do not be fooled by misleading or incomplete statistics distributed by charter marketing companies and special interest groups. For example, it was reported by the charter industry that over 33% of all students in charter schools were black, whereas only 17% of students in public schools were black. Seems like charters are more inclusive and do serve a larger minority population. That is good, right? Maybe, but it depends on your goal. Consider this: Over 70% of black students in charter schools were in schools that were 90-100% black, lacking almost any racial diversity, whereas only 34% of black students in the public schools were in schools that were 90-100% all black (Frankenberg and Lee, 2003). The black students in charter schools more often have little to no exposure to racial diversity compared to their peers in the public schools.

Students in public schools attend more racially diverse schools on average than their peers in charter schools (Frankenberg, 2011). If your goal is to facilitate the silo-ing of students, and thus eventually society, by race, ethnicity, academic achievement, special needs and ELL status, and economics, all based on the "free choice" marketed by commercial interest and

supported by law, then charters are good. If your goal is a unitary system in which people of all races, ethnicities, economic, language, special needs, and cognitive backgrounds, learn, collaborate, deliberate, and persist together, side-by-side, in the rich pool of diversity, then charters might not be such an effective large-scale policy option. What's healthier in the long run for a democracy? I argue for the more diverse, desegregated (in every sense of the word) option.

Selection Bias

It is important to enter into the record the fact that some charter schools practice selective admissions (Welner & Howe, 2005). Yes, I know that is illegal and undemocratic. Public schools must admit anyone who lives within the school's boundaries and comes to the door, regardless of socio-economic status, race, special education status, ELL status, or any other demographic characteristics. Lady Liberty's flame cannot be extinguished at the public schoolhouse door.

In most states charter schools must hold lotteries or have some similar random mechanism to admit students—and they do. The issue is what happens after lottery in some schools. Although I am aware of the literature on the subject of charter school selectivity (e.g. Frankenberg & Lee, 2003; Molnar et al, 2008; Skinner, 2009; Welner & Howe, 2005) I had private discussions with the heads of multiple charter schools in several states about their admissions practices in an attempt to come to a better personal understanding of why charter school populations differ so much from their local public schools in terms of the percentage of students with special needs and ELL's. The charter heads represented schools that spanned the K-12 spectrum.

The scenario generally goes something like this: (1) Students who win the lottery must

fill out a detailed student intake form. The form requires parents to disclose any special needs the child might have and in some cases free/reduced lunch status; (2) Parents and students must submit to an "intake interview" with the leadership of the charter school to be "oriented" to the "expectations" of the school; (3) In some schools, students must produce a writing sample; (4) Students who have special needs, behavior issues, are ELL's, have poor writing samples, or possess other factors that might influence achievement negatively are gently counseled about the possible mismatch between their needs and the school's mission and available services.

In some cases parents are told that their student might not fit the mission of the school or that the school does not offer the level of special education or ELL services needed. Parents and students might also be made to feel uncomfortable or made to feel that they are not quite the type of clientele served by the school.

It is similar to stories you might hear about in some communities of the country when an African American couple go house shopping and they are shown homes in one section of town and not another, or are dissuaded from purchasing a home in a traditional white middle-class neighborhood. Yes, that still happens. I need to stress that not all charter schools participate in selective admissions counseling and not all charter school leaders who do it are acting nefariously. In fact, many believe they are just being honest with students who they think will not do well in their environment.

Those charter school leaders are looking out for the best interest of the children. Their schools really do not have the programs necessary to meet the needs of a diverse learning population. There is nothing sinister about it. A problem I have is that those schools

should not be known as public schools. They should be known as semi-private or corporate schools that take public monies.

