

# Findings

## Clamping Down on Charter Schools

### *North Carolina Charter Schools and the Uphill Battle They Face*

By R. Matthew Lytle, Ph.D.



In many ways, public education in America began in the nineteenth century as a call for school choice in an effort to bring educational opportunities to more than just the upper class. At that time, the choice was between public education, or no education at all because the poorer populations often did not have access to it.

The twentieth century brought with it significant innovations in almost every field imaginable, including education. Interestingly, several of these innovations harken back to educational practices that preceded public schools, such as private and home schooling, which have increased in popularity as alternatives to mandatory public schooling. But along with the increasing acceptance of private schools and home education came a growing dissatisfaction with public schools, along with calls for educational choice from many parents.

While many parents are dissatisfied with public school performance, they are forced to leave their children in public schools because private schools are simply too expensive. In addition, the increasing number of single-parent and dual-income families often rule out homeschooling as an option.

Charter schools began as a way to give parents another option in education. With charter schools, parents have the opportunity to give their children a private school-like education in an innovative environment without the high tuition costs. Charter schools have become quite popular with parents; many charters have waiting lists because they

are running at capacity. Even though charter schools are popular with parents and students nationwide, lawmakers and state boards have been ambivalent at best and hostile at worst when it comes to charter schools. This attitude is reflected in policies that curtail the innovative spirit that lies at the core of the charter school initiative.

#### **Why Charter Schools?**

The concept of charter schools arose out of growing calls for school choice among parents who were increasingly dissatisfied with the performance of traditional public schools. This growing dissatisfaction led to calls for innovation and experimentation in an effort to reform the public school system. One of the first of such experiments took place in Philadelphia in the late 1980s. These Philadelphia schools started smaller “schools” within the larger ones. These smaller schools were called “charters.”<sup>1</sup> Minnesota became the first state to establish charter school legislation in 1991. Twelve years later, 40 other states had followed suit, including North Carolina.<sup>2</sup> In July 2003, President Bush declared that he was “committed to a charter school program in [his] administration,” proposing \$320 million to help fund charter school expansion.<sup>3</sup> There are now over 3500 charter schools nationwide, which educate a total of over one million students.<sup>4</sup>

The steadily growing number of charter schools nationwide provides an environment of innovation in public education. Instead of reforming the current school system, charter schools seek to “[create] something entirely new,” and “to challenge traditional notions of

what public education means.”<sup>5</sup>

#### **What Are Charter Schools?**

According to the National Alliance for Charter Schools (NACS), charter schools are “nonsectarian public schools of choice that operate with freedom from many of the regulations that apply to traditional public schools.”<sup>6</sup> The term “charter” refers to a “performance contract detailing the school’s mission, program, goals, students served, methods of assessment, and ways to measure success.”<sup>7</sup> Each charter school is set up as a non-profit organization with its own board of directors.

The board of directors controls how the school is run, including the budget and curriculum. This means that charter schools enjoy an amount of autonomy. This autonomy extends to charter school faculty, administration, and students. In the words of NACS, charter schools “are accountable for academic results and for upholding their charter” instead of “being accountable for compliance with rules and regulations.”<sup>8</sup> One example of this autonomy is the fact that not all teachers are required to be certified by their state board of education. Because of this, charter schools are free to try innovative curricula and teaching methods that would not be allowed in normally regulated public schools. This autonomy also allows charter schools to enjoy greater involvement from parents and the community.

Charter schools are not completely autonomous, however; they are accountable to local or state boards of education, which monitor the school’s compliance with its charter.<sup>9</sup> In most cases, this accountability includes

budgetary and attendance matters. That is, charter schools must have a balanced budget and must operate in the black for each term. They must also maintain the attendance standards laid out in the charter. In addition, boards of education ensure that each charter school meets the state's academic requirements.

This accountability exists because charter schools are public schools, even though they are not run like traditional public schools. This means that charter schools cannot charge tuition, nor can they actively choose students. Since charter schools are generally smaller than traditional public schools, charters must provide some kind of impartial means of selecting students, such as a lottery.

