

Executive Summary

The performance of schools in California and across the nation is widely recognized as falling short. Students compare poorly with their counterparts in other nations; businesses complain that recent graduates cannot do entry level jobs and lack a good work ethic. For the past couple of decades, multiple efforts at reforming the education system have been focused on improving the preparation of students to be productive citizens.

Some of these reforms have been aimed at improving the existing system by making the components work better. Other reforms have touted the benefit of eliminating the present system and moving to a privatized system that relies on market forces to produce excellence. But a growing movement combines elements of both: Charter schools embrace private-sector concepts such as competition and customer-focus while retaining the accountability and equity that are the foundation of public sector activities.

The charter school movement is seen not just as an experiment that will identify the best educational methods but also as a powerful tool to achieve change within the education system. The charter schools act as a wedge for both external and internal forces -- from the outside, student and parent demand will grow for the kind of choice charter schools provide and from the inside, other schools will fight for the flexibility they see charter schools enjoying.

California is not the first state to enact a charter law, but with more than 100 schools it outdistances other states in sheer volume. Under the charter system in California, groups of parents, teachers, community leaders or other interests who want to form a school may submit a petition, signed by teachers, to the district school board for approval. Once approved, the new school and the district have a contractual relationship, as spelled out in a charter. The school outlines an educational approach and pledges to produce specified academic results. In return, the school is free of almost all laws, regulations and policies that affect other schools. The district monitors performance, holding the right to revoke the charter if the school fails to live up to expectations.

In the three years since the charter law was enacted, no definitive academic evaluation has been performed. But following a six-month study and on-site inspection of 26 schools, the Little Hoover Commission has reached the following conclusions and recommendations:

Finding 1: The success of charter schools, indicated by a variety of factors, makes the statutory cap on their expansion an unwarranted limitation on creative energy and student access.

Charter schools have been operational too short a time to track academic achievement in a meaningful fashion. But by many measures, as documented by the Little Hoover Commission and other researchers, these schools are successful.

When the charter school law was enacted, an arbitrary cap was put in place to counter fears that experimental schools would proliferate uncontrollably, potentially wasting money and shortchanging children academically before results could be assessed and corrective action taken. However, districts have moved slowly and with deliberation to approve petitions, and the ceiling was not reached until three full years after the law became effective.

During those three years, many charter schools built a record of innovation and accomplishment. Although the record is not without blemishes, experience indicates that the charter law provides school districts with sufficient authority to address problems.

At this point, the cap is preventing districts from moving forward confidently with additional charter schools despite local support and student demand. As a result, the opportunity for constraint-free

experimentation embodied in the charter law has been short-circuited and the potential benefits for students have been limited.

Recommendation 1-A: The Governor and the Legislature should modify the charter school law to eliminate the cap as a means of encouraging local leadership to improve education.

The law's author put the case for eliminating the cap succinctly in a recent newspaper article:

At a time when enthusiasm for public schools is low, it is irrational to block the growth of a zero-cost program that is reinvigorating schools up and down the state....California earned a reputation as an innovator by being willing to take chances. We took a chance on charter schools, and evidence is pouring in that they work. With the 1996 legislative session under way, it is time to launch the next stage in the charter schools odyssey.

Local leadership and community involvement can be significant factors in the improvement of education. The charter school mechanism opens the opportunity for both -- and, therefore, should not be blocked by an arbitrary ceiling.

Recommendation 1-B: The Governor and the Legislature should fund and set parameters for the required 1999 assessment of charter schools by framing the issues, describing the array of factors to be examined and naming the types of experts who should be involved in the assessment process.

The present requirement for the Department of Education to assess "the educational effectiveness" of the charter school approach is a vague direction that may not yield a product that will satisfy policy makers' concerns. A more helpful approach would be to list factors to be examined, including change in assessment rankings, degree of parental satisfaction, demonstration of economical value, level of innovation, evidence of increased educational opportunities for teachers, increased focus on low-achieving students, diversity and effective oversight by districts.

The law should also specify experts to be involved in the study, including representatives of teachers, administrators, parents, active charter schools, academic institutions, the State Superintendent of Public Instruction and the State Board of Education.

Recommendation 1-C: The Governor and the Legislature should require sponsoring districts to consider the quality of charter provisions as a criterion for approval and monitor annual reports of charter school progress in goal achievement.

