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INCE 1991, 40 STATES HAVE ENACTED LAWS ALLOWING FOR THE CREATION of charter schools—independent public schools of choice that are freed from many regulations but accountable for their results. There are now 2,700 schools that serve some 600,000 students in 34 states and the District of Columbia (see Figure 1), with cities like Washington, D.C., and Dayton, Ohio, now enrolling upwards of 17 percent of all their children in these new institutions.

While such numbers are impressive—a decade ago there were no charter schools—we also see worrisome indications that the charter movement is in trouble. In July 2002, *Newsweek* reported that a raft of recent charter “reports find that too often, charters haven’t lived up to their end of the bargain.” A Brookings Institution study released in September 2002 concluded that student performance in charter schools was significantly lower than that of district schools on state tests in reading and math.

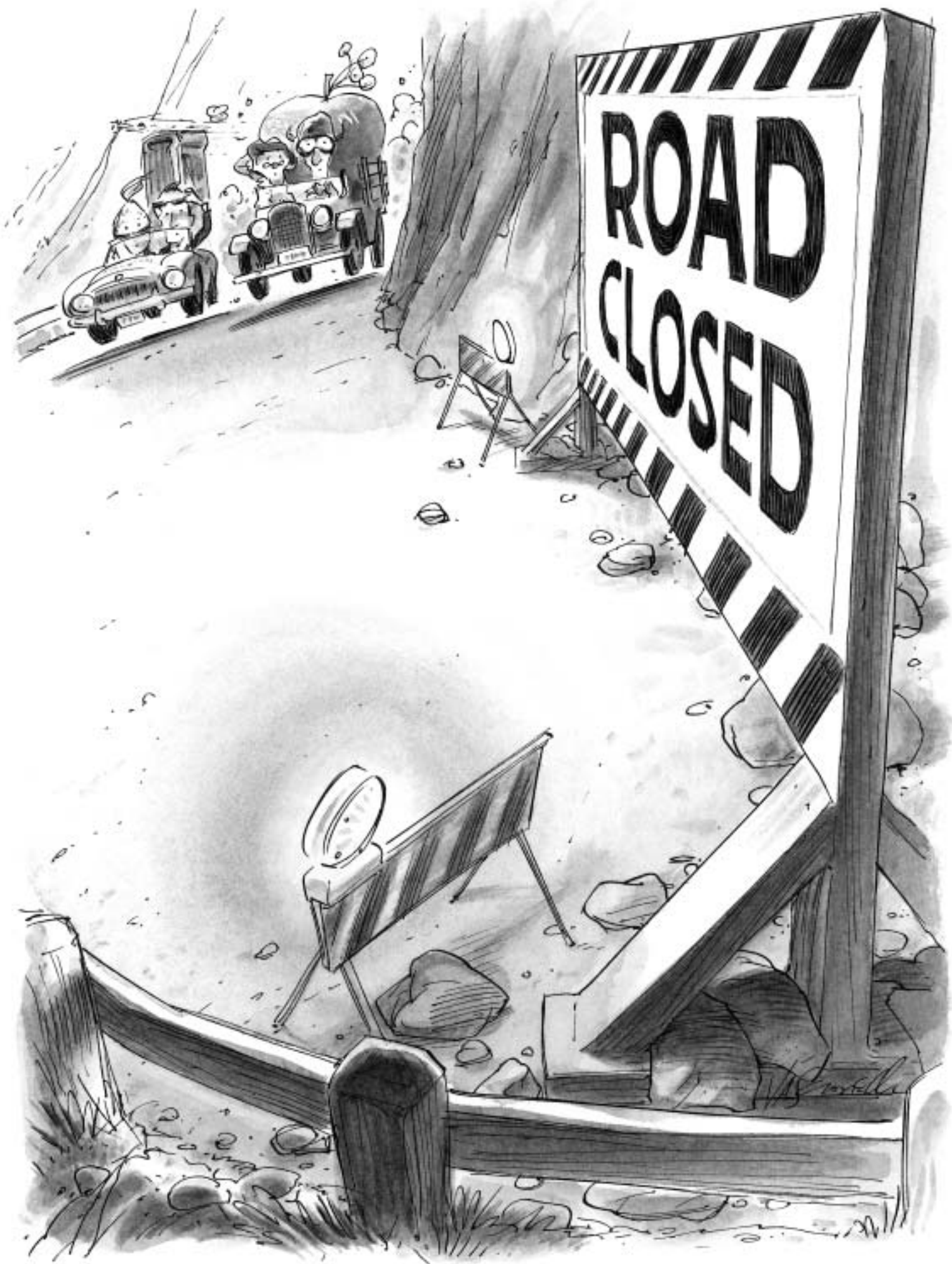
At the same time, signs of a vital and thriving charter school movement abound. Nationally, demand for these schools remains high, with more than 75 percent of charters having waiting lists that together could fill at least 900 more schools. The parents, students, and educators involved with charter schools report high levels of satisfaction. A California State University, Los Angeles, study of California charters, released in March 2002, found that their test-score gains outpaced those of students in regular public schools. In Massachusetts, the test scores of charter schools on the Spring 2002 state test showed, according to the *Boston Herald*, “a greater number of