Some other reasons why charter schools generally have more favorable student demographics are that the poorest of the poor have less means (e.g. time, money, information, support) to make informed choices or to get their students to the new school. New schools sometimes mean new schedules, which in turn means new child care, a scarce commodity for the poor. Selective admissions only exacerbate an already troubling situation. Some charter schools have parent participation requirements and parents must sign "contracts" to participate in school activities. For some parents who work non-standard hours or two jobs to support their families it just might not be possible to meet the "participation contract" requirements. Does that make them less of a participant? Should parents be punished for financially supporting their families?

More Data

By law the public school must attempt to meet the needs of the child, not the other way around. If the charter school does not offer the special education service currently, it must to meet the needs of the child. The fact that the school might not want to offer the service or does not currently is immaterial. Subtly counseling parents to rethink their choice is illegal, but difficult to prove. Creating an uninviting environment during an intake interview in hopes that a parent will not choose to send a child with special needs to the charter is immoral, unethical, and undemocratic when it is done with intent. But it happens.

Baker (2011) demonstrated by using GIS mapping software and free lunch data from the National Center of Education Statistics Common Core of Data that as a group, the charter schools in Newark and Jersey City,

New Jersey, enroll almost half as many students eligible for free lunch as do the local public schools from which they draw students. The distinction between being eligible for free lunch as opposed to reduced lunch is important here. Free lunch is a statistically significant reducer of achievement on standardized tests. Children eligible for free lunch represent the poorest of the poor, the most economically fragile of children.

Baker also demonstrated that charter schools in Newark and Jersey City enroll 40%-90% less students with special needs (other than speech/language, a less intensive need). For example, in 2007, two of the "nationally recognized" charter schools in Newark, Robert Treat Academy and North Star Academy enrolled 3.8% and 7.8% of students with disabilities (excluding speech) compared to 18.1% for the Newark Public Schools. The average percentage of ELL's in the Newark charters hovers around only 3%. Thus, we have a situation in the state's two largest cities where a dual system exists.

The first system is for students who are less poor and students who are non-or less disabled, whereas the public school system is being turned into a transfer station for the academically and economically neediest children. This is an interesting way to build a national reform model, unless you are building the education version of Enron, Halliburton, TYCO, Global Crossing, Arthur Anderson or any of the multitude of big business that have turned out to mislead the public, their employees and shareholders in the last 15 years. Is this country pursuing a policy of legalized Enron-education?

Separation of Church and State?

A quiet trend is taking place within the charter movement. Some charter schools are legally blurring the lines between church and state.

There are currently charter schools that focus on Turkish language and culture, Hebrew language and culture, and some charters are housed in Christian church basements. Charter schools devoted to other languages and cultures also exist, and they are all publically funded. This creates the context in which covert or subtle religious instruction or indoctrination can take place. Now we have a potential situation in which religion can be brought into the public classroom through the study of culture and language. It is very hard to separate Hebrew language and culture from Judaism or Turkish language and culture from aspects of Islam. In terms of housing charter schools founded by Christian church pastors in church-owned buildings ... well you can reflect on that a bit for the potential conflicts.

The Turkish language and cultural schools in particular have raised some concerns in the past five years. Many of the over 120 Turkish language and culture schools that service more than 35,000 students have financial and philosophical connections to Fethullah Gulen, a Turkish nationalist, now living in exile in Pennsylvania. He is well known for proposing that religion should take

greater precedence in Turkish secular society. Gulen-affiliated or inspired groups operate schools in 25 states. Although most Gulen inspired schools distance themselves from the exiled nationalist, the money flows from those committed to his teachings into organizations that support the charter schools. This creates the ability to purchase influence.