Because charter schools are supposed to provide documented performance of goals in return for their unlimited flexibility, it is critical that charters contain clear performance goals and assessment plans. Present charters, however, are often vague. In addition, school districts should monitor charter school performance closely enough to provide helpful guidance, if needed, well before charters are brought up for renewal or revocation.

Recommendation 1-D: The Governor and the Legislature should clarify the charter law and the new statewide testing law to ensure that charter schools participate in statewide testing, benchmarking and/or achievement standards systems.

The present uncertainty about whether charter schools are included in the new testing law clouds the schools' ability to share in test funding and may provide an opportunity for schools that dislike normative testing to avoid the process. While many assessment tools are flawed and no single indicator should be used to judge educational performance, it is important for charter schools to participate along with other schools in whatever statewide system is created.

Finding 2: The lines of authority between charter schools, sponsoring districts and the State Department of Education are not well defined, causing conflicts and confusion.

In its purest form, the charter concept rests on the principle that charter schools are independent from both local and state bureaucracies, except for oversight regarding results. While California's law speaks to that degree of independence -- stating that charter schools should be treated as separate entities and should receive funding directly from the State -- the reality is far different. Both the State Department of Education and sponsoring school districts have taken actions that constrain the ability of charter schools to operate freely.

The State Department of Education has 1) declined to fund charter schools directly; 2) created confusion by treating similar schools

differently; 3) interpreted the law in ways not intended by the Legislature; and 4) in the past, provided only lukewarm support for those seeking technical assistance.

Some school districts have 1) used the charter mechanism to generate extra revenue for the district; 2) held charters hostage to continuing controls as the *quid pro quo* for charter approval; and 3) allowed unions to dictate charter approval terms and conditions.

As a result, many charter schools have only limited freedom to experiment and their operators devote an enormous amount of energy to battling district and state bureaucracies over rule-based controls. This is contrary to charter law intent, which describes a goal of providing a mechanism to move from rule-based to performance-based accountability.

Recommendation 2-A: The State Department of Education should comply immediately with the wording and intent of the current law by funding charter schools directly.

There is little convincing evidence that the department is unable to apportion funds directly to the 100 charter schools since it is already computing the figures. The Legislature may wish to remind the department of this priority through budget control language. While the added workload of computations for an additional 100 schools seems small compared to the 1,100 districts and county offices the department is already handling, the Legislature may also wish to consider earmarking additional resources for this function.

Recommendation 2-B: The Governor and the Legislature should modify the "things of value" statute to allow independent study programs to provide a range of learning opportunities.

Some schools have been told that they may not offer smaller class sizes, educational supplies, special programs or other options because similar benefits are not available to all classroom students in a district. Such a restriction is antithetical to both the charter school concept and the purpose behind independent study in any school. The law should be modified in such a way as to preclude cash or material "bounties" intended to entice students into a program but to allow specialized educational materials to be provided.

Recommendation 2-C: The Governor and the Legislature should authorize a study of the use of the independent study modality by school districts.

The concerns raised by some charter critics about independent study charter schools are issues that arise in non-charter programs as well. These concerns include the potential for a district to use independent study as a revenue generator because of the low cost; the lack of clear standards for academic achievement and effort; and the potential for using the mechanism to underwrite the teaching of religion at home.

While not a focus of the Little Hoover Commission's charter school study, many experts told the Commission independent study programs are growing rapidly and with little control or monitoring of results. Some have suggested that the independent study option should be structured differently so that districts retain the flexibility to meet the needs of students but are not given excessive fiscal incentives to do so through the independent study method.

A baseline study to identify the status of independent study programs throughout the state would be a good beginning to examining alternatives and addressing concerns.

Recommendation 2-D: The Governor and the Legislature should clarify that charter schools operated by county offices of education have the same freedoms and responsibilities granted to other charter schools.

Because funding sources are different for county boards of education, the Department of Education has ruled that charters operated by counties must continue to comply with restrictions regarding instructional minutes, certificated teachers and calendar days. But there is little sense in having a second-class category of charter schools.

Recommendation 2-E: The Governor and the Legislature should authorize and fund a charter school technical assistance/advocacy unit.

