

Texas Roundup



Charter Schooling in the Lone Star State

by Nelson Smith

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PROGRESSIVE POLICY INSTITUTE

Preface

Maybe it is because President George W. Bush's political history runs through Texas. Or, maybe it is because there are so many charter schools in Texas, and the state is immense both geographically and politically. For whatever reason, charter schooling in the Lone Star State is attracting attention. And, not unlike many Texas tales, this story has been stretched and retold in different ways by many narrators.

Charter schooling helps expand educational opportunities for disadvantaged students; therefore, it is essential that Texas and other states get it right. To their credit, many state policymakers and charter school proponents are taking steps to ensure the quality of charter schools.

In this report by the Progressive Policy Institute, national charter school expert Nelson Smith examines charter schooling in Texas to settle the claims on all sides. Taking a look at the history and the current status of Texas charter schools, Smith finds that the claims of critics are wildly overblown and there is reason for cautious optimism. But Smith also finds some problems that should make any supporter of Texas' public charter schools uncomfortable, including inattention to some low-performing charters and a state system that allows too many to evade public accountability. Smith offers important recommendations for addressing these issues and improving overall charter school quality in the state.

Smith's report is an important resource for educators, policymakers, journalists, and anyone else with an interest in charter schooling in Texas and nationwide. It is the seventh in a series of PPI reports that analyze state and urban experiences with charter schooling. Previous reports looked at California, Minnesota, Arizona, New York City, Indianapolis, and Ohio. Additional reports will be forthcoming later this year. A generous grant from the Bill and Melinda Gates Foundation made it possible for the 21st Century Schools Project to produce this report. We are grateful to the Gates Foundation for their support of this project and their overall commitment to educational improvement.

The 21st Century Schools Project at the Progressive Policy Institute works to develop education policy and foster innovation to ensure that America's public schools are an engine of equal opportunity in the knowledge economy. The Project supports initiatives to strengthen accountability, increase equity, improve teacher quality, and expand choice and innovation within public education through research, publications, and articles; an electronic newsletter and daily weblog; and work with policymakers and practitioners.

The Project's work is a natural outgrowth of the mission of the Progressive Policy Institute, which is to be a catalyst for political change and renewal. Its mission is to modernize progressive politics and governance for the 21st century. Moving beyond the right-left debates of the last century, PPI is a prolific source of the Third Way thinking that is reshaping politics both in the United States and around the world. Rejecting tired dogmas, PPI brings a spirit of radical pragmatism and experimentation to the challenge of restoring our collective problem-solving capacities—and thereby reviving public confidence in what progressive governance can accomplish.

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The Spurs and Mavericks of Innovation

Sam Houston would have loved charter schools. The defining hero of early Texas had trouble sitting still in a classroom as a youth, putting in perhaps only six months of formal schooling by the age of 14. Years later, he reflected: “It is a matter of great satisfaction to me to hope that my children will be in circumstances to receive a good education. Mine was defective and I feel the inconvenience, if not the misfortune, of not receiving a classical education. Knowledge is the food of genius, and my son, let no opportunity escape you to treasure up knowledge.”¹

Thousands of parents send young Texans to charter schools believing they will provide relief from the “misfortune” that befell Houston. The growing statewide charter school system is scrambling against odds, marked by heroes and the occasional rascal—in many ways like the fledgling republic that Houston governed.

There are charter schools in Texas that truly earn their spurs. They move students toward remarkable levels of achievement and may even prompt reform in their surrounding systems. But there also are mavericks, poking along in need of better direction or a final roundup. The range of performance among Texas charter schools remains perhaps wider than in other states and probably far too wide for those who view charters as either a panacea or a threat.

The promise of chartering, of creating new schools grounded in liberty but held to tough standards, is still bright. The task for Texas is to provide resources, develop consistent but firm oversight, and keep a light touch on the reins so that a growing number of exceptional charters can spur excellence statewide.

A Tale of Two Cities?

The Lone Star State boasts some of the most innovative and high-performing charters in the country. There is plenty for Texas to brag about among its 235 charter schools, which currently serve more than 80,000 students.² But the state has also been taken to the cleaners by a few charter charlatans, and there are

still too many low-performing charter schools, far more as a percentage than in traditional public school districts.

It has been difficult to come to a definitive conclusion about the performance of the charter sector, largely because too many charter schools have been evaluated through an alternative accountability system with questionable standards and entry criteria. The Texas Education Agency (TEA) is readying new rules to address this situation.

With regard to the majority of Texas charter schools—those evaluated through the regular accountability system—we can say with confidence that the news is good. There is an upward trend in academic achievement, and the latest state test results show remarkably strong gains.

This report sifts through the law, the data, and the views of knowledgeable Texans to make recommendations for improvement. There is the usual amount of noise to filter out. Every one of the 41 states and jurisdictions with charter laws has its share of both diehard supporters and foes. We will look for a reasonable middle ground within the current Texas charter environment, and provide evidence to back up each finding and recommendation.