Some of these Turkish language and culture schools have been cited for crossing the line between church and state. In Minnesota the Tarek ibn Ziyad Academy authorized by the Islamic Relief USA organization was cited by state education officials for having teachers take part in Friday prayers voluntarily. Questions also surround the Hebrew language and culture charter schools that have opened in New York City and Florida. In the case of New York, Diane Ravitch (January 18, 2009) described a situation surrounding the opening of the Hebrew Language Academy Charter School in Brooklyn, NY, funded in part by Michael Steinhardt. Steinhardt is known as a philanthropist who has donated millions of dollars to promote Jewish culture and identity. Ravitch wrote:

His generosity is unquestionable. In this case, however, he is asking taxpayers to support an institution that has obvious religious overtones. In a city with a great variety of Jewish schools and other agencies that encourage Jewish identity, it makes no sense to create a public school with the same purpose ... The proposal to the Regents asserts that the school will not engage in any devotional activities. Even so, the Hebrew language is so closely aligned with the Jewish religion that it is baffling that the Regents are willing to treat the proposed charter school as a nonsectarian institution.

On the website for Hebrew Language Academy you can find students waving Israeli flags, Israeli flags hanging throughout classrooms, and classrooms are given Hebrew names such as Hertzeliya, an Israeli city named after Theodor Herzl, the founder of modern Zionism. Another class has the name Eilat,

which is a city and is also known for being part of the Book of Exodus. Another classroom name Netanya means among other things, *God has given*. Ravitch stated that it is very difficult to separate Hebrew language and culture from religion. The Hebrew culture is rich with history and much of that history revolves

around religion. Consider a charter school with classroom names Peter the Fisherman, or Martin Luther, or the Garden of Eden. See the potential problem here?

My purpose is not to single out three specific religions or cultures. Religious freedom is a hallmark of our democratic society and it is important that these and other types of schools exist. There are also Chinese, Haitian, Austrian, Korean, and other such language and culture charters in the United States. My purpose is not to question their existence or advocate against them. My purpose with raising this issue is to provide examples of how funding specific cultural charters can facilitate the blurring of the lines between church and state and possibly cause further balkanization of the population.

Publically funding, encouraging, and supporting through policy, schools with such narrow cultural and religious foci, brings America further and further away from the original unifying vision of the democratic,

The justification for segregated schools as places of opportunity is basically a “separate but equal” justification, an argument that there is something about the schools that can and does overcome the normal pattern of educational inequality that afflicts many of these schools. Charter school advocates continually assert such advantages and often point to the strong demand for the schools by minority parents in minority communities, including schools that are designed specifically to serve a minority population. It is certainly true that minority parents are actively seeking alternatives to segregated, concentrated poverty, and low-achieving public schools. White parents have also shown strong interest in educational alternatives as evidenced by the strong demand for magnet schools. Unfortunately, despite claims by charter advocates, there is no systematic research or data that show that charter schools perform better than public schools (p.3).

We are left in a situation in which the struggling school loses funding, is more racially, academically, or ethnically segregated, and based on the evidence, loses some of its

unified, public school system. Instead of uniting the population around democratic principles, these types of charter schools might actually unite the church and the state and lead to less religious freedom.

I cannot help but be reminded of James Conant’s warning about the use of public funds for private or independent schools. Conant stated, “The greater the proportion of our youth who attend independent schools, the greater the threat to our democratic unity. Therefore, to use taxpayers’ money to assist such a move is, for me, to suggest that American society use its own hands to destroy itself” (1970, p. 464).

Final Word on Separate, Unequal, and Legal

Frankenberg and Lee (2003) stated it clearly. There is something undemocratic and fundamentally unethical occurring with the current policy push to expand charter schools. Public tax dollars are being used to tier the social system, through the legal and education systems:

more involved and economically more stable parents. In essence, the aggregate charter school movement then facilitates greater segregation across a variety of lines and takes

money away from children that probably need it. This leaves the children who stay in the public school in a more segregated situation without the funding they need to do better or receive more effective programs. That seems somewhat un-American.