The formation of some charter schools has been needlessly more difficult as they have struggled to reinvent the wheel with little knowledgeable assistance. A unit that would provide information, networking and advocacy could be established in the Governor's child development office or under the direct oversight of the State Board of Education at the Department of Education.

Recommendation 2-F: The Governor and the Legislature should amend the charter law to give charter schools status as separate legal governmental entities, with full liability for their actions and full ability to participate in state programs available to

districts. Sponsoring districts should be released from liability for actions taken by charter schools.

With freedom should come responsibility. It makes little sense to place charter schools firmly under the direct control of districts and expect them to act differently from regular schools. But it makes even less sense to tell sponsoring districts that they have no authority over charter schools without relieving them of liability. Charter schools would still be able to negotiate with districts for services, including the ability to buy into the district's liability insurance system or to find separate liability insurance on the open market or in pools with other educational institutions.

Recommendation 2-G: The Governor and the Legislature should enact legislation to clarify that labor issues will be settled in the charter negotiation process between districts and charter schools, separately from the districts' normal bargaining processes.

The charter law should specifically state that the Education Employment Relations Act is waived for charter schools. In addition, to ensure that labor arrangements are made between the charter school and the district without interference, conditions under which charters may be approved should be prohibited from being addressed in collective bargaining agreements between the district and its non-charter employees. Finally, districts should be prohibited from unilaterally imposing terms and conditions in existing collective bargaining agreements on the charter school.

Finding 3: The processes for establishing and operating charter schools have created unintended consequences that limit flexibility and reduce opportunities for innovation.

The charter law describes a set procedure for obtaining approval of a charter and appealing any rejection by a school district. On other issues -- such as dispute resolution mechanisms and the applicability of the State's earthquake safety provisions -- the law is silent. On still others, the law's ambiguity has caused conflicts. In each of these areas, charter proponents argue that modifying the original law would allow a fuller exploration of educational opportunities under outcome-based accountability.

Recommendation 3-A: The Governor and the Legislature should create -- in addition to the 10 percent/50 percent teacher-

signature mechanism – alternative requirements that would allow other groups to petition districts for charter approval.

Alternatives could involve requiring a set number of parent signatures or proof of support through community surveys or by academic evaluation. While leaving intact a mechanism that ensures a large role for teachers in creating charter schools, creating other processes would allow other stakeholders, such as parents, community interests or district boards themselves, to be the major driving force behind educational alternatives. District boards would still be required to weigh the level of community and employee support before approving a charter, and a board could reject any petition that failed to attract teacher support.

Recommendation 3-B: The Governor and the Legislature should enact legislation authorizing the State Board of Education, county offices of education and higher education institutions to sponsor charter schools.

Giving charter proponents alternate sources for approval will put all participants in the bargaining process that occurs between sponsor and petitioner on a level playing field and encourage greater reform efforts spurred by the competition to win or retain students. It also will provide a valuable link between institutions that train teachers, administrators and other child development specialists and the schools that professionals eventually operate in.

Recommendation 3-C: The Governor and the Legislature should strengthen the charter petition appeals process to make it a more effective forum for balancing local concerns.

Rather than requiring a panel to review the district's decision and send improperly rejected petitions back for second consideration, the process could be revamped so that rejected petitioners can make their case for approval directly to the county board of education. In the alternative, if the panel process is retained, it could be strengthened by adding outside interests, such as community leaders, parents and private-sector representatives. In addition, the district and the appeal panel could be required to specify which of the 13 elements were unsatisfactory and steps that charter proponents could take to make their proposal acceptable.

Recommendation 3-D: The Governor and the Legislature should clarify the charter law to exempt sponsoring districts from Field Act liability for charter operations.

School boards should not be held at risk for a law that charter schools are allowed to ignore. Under the charter law, their obligation should be met by ensuring that charter drafters have adequately addressed concerns under the charter health-and-safety element.

Recommendation 3-E: The Governor and the Legislature should prohibit sponsoring districts from charging charter schools rent if the facilities to be used are not already generating revenue for the district.