The charter school
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Yellow

by BRUNO V. MANNO

FLAG



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improved scores . . . with more and more of the [charters] scoring higher than their home districts.” Even the Brookings study may say less than it seems. The investigators themselves acknowledge that their findings may be due to the fact that charters are attracting “students who were already low achieving,” a suspicion supported by other studies that find charter students to be relatively disadvantaged.

Not only are many charter schools enjoying success, but they are also held accountable in a way regular public schools are not. When a charter school experiences severe troubles, it usually faces severe consequences. To wit, more than 200 failed or failing schools have been closed on fiscal, educational, and organizational grounds.

Can Success Survive?

In the education world, however, success often breeds second-guessing if not downright resentment. The more traction a successful reform gains, the more sour grapes it harvests. Despite strong, bipartisan political support, charter schools have not been immune from this attitude. America’s deeply conservative public education system is striking back at this disruptive innovation, which shifts power from producers to consumers;

demonstrates that more can be done with less at the school level; and moves control of resources from central bureaucracies to autonomous schools. Such tectonic shifts bring new uncertainties and imply that many hoary public education practices are no longer the only imaginable way to do things.

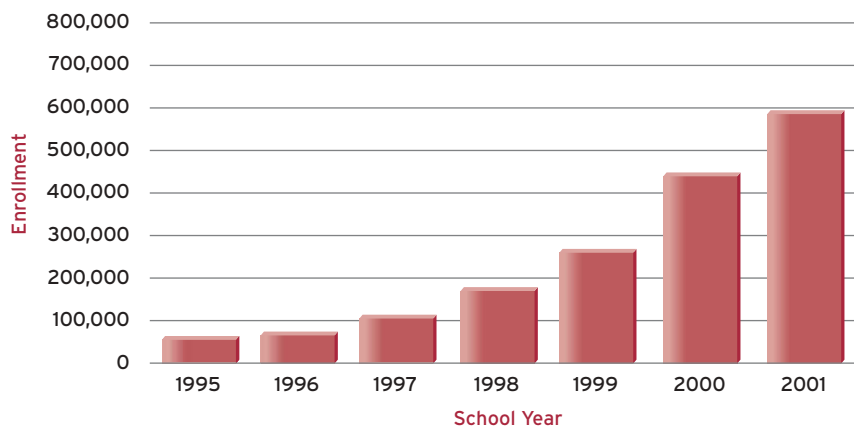
The initial efforts to stop the spread of charter schools took three main forms: preventing the enactment of charter laws; limiting the number of new charters; and ensuring that existing charter schools were as meagerly funded and as heavily regulated as possible.

These strategies succeeded to some extent. For example, Washington State, among other states, still has no charter school law—mostly because of intense opposition from the teacher unions and other interests vested in the status quo. Among those states with charter laws on the books, more than a third have fewer than 20 charter schools in operation. In addition, the early growth of the charter movement may be reaching a plateau—in part due to the hostile tactics of charter opponents.