I think it is important to remember that at various times in our country's history people have "chosen" to keep slaves, not allowed women to vote, created separate and unequal facilities for non-white citizens, instituted

voting laws to make it difficult for certain citizens to vote, restricted who can get married, and banned bilingual education, all in the name of liberty and a person's right to choose. Choice for choice's sake can be irresponsible, reckless, immoral, and in some cases, undemocratic. Passing laws and policies that have been shown to weaken the democratic fabric of the country by facilitating people's choice to segregate is immoral, and those who knowingly create and support such laws and policies are engaging in education malpractice.

Editor's Note: For additional independent research on all forms of school choice readers should refer to: <http://nepc.colorado.edu/site-search/results/taxonomy%3A830>.

References

- Ascher, C., Jacobowitz, R., & McBride, Y. (1999). *Standards-based reform and the charter school movement in 1998-99: An analysis of four states*. New York University, Institute for Education and Social Policy.
- Baker, B. (2011, January 19). *Unspinning data on New Jersey charter schools*. Retrieved from: <http://schoolfinance101.wordpress.com/2011/01/19/unspinning-data-on-new-jersey-charter-schools/>
- Baker, B. (2011a, July 6). *Zip it! Charters and Economic Status by Zip Code in NY and NJ*. Retrieved from: <http://schoolfinance101.wordpress.com/2011/07/06/zip-it-charters-and-economic-status-by-zip-code-in-ny-and-nj/>
- Carnoy, M., Jacobsen, R., Mishel, L., & Rothstein, R. (2005). *The charter school dust-up: Examining the evidence on enrollment and achievement*. New York: Teachers College Press and Economic Policy Institute.
- Conant, J. B. (1970). *My several lives*. New York: Harper
- Finnigan, K., Adelman, N., Anderson, L., Cotton, L., Donnelly, M. B., & Price, T. (2004). *Evaluation of charter schools program, Final report 2004*. Washington, DC: U.S. Department of Education, Policy and Program Studies Service. Available at: www2.ed.gov/rschstat/eval/choice/pcsp-final/finalreport.pdf
- Frankenberg, E. (2011). Charter schools: Civil rights mirage? *Kappa Delta Pi Record*, 47(3), 100-105.
- Frankenberg, E. & Lee, C. (2003, September 5). Charter schools and race: A lost opportunity for integrated education. *Education Policy Analysis Archives*, 11(32). Retrieved from <http://epaa.asu.edu/epaa/v11n32/>.
- Howe, K. R., & Welner, K. G. (2002). School choice and the pressure to perform: Deja vu for children with disabilities? *Remedial and Special Education*, 23(4), 212-221.
- Miron, G., Urschel, J. L., Mathis, W. J., & Tornquist, E. (2010). *Schools without Diversity: Education Management Organizations, Charter Schools and the Demographic Stratification of the American School System*. Boulder and Tempe: Education and the Public Interest Center & Education Policy Research Unit. Retrieved from <http://nepc.colorado.edu/publication/schools-without-diversity>
- Molnar, A., Miron, G., & Urschel, J. (2008). *Profiles of for-profit educational management organizations: Tenth annual report*. Education in the Public Interest Center. Boulder, CO. [Http://nepc.colorado.edu/publication/profiles-profit-education-management-organizations-2007-2008](http://nepc.colorado.edu/publication/profiles-profit-education-management-organizations-2007-2008).

- Ravitch, D. (2009, January 18). *New schools flunk the unity test*. New York Daily News. Retrieved from: http://www.nydailynews.com/opinions/2009/01/18/2009-01-18_new_school_flunks_unity_test_hebrewlangu.html
- Skinner, K. J. (2009). *Charter school success or selective out-migration of low-achievers? Effects of enrollment management on student achievement*. Boston: Center for Education Policy and Practice, Massachusetts Teachers Association. Available at: <http://massteacher.org/~media/Files/PDFs/CEPP/charterschools0909.pdf>.
- Welner, K. G., & Howe, K. R. (2005). *Steering toward separation: The policy and legal implications of "counseling" special education students away from schools*. In *School choice and diversity*, ed. J. Scott, 93–111. New York: Teachers College Press.