### **In North Carolina**

North Carolina passed its own charter school legislation in 1996. The first North Carolina charter school opened its doors the next year. According to North Carolina's charter school legislation, charter schools are to fulfill the following purposes:<sup>11</sup>

- *Improve student learning;*
- *Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically gifted;*
- *Encourage the use of different and innovative teaching methods;*
- *Create new professional opportunities for teachers, including the opportunities to be responsible for the learning program at the school site;*
- *Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system;*
- *Hold the schools established ... for meeting measurable student achievement results, and provide the schools with a method to change from rule-based to performance-based accountability systems. (1995 (Reg. Sess., 1996), c. 731, s. 2)*

In order to fulfill these purposes, the charter school legislation relaxed many of the regulations that apply to traditional public schools. Instead of mandatory teacher certification, charter schools only require 75% of elementary school teachers to be certified and only 50% of middle and high school teachers to be certified.<sup>12</sup> This relaxed certification means that

charter schools have the opportunity to hire teachers from the community who are qualified to teach, but who may not be certified.

Because of their status as public schools, North Carolina charter schools receive funding from the State Board of Education based on a "per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located ..."<sup>13</sup> In other words, according to charter school legislation, charters receive a certain amount of money per pupil attending the school. This per pupil allocation equals the per pupil allocation of other public schools in a local

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school administrative unit. This per pupil amount is adjusted annually to account for growth or decline in enrollment.<sup>14</sup> State funding of charter schools does not include building construction, however. Charter schools are required to raise their own money for building projects, although they can use state money to lease property and mobile classrooms.<sup>15</sup>

### **The Charter School Advantage**

In North Carolina, charter schools, on average, have smaller class sizes compared to traditional public schools in the same district, which is an attractive feature for many parents.<sup>16</sup> Terry Stoops, in a 2007 charter school study for the John Locke Foundation (JLF), points to data indicating that smaller school sizes led to a greater amount of extracurricular and parental involvement, "[providing] more opportunities for participation by parents and students."<sup>17</sup> Smaller classrooms also help to prevent individual students from falling behind, which is more likely to happen in larger classes.<sup>18</sup>

Along with smaller class sizes, charter schools offer innovative classroom environments. Much of this is a result of the experimentation and innovation intrinsic to the charter school initiative.<sup>19</sup> Individual charter schools are allowed to design and follow their own curriculum, which means that the administration and

faculty have direct control on what and how material is taught. Stoops' research indicates that a school's curriculum is "important in their decision to choose a charter school over a district school."<sup>20</sup>

This spirit of innovation gives charter schools the opportunity to successfully implement new ideas in public education. When a charter school succeeds in this manner, it serves as an example to other educators, who can then implement some of these strategies. Innovation also gives charter schools the opportunity to fail. When a charter school fails to meet state requirements in education or budgetary standards, the Board of Education has the option to revoke that school's charter.

The failure of an individual charter school does not indicate a failure in the charter school movement as a whole, but instead, serves as an example of educational ideas or action plans that do not work in the real world. In other words, even failures can serve as examples to other educators. True innovation brings with it failures as well as successes, and many times, failures prove to be valuable contributors to the innovative spirit.<sup>21</sup>

Most charter schools in North Carolina have succeeded, and some of these successes are spectacular. One shining example of a North Carolina charter school success is Raleigh Charter High School (RCHS). The main aspect of RCHS that makes it such a high performing school is its high curricular standards. For example, RCHS has higher graduation requirements (22 units) than traditional North Carolina Public Schools (20 units). Moreover, since RCHS, focuses on academically gifted students, it had a much higher concentration of Advanced Placement students (21 percent) in the 2006–2007 school year compared to traditional North Carolina Public Schools (4 percent). RCHS's emphasis on community citizenship means that the school is actively involved in community projects. Because of its commitment to these projects, RCHS earned the City of Raleigh's Parks and Recreation Department's 2008 Outstanding Volunteer Group.<sup>22</sup> In addition, RCHS earned honors within North Carolina, such as the 2006 Honor School of Excellence. Because of these curricular and civic standards, RCHS has been on *Newsweek's* top national public schools list since 2005, raking at number

27 in 2008. In other words, RCHS was ranked by *Newsweek* as the 27th best public school in the nation.<sup>23</sup>

## Challenges for Charter Schools

Charter schools were intended to foster an environment of innovation and experimentation by being less regulated than traditional public schools. Unfortunately, this has not always been the case. North Carolina law has tied the hands of charter schools by imposing arbitrary restrictions on them—restrictions that stand in the way of allowing charters to fulfill their statutorily defined purposes as laid out in North Carolina state law. The two most pressing of these restrictions involve the arbitrary cap on the number of charter schools allowed to operate at one time, and the continued under-funding of charter schools.