One by one, however, states continue to come on board. In 2001, Indiana passed a strong law that allows charters to be granted not only by school districts but also by public universities and by the mayor of Indianapolis. To date, school districts have allowed two schools to convert to charter status; Ball State University has chartered seven new schools; and Indianapolis mayor Bart Peterson has approved four new charters. Eleven of the 13 approved schools opened their doors in September 2002.

Gaining Market Share (Figure 1)

Charter schools now enroll some 600,000 students nationwide, triple the number of students in 1998.



* Estimate

SOURCE: Center for Education Reform

Three-Front War

Opponents are now regrouping, as the vigorous growth of the charter movement and its impact on traditional district schools has alarmed its adversaries. The resulting attacks come from three directions: state policymakers, local school systems, and organized public education interest groups.

State policymakers have an entire arsenal of charter-harassing weapons at their disposal. These include depriving charters of full per-pupil funding; denying them access to (or financing for) facilities; placing new restric-

tions on existing schools or moratoriums on future growth; and weakening charter laws. Two states provide vivid illustrations.

Indiana's entry into the charter movement was nearly arrested in early 2002 when Suellen Reid, the Republican state superintendent of public instruction, balked at giving Indiana's new charters any money during their first semester, basing her opinion on legal advice from members of her staff. Nor would these schools be reimbursed for expenses incurred during that semester. Only a contrary ruling from the state's attorney general (at the strong urging of Indianapolis's Democratic mayor, Bart Peterson) led to a reversal of that decision. The reversal, however, prompted an outcry from some legislators and from the superintendents of the 11 school districts located within Indianapolis. They protested "the adverse financial effects for public schools resulting from the formation of charter schools in our county" and called for a moratorium on the creation of new charters until the "financial inequities" were resolved. Mayor Peterson refused to yield, however, and proceeded to consider a second round of 13 charter applications for the 2003-'04 school year.

California passed its charter law in 1992 (the second state to do so) and now has 362 operating charter schools. But the enemies are circling. The 2001-'02 legislative session passed five anti-charter school bills, four of which were signed into law by Governor Gray Davis (who felt compelled, in one of his signing messages, to claim that he still "supported charter schools"). The most controversial bill gave the state board of education extensive powers to regulate independent study or "nonclassroom"-based instruction that uses computers as the main instructional tool. The bill's intent was to force "virtual" charter schools to spend a high proportion of their budgets on certified staff rather than on technology, stifling their capacity to innovate. These "cyber" charters must now document their instructional minutes, and their per-pupil funding may be reduced if they offer less than the minimum number of student course minutes per year—a district-style regulation of the process of education without regard for outcomes.

Other proposals to cut funding for California charters emerged from the state department of finance. These would have slashed funds for students over age 18 (including former dropouts whom the charters were seeking to "recover") and ended summer-school funding for many charter students. While these proposals were defeated by an organized charter school community led by the California Network of Education Charters, charter operators expect them back in a future legislative session.

Local Opposition

The local districts where charters choose to locate, and from which they draw students, have felt the impact of charters

Competitive States (Figure 2)

Of the 39 states (plus the District of Columbia) with school charter laws, five stand out: Arizona, California, Florida, Michigan, and Texas. More than a third of the states have fewer than 20 charters.

State (year law passed)	Total operating in 2002-'03
Arizona (1994)	468
California (1992)	452
Florida (1996)	232
Texas (1995)	228
Michigan (1993)	186
Wisconsin (1993)	115
Ohio (1997)	97
Colorado (1993)	95
North Carolina (1996)	93
Minnesota (1991)	92
Pennsylvania (1997)	91
New Jersey (1996)	56
Massachusetts (1993)	47
District of Columbia (1996)	39
New York (1998)	38
Georgia (1993)	36
Kansas (1994)	30
Illinois (1996)	29
New Mexico (1993)	28
Louisiana (1995)	26
Missouri (1998)	26
Oregon (1999)	26
Hawaii (1994)	25
Connecticut (1996)	16
Alaska (1995)	15
Delaware (1995)	14
Idaho (1998)	14
South Carolina (1996)	14
Nevada (1997)	13
Utah (1998)	12
Indiana (2001)	10
Oklahoma (1999)	10
Rhode Island (1995)	9
Arkansas (1995)	8
Virginia (1998)	8
Mississippi (1997)	1
Wyoming (1995)	1
New Hampshire (1995)	0
Iowa (2002)	0
Tennessee (2002)	0
NATIONWIDE	2,700