To continue the revenue neutrality of the charter school concept and to ensure that charter school budgets are not deprived of funds that should be directed into the classroom, districts should not be allowed to require charter schools to shoulder a burden not shared by other schools. The State's per-pupil funding mechanism has never been intended to cover capital outlay costs, which instead are met by bonds. The law could include exceptions to take care of districts that incur additional facility costs because of the charter school's occupancy of needed quarters. And it should allow the district to impose the same costs allocated to all schools in the district for retirement of bonds, as long as the charter school is also apportioned a share of all district funding, such as developer fees, that contribute to covering facility costs.

Recommendation 3-F: The Governor and the Legislature should require charters to have an additional element defining a dispute resolution process.

Because charter schools and their sponsoring districts are closely linked but have differing interests, disputes arise. Addressing how those will be handled ahead of time should make problems easier to resolve.

Recommendation 3-G: The Governor and the Legislature should define the charter renewal process in law.

Before rejecting a request for charter renewal, districts should provide written reasons, including specifying which, if any, of the 13 elements in the charter are inadequate or need to be revamped. They also should consider the level of community support for the continuation of the school. In addition, the legislation could restrict the reasons for non-renewal to those applying to revocations: committing a material violation of the charter conditions, failing to pursue the promised pupil outcomes, failing to use good fiscal management and violating any provision of law.

Recommendation 3-H: The Governor and the Legislature should require charter renewal, revocation and appeals processes to be conducted according to open meeting laws.

The public has a legitimate interest in how decisions regarding charter schools are made. Any actions to renew, revoke or consider an appeal should take place in the public arena.

Finding 4: Many of the systemic funding problems that affect all schools adversely affect the ability of charter schools to be innovative and flexible.

California's funding mechanism for education is a crazy-quilt of apportionments and entitlements that is so convoluted that only a handful of people in the state understand its complexities. The situation becomes more tangled when it pertains to charter schools, which by law are not subject to restrictions and requirements -- but are affected by formulas that determine how much their share is. The resulting specific problems that affect charter schools include:

- ***Funding uncertainty***, which makes planning an educational program and budgeting for it very difficult.
- ***Restrictive attendance accounting***, which constrains the choices charter schools can make when designing an academic calendar.
- ***Cash flow shortages***, particularly if a start-up school -- with no prior year's enrollment -- is involved, or a charter school enjoys rapid growth.

Recommendation 4-A: The Governor and the Legislature should enact legislation that clearly establishes the funding base for charter schools as a proportionate amount of all district funding.

Charter schools should not be expected to be innovative, creative and academically successful with less funding than normal schools. But they should also not be constrained by a system that pigeon-holes funding and how it may be applied for and spent. One way of avoiding these problems is to give charter schools a proportionate amount of all funding that comes into the district.

Under this system, the apportionment assigned to a charter school would be an amount of funding that is equal to the district's entire

funding, regardless of source, divided by all the total number of students in the district, and then multiplied by the number of students at the charter school. (Because of the federal restrictions on some funds, this would require the State to seek federal waivers.)

In addition, to avoid the problem of requiring districts to submit data that includes charter schools when charter schools are not required to collect such data, the law should allow districts to arrive at non-charter numbers and then factor in a proportionate additional amount to account approximately for charter students.

Recommendation 4-B: The Governor and the Legislature should set the funding for charter schools with non-district sponsors at the state average funding for the appropriate school type.

If the State chooses to create alternate sponsors, such as state universities and colleges, a separate funding scheme will have to be enacted to cover costs. One alternative is to grant charter schools with non-district sponsors the average state funding for elementary or high schools, depending on the scope of the school. In addition, these schools could be granted an average amount derived from all non-federal categoricals.

Recommendation 4-C: The Governor and the Legislature should redefine the relationship between funding and students for charter schools.

While the average daily attendance definition for charter schools moves away from many of the restrictions in the normal attendance system, it does not go far enough. The State has an opportunity to use charter schools as a pilot for changes many policy makers have long recognized as necessary in the way student presence is counted. One way of doing this is to require charter schools to submit "active monthly enrollment" figures, which could be defined as the number of different students engaged in educational activities at a school over the course of a month.

Recommendation 4-D: The Governor and the Legislature should create a revolving loan fund for first-year and rapidly expanding charter schools.

First-year and rapidly growing charter schools should have a resource for covering payrolls, daily expenses and other operating costs until their funding starts to flow from the state. A fund that covers those costs and then recoups the loan from future apportionments would ease cash flow problems these schools suffer from.