**Charter School Cap.** The North Carolina charter school legislation mandates a cap of 100 charter schools statewide, which effectively curtails any serious growth of the charter school initiative.<sup>24</sup> The cap was an arbitrary restriction placed in the 1996 legislation at the last minute before passage. Because of this arbitrary cap, charter school numbers have remained virtually unchanged since 2002.<sup>25</sup> New charters are only available when the Board of Education revokes the charter of an existing school, with the new charter replacing the revoked charter. As of this writing, there are no openings to begin new charter schools.<sup>26</sup>

Advocates and opponents of the cap are vocal in their calls for its retention or abolition. In 2007, two conflicting reports were published by two different think-tanks within North Carolina. The John Locke Foundation released a study entitled “Ten Years of Excellence: Why Charter Schools Are Good for North Carolina,” which argues for the removal of the arbitrary cap.<sup>27</sup> A 2007 report from the North Carolina Center for Public Policy Research (NCCPPR) recommends keeping the cap in place until charter schools could be further studied in light of what the report says are weaknesses.<sup>28</sup> But this has been the cry of the educational establishment ever since the cap was reached in 2002. There is a continuing call for studies, but these studies are yet to be done.

Each of these perceived weaknesses

relates to the purposes of charter schools enumerated in the charter school legislation: (1) low academic performance, (2) lack of racial balance, (3) lack of transference of innovation to traditional public schools, and (4) poor financial management.<sup>29</sup>

Concerning poor academic performance, the NCCPPR’s research found that charter schools scored lower on North Carolina’s ABC’s program than traditional public schools.<sup>30</sup> They also argue that charter schools graduate proportionately fewer students than traditional public schools. The basic methodology of the NCCPPR report is faulty because they make the mistake of aggregating all charter schools and

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comparing to an aggregate of traditional public schools. This approach fails to consider the often unique purpose of many charter schools and the student populations they serve. Several North Carolina charter schools exclusively target at-risk students in poverty-stricken areas of the state. In many cases, the at-risk students enrolled in these charter schools most likely would have fallen through the cracks in a larger, traditional public school. In these cases, while charter schools may score lower on the ABC’s, they are also educating students who would have otherwise dropped out of school altogether.<sup>31</sup>

The NCCPPR report also claims that charter schools are more racially segregated than traditional public schools in the same district.<sup>32</sup> While it is true that charter schools have higher percentages of African-American students than traditional public schools in their district, there are mitigating circumstances. In lower-income areas of the state, many parents have opted to place at-risk students in charter schools, where the students will have a better chance of graduating.<sup>33</sup> Moreover, the fact that

many charter schools began as a way to offer “expanded learning experiences for students who are identified as at risk of academic failure or academically gifted” skews demographic data.<sup>34</sup> That is, since charter schools cater to specific groups of students, it is only reasonable that charter school demographics would reflect this special interest.

The third item on the NCCPPR’s list is a lack of transfers of innovations to public schools. The report concedes that there are some great innovations coming from charter schools but complains that these innovations are not finding their way into traditional public schools.<sup>35</sup> Because of this lack of transfer, they argue that “the notion that charter schools serve as a testing ground for educational innovations that ultimately move into the public schools is unfounded.”<sup>36</sup> This line of argumentation contains a serious flaw, however. It places the fault for the lack of innovation transfer with charter schools, but gives no indication that charter schools have somehow prevented this transfer. It is more likely that a lack of transfer results not from charter schools, but from traditional public schools and school boards resisting change. If charter schools are accountable to the same Board of Education as traditional public schools, the task of transferring successful innovations lie with the Board of Education themselves, especially since traditional public school curricula are controlled there.

The final argument for keeping the charter school cap, according to the NCCPPR report, is that many charter schools demonstrate a lack of good financial management.<sup>37</sup> In these cases, however, in accordance with charter school legislation, the schools were shut down. The lack of financial responsibility that these schools demonstrate should not be taken to indicate a problem with the charter school system in general. Instead, it reflects poor leadership of individual schools. These failed schools are a necessary part of the process of innovation, where charters must be free to either succeed or fail. Revoked charters in these instances show that the system is working, effectively weeding out ineffective charter schools and making way for future successful innovators.<sup>38</sup>

In the end, the NCCPPR report called for the North Carolina General

Assembly to keep the 100-school cap.<sup>39</sup> While other reports like the one from the JLF have called for lifting the arbitrary cap, the North Carolina General Assembly has opted to leave the cap in place, even in the face of such shining successes as RCHS and others. In the 2007 legislative session alone, no fewer than five bills were introduced that sought to raise or eliminate the cap. None of these bills were allowed to be considered and have therefore effectively died, meaning that the cap remains in place.