SOURCE: Center for Education Reform

IN WASHINGTON, D.C., BOTH THE CITY AND THE SCHOOL DISTRICT ARE MAKING IT NEARLY IMPOSSIBLE FOR CHARTERS TO FIND CLASSROOM SPACE.

most heavily. When a district loses students to a charter, most (sometimes all) of the per-pupil funding travels with those students. This places charters in direct competition with districts—and the districts, instead of competing, often try to influence the rules of the game.

In Houston, where 46 of Texas's 219 charter schools are located, the district estimated recently that it will lose about 13,000 students to charters during this school year (up from 12,000 the previous year) at a cost of \$53.5 million in state revenues. The city's school board is thinking of asking the state to consider, before it grants any more charters, the financial impact a new charter school will have on district revenues.

Charters may cause trouble for school districts, but they often wind up saving money for the state. For instance, the Dayton, Ohio, school board claims that charters are bleeding the district of some \$20 million a year. Of course, they no longer have the students to educate, either. And it costs less to educate a student in a charter than in a district school. Scholars Bryan Hassel and Deborah Page showed that during the 1999–2000 school year, charters in Ohio received about \$2,300 less per pupil than local school districts. The seven largest districts in Ohio would each have received \$20 to \$160 million less in state funds had they operated under the charter school funding formula.

Local school districts can harass charters in many ways. They can devise application procedures with absurd timetables or use meager funding formulas to slash the dollar allocations to charters. City development agencies, zoning boards, or fire inspectors can raise a host of regulatory problems, especially on the most difficult issue that charter schools face: finding a facility.

In 2000, California voters approved Proposition 39, entitling California's charter schools to facilities that are "reasonably equivalent" to those enjoyed by district schools. The Sequoia Union High School District in Redwood City, California (one of the wealthiest in the state), filed suit in May 2002 in San Mateo County Superior Court to stop Aurora Charter High School from receiving its fair share—either in the form of rent money or buildings—of the \$88 million bond measure that Sequoia passed in 2001. Sequoia believed that it had no legal obligations to Aurora High because, while the school is located in Sequoia, it was approved by Redwood City, an elementary-school district. Aurora argued that a substantial majority of its students live within the Sequoia district.

Aurora countersued the Sequoia district in July 2002. In late August, Judge Quentin Kopp (who served in the California state senate when the Charter Act was passed) ruled that Sequoia must provide facilities for Aurora Charter High School. As of this writing, the district was considering an appeal of this decision.

In Washington, D.C., both the city and the school district are making it nearly impossible for charters to find classroom space, even though the mayor and the school district are broadly sympathetic to charter issues. D.C. law requires city officials to give charter schools the first option to buy surplus buildings—unless the city can make substantially more money by selling them to others. Naturally, this leads the fiscally strapped city to seek private buyers for those buildings in the least disrepair and to offer charters more dilapidated buildings that will cost millions to be made safe for children. One charter founder reported that the building his school was offered had "\$3 million worth of asbestos issues and [would have] cost us \$10 million [more] to renovate." Meanwhile, the D.C. school system offers charters only one-year leases on vacant schools in the (unlikely) event that the district needs to reclaim the school for its own purposes.

Interest Group Attacks

A phalanx of interests, from teacher unions to school boards and superintendents, principals' associations, teacher colleges, disabled-rights groups, and even private schools, often find reasons to view charter schools as a threat. Let's consider two of these: the teacher unions and private schools.

The unions' initial response to charter laws was defiance. In time, they realized that this looked bad—the charter idea was popular in too many quarters. So they moved from outright hostility to a highly conditional embrace, with the National Education Association beginning its own charter school project in 1996 (and subsequently abandoning it). In the words of an *Education Week* reporter, "Both national unions have endorsed the charter idea within fairly narrow limits, requiring district control over the schools and collective bargaining for the teachers within them." (What would distinguish such a charter school from traditional public schools remains unclear.) The American Federation of Teachers' July 2002 report, *Do Charter Schools Measure Up?* which calls for a moratorium on the expansion of charters, signals a renewed hos-

tility toward charter schools (see Robert Maranto, "Lobbying in Disguise," page 79 in this issue).

Today, the unions' stance toward charters is convoluted, sometimes trying to co-opt the movement, other times trying to stop it cold.

A once-secret report prepared by the Pennsylvania State Education Association (PSEA) lays out a strategy that would organize all charter employees under the NEA affiliate's collective bargaining agreement, thereby depriving charter operators of a key element of their autonomy. As the authors explained, "The main source of the PSEA's influence is that almost all Pennsylvania teachers are unionized. If we want to maintain influence, our ability to do anything, we must make sure that education remains a unionized industry." Here the union is hedging its bets, trying to weaken the charter movement while also ensuring that any teachers who do slide into charter schools will remain union members.

In Ohio the unions have mounted a new effort to sink charter schools. Tom Mooney, president of the Ohio Federation of Teachers, is leading two ever-widening lawsuits seeking to have the state's charter law ruled unconstitutional. Tactics include involving all of Ohio's charter schools in the lawsuit and requiring them to deliver school records on a variety of issues, tying up time, energy, and resources in matters far removed from classroom instruction. This courtroom effort is also apt to chill charter enrollments, teachers, and public perception of the charter movement.

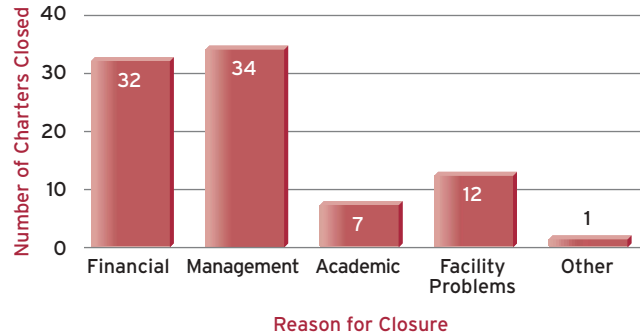
Private schools also sometimes see charter schools as a threat to their finances and influence. For instance, some charter schools are attracting large numbers of students from Catholic schools. The Archdiocese of Newark has lost 139 students to charter schools; the Archdiocese of Detroit, 300 students. Of the 776 students enrolled in St. Louis charter schools, 21 percent came from private schools—13 percent from Catholic schools and 8 percent from nonreligious private schools. While private-school leaders have not grumbled openly about charters, Sister Glenn Anne McPhee of the U.S. Catholic Conference has noted that they are watching the situation closely to see what effect the charter movement is apt to have on Catholic schools over time.

Enemies Within

Some self-inflicted wounds of the charter movement have strengthened the hands of its critics and opponents. These include greedy charter operators keener to make a quick buck at public expense than to educate children; inept operators whose schools are fiscally disastrous and academically inadequate; sponsors that exercise little care in reviewing charter proposals or monitoring the schools' progress; and supporters who press sponsors to leave the schools alone—even to renew their charters—notwithstanding their organizational,

Truly Accountable (Figure 3)

As of January 2001, 86 charter schools had been forced to shut their doors for financial, academic, and other reasons.



Note: Figures do not include charters that consolidated with district or private schools (26 as of January 2001) or charter schools that never opened (50 schools).

SOURCE: Center for Education Reform

financial, and instructional failures.

Some of these schools have engaged in egregious misbehavior. In Houston, Reverend Harold Wayne Wilcox opened the Prepared Table Charter School in 1998. It rapidly grew to 1,500 students on three campuses, making it one of Texas's largest charters. After state auditors investigated the school's operations, however, the Texas Education Authority concluded that Prepared

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Table had overstated its attendance at a cost to the state of \$1.3 million; that it had commingled school funds with those of Reverend Wilcox's church; and that it was governed by virtually the same board members as the church. It also found that members of Wilcox's family were working for the school and that Wilcox, who also served as head of the school, was given a \$235,000 buyout package one week before the state convened a hearing to determine what to do with the school. The school was closed and its charter revoked in August 2002.