**Charter School Funding.** The arbitrary 100-school cap is not the only challenge that charter schools face. While charters are denied taxpayer money to construct buildings, this lack of funding does not hinder many charters from mounting successful building campaigns. In many ways, the denial of building funds is a blessing to many charter schools, who are then able to put all of the per pupil allocation into curriculum and instruction.

There have been occasions, however, where charter schools were denied money promised to them by the charter school legislation. In 2003, Asheville City Schools denied funding to three Buncombe County charter schools. The money in question came from supplemental taxes, court fines, and forfeitures and was spread out among the public schools in that district—except for the three charter schools, which the North Carolina charter school legislation describes as public schools. The North Carolina Court of Appeals and State Supreme Court eventually sided with the charter schools, after the three charters sued for their share of the money.<sup>40</sup>

A similar situation arose in the Charlotte-Mecklenburg School System (CMS) in 2005, in which the district kept money from five charter schools. In a lawsuit against the CMS, the five schools argued that the CMS miscalculated the funds due the schools. Specifically, the CMS did not allocate to the charter schools any funds from the “Bright Beginnings” or “High School Challenge” programs, even though state law dictates that funds in these programs are to be distributed to schools within the school system on a per pupil basis. In addition, the charters claimed in the lawsuit that the CMS also miscalculated the number of students in charter schools, resulting in less money going to the charter schools. In subse-

quent years, both the State Superior Court and Court of Appeals sided with the charter schools.

In 2005, the North Carolina General Assembly enacted the North Carolina Education Lottery, which was required by law to allocate a significant portion of its net revenues to public school construction. None of the funds from the NCEL is available for charter schools, however. Since charter schools must raise their own

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money for building projects, charters are automatically excluded from receiving these lottery funds, even though charter schools are by definition public schools. A legislative committee established to discuss the possibility of allocating NCEL funds to charter schools met for the first time in November 2006. Almost two years later, the committee has not produced anything to bring before the General Assembly.<sup>41</sup>

*It is important to note that this discussion of the lack of lottery funding is not an endorsement of the state lottery but is only intended to demonstrate a failure of the state to include charter schools in new sources of education revenues.*

Charter schools were presented with new funding penalties in April 2008. The State Board of Education (SBOE) adopted a new rule that penalizes charter schools that do not meet the minimum number of state-certified teachers. According to the SBOE’s April 2008 rule, charter schools that do not hire the required number of teachers will be denied funds in the amount of one month the headmaster’s salary. Each successive month of noncompliance results in more withheld funding in the amount of one month’s salary of the highest paid non-certified teacher.

On one hand, this new rule seems to do nothing more than keep charter schools accountable to their own standards as laid out in the North Carolina statutes. On the other hand, however, this rule sets a new precedent in the way that the SBOE deals with noncompliant charter schools. According to charter school legislation, the SBOE has the right to revoke or to refuse to renew the charter of a school that fails to meet the mandated standards. It mentions nothing about withholding funds.

While the SBOE has similar rules in place that restrict funding for traditional public schools, there are compelling reasons why charter schools should not be forced to face the same kinds of penalties. Jim Stegall with *Carolina Journal* notes that “there is no provision equivalent to revocation of charter for a school district.”<sup>42</sup> That is, charter schools already have a penalty mandated by statute—the possibility of a revoked charter. Because of this possibility, withheld funding is unnecessary and potentially fatal to smaller charter schools. Since charters do not receive funding for building projects, they are already at a financial disadvantage compared to their traditional public school counterparts. Stegall argues that “because of the difference in size and the precarious financial state of charter relative to district schools, the loss of even one employee’s salary could spell doom for a charter.”<sup>43</sup>

## **Conclusion**

Charter schools were intended by the General Assembly to provide innovation in education. Certain actions—and inactions—by state legislature state and local Boards of Education have seriously hindered the charter school initiative from achieving this goal. The charter school cap and continued underfunding stifle the innovative spirit that gave rise to charter schools. Instead of giving charter schools the support they need, state laws and regulations continue to place unnecessary and arbitrary limits on charter schools, which effectively work against any chance of progress.

Even in the midst of this hostile atmosphere, many charter schools have thrived such that some North Carolina charter schools have gained national recognition. If charter schools can thrive

in a hostile environment, one can only imagine how they would prosper if they were allowed the freedoms and funding necessary to achieve their full potential.

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## Endnotes

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13. NC G.S. § 115C-238.29H(a)(1).
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