NEEDED: A NATIONAL ORGANIZATION DEDICATED TO PRESSING THE CHARTER MOVEMENT TO CLEAN UP ITS ACT AND DELIVER THE RESULTS PROMISED BY CHARTER BOOSTERS.

Forty-six California charters had their funding reduced when the state scrutinized their financial records during the 2001–'02 school year. They could not document how they had spent substantial sums of money and were unable to show what instructional services they were purchasing from private contractors. In some instances, the private vendors were members of the charter boards, posing conflict-of-interest questions.

In Arizona, a record number of that state's charter schools—31 of 288 reviewed—were fined in 2002 because of “late audits, ignored testing requirements, and financial fraud.” This represented more schools than the total number disciplined since charters began in Arizona in 1994.

The basic charter “bargain” grants independence to school operators in return for superior academic results. But with that independence come opportunities for misbehavior—and these are apt to arise well before the results are measured. This places a heavy burden on authorizers to do careful due diligence before awarding charters and to perform ongoing reviews—without clamping down in classic bureaucratic fashion. Some sponsors are not up to this subtle, solemn responsibility.

Consider Techworld Charter School in the District of Columbia. The school was chartered by the elected D.C. board of education in 1997 and opened the following year. It was finally closed in June 2002 after three years of accounting irregularities, governance tiffs, and overreporting of enrollments. It was placed on probation several times during those three years, but was never adequately monitored by the board, which in 2000 was replaced by a new hybrid board of elected and appointed members. The new school board set out to close down the school but encountered a belligerent principal. Just before its closing, he instructed the school's financial manager to award him a \$20,000 bonus, along with \$5,000 each to eight other employees, including his wife. The school's board of directors began to consider legal action against the principal, whose wife then changed the password to the computer files containing students' grades, hoping to force the board members not to prosecute her husband. The school's directors eventually retrieved the grades through a costly reconstruction of the computer records and turned the matter over to federal prosecutors.

The new D.C. school board moved during the 2001–'02 school year to close three other schools chartered by the pre-

vious board. They had an array of problems: overcrowded classrooms with little ventilation, high absentee rates, few textbooks and other instructional materials, abysmal academic results, and failure to file financial reports and to offer the advertised courses. This “cleanup” action could be traced to the failure of the old board to exercise adequate due diligence in approving the original charter application and monitoring the schools. This behavior contrasts sharply with the approach of the alternative, nondistrict chartering authority in D.C., the D.C. Public Charter School Board, which has chartered nearly 20 schools, none of which has been closed.

Counter Attack

The charter movement can no longer coast on a theory and a hope. It has a track record, if not a solid one. This has given new opportunities to those who never liked the charter movement in the first place. But there are ways to strengthen the charter movement to counter the attack. The National Association of Charter School Authorizers, created in 2001, is the kind of institution necessary to support the charter school movement as it matures. Members regularly receive information on topics of high interest to charter authorizers, such as evaluating charter applications and school performance, negotiating accountability agreements, renewal/revocation decisionmaking, policy updates, and state-by-state information on authorizers.

Also needed is a national organization dedicated to pressing the charter movement to clean up its act and deliver the results promised by charter boosters. It would also recruit new charter supporters at the state and local policy level, especially since many governors, legislators, and local activists who gave birth to the charter effort have since moved on to other endeavors. Their successors are disposed to view charters as someone else's idea; are more aware of charters' problems than their successes; and are being skillfully manipulated by interests that have finally recognized that charters aren't going away.

—Bruno V. Manno is senior associate for education at the Baltimore-based Annie E. Casey Foundation and coauthor, with Chester E. Finn Jr. and Gregg Vanourek, of *Charter Schools in Action: Renewing Public Education* (Princeton University Press, 2000).