New Approaches

Charter school critics sometimes deride new schools’ claims of innovation. Such charges surely miss the mark in Texas:

- ***New roads to higher education.*** Every state and school system talks about standards; at YES College Preparatory Charter School in Houston, Texas, standards are part of the school’s DNA. YES serves a population that is 90 percent Hispanic and 8 percent African-American.³ About 85 percent of its students qualify for free or reduced-price lunch.⁴ They are required to take at least one Advanced Placement course before graduation—and in fact, must be accepted to a four-year college or university in order to graduate.⁵ To

skeptics who say that mere admission to college is not a test of real preparation, YES provides even better evidence: Of the first group of YES graduates, 88 percent were still in college as of early 2004, midway through their junior year.⁶

- **Teamwork.** YES recently teamed up with another Houston charter powerhouse, KIPP (Knowledge is Power Program) Academy, a school that set an astonishing pace by gaining Exemplary ratings right out of the gate on the state accountability system and vaulting inner-city kids to the top of the achievement charts via its intense program. The KIPP/YES partnership will enable the two charters to share the costs of food service, insurance, and other overhead—teamwork that could be a model for small, autonomous schools that lack the infrastructure of big school systems.⁷
- **Testing innovation.** The 194 students who attend kindergarten through grade six at Seashore Learning Center in Corpus Christi are encouraged to take responsibility for their own learning. Instead of report cards, every nine weeks students lead a parent-teacher conference, presenting portfolios of their work. Teachers are free to construct their own curriculum

and measure student progress through skills checklists, rubrics, artwork, and observation. Despite lack of the intense testing focus common in other schools, Seashore has never been rated below Recognized in the test-focused Texas accountability system and earned the Exemplary designation in the two most recent rating periods.⁸

- **Reinvented funding.** As nonprofit organizations without access to public school capital funding, Texas charters have had to find new ways to meet facilities needs. The North Hills School in Irving was the first charter school in the country to purchase property through the sale of tax-exempt bonds, and now sits on 5.7 acres in the Las Colinas business community.⁹ The project illustrates how market discipline can reward strong charters: North Hills has been rated Exemplary or Recognized every year since its inception in 1997. In granting the school an investment-grade rating for \$5.8 million in revenue bonds, Moody's Investor's Service took note of its "trend of academic performance and financial operations to date," as well as its strong management and likelihood of renewal.¹⁰ Since that rating, North Hills has won a 10-year renewal.

The Charter Roundup

Texas is clearly in the big leagues of charter schooling. There are 194 operational open-enrollment charters—those approved by the State Board of Education (SBOE) and overseen by the Texas Education Agency (TEA). An additional 41 charters are sponsored by local school districts, for a total of 235 currently in operation. The SBOE has also authorized 12 additional charters for schools that are not yet operational.¹¹ Texas ranks fourth in absolute numbers of charters, behind California, Arizona, and Florida. The state, however, has 316 charter campuses, reflecting the fact that some of its charters operate at multiple sites. Thus, depending on how you count, Texas may or may not rank ahead of Florida's 258 charter schools. Interstate charter comparisons and rankings are difficult because each state has its own way of counting.¹²

- ❑ Texas charters serve more than 80,000 students, second in sheer number only to California's 153,000.¹³ But the state lags in terms of overall "market share." Just under 2 percent of Texas' 4.3 million schoolchildren attend charter schools, trailing the percentage attending such schools in Arizona, Delaware, the District of Columbia, and Michigan.¹⁴
- ❑ As in the rest of the nation, Texas charter schools are concentrated in big cities, especially Houston, Austin, San Antonio, and Dallas. But they can also be found in less-populated places like Beeville, Uvalde, and Waxahachie.
- ❑ Elementary-age children are the schools' biggest clients. As of 2002, approximately 60 percent of all Texas charter students were in grades K-8.¹⁵
- ❑ Texas elementary and high school charters tend to be smaller than the state's other public schools, averaging about 258 students per campus. They also feature small classes, with approximately 18 students each.¹⁶

- ❑ Despite their small size, Texas charter schools are more diverse than other public schools. More than 40 percent of the state's charter students are African-American, compared to just 14 percent in traditional schools. While the proportion of Hispanic students is roughly comparable (38 percent of charter school enrollments vs. 42 percent of district enrollments), there are far fewer white students in charter schools—just 20 percent compared to 41 percent in regular public schools.¹⁷
- ❑ Texas classifies 119 out of 316 charter sites as alternative schools because they serve at-risk students and the charter holder has applied to be rated under an alternative system.¹⁸ Yet even non-alternative Texas charter schools typically serve substantial numbers of disadvantaged students (57.6 percent of enrollment vs. 50.5 percent in other public schools).¹⁹

Special Populations

The most recent statistics from 2002 show that Texas charters enroll fewer students with disabilities and with limited English proficiency (LEP) than other public schools.

The gap is small but significant in special education (9.1 percent of charter school students vs 11.7 percent of students statewide).²⁰ Reflecting national data, these numbers raise the question of whether charter schools are fulfilling their federal obligation to students with disabilities. While some schools may be shirking their duty, the answer for most is more complex.

One recent study from Texas ascribed the disparity less to discrimination than to parental choice: "School officials reported that they describe their programs honestly to parents and then leave the enrollment decision to the family."²¹ The gap may also be linked to a Texas law that allows charter schools to deny enrollment to students with juvenile court adjudications or severe discipline problems (populations often marked by a high incidence of disability).²² Certainly,

the funding difference between charter and other public schools, discussed in more depth below, leaves charters less able than traditional schools to offer suitable services for students with severe disabilities.

The LEP enrollment gap between charter and traditional schools is larger and more puzzling. As noted above, although charters enroll nearly as many Hispanic students as do traditional schools, they serve less than one-half as many LEP students (6.8 percent of their enrollment vs. 14.5 percent in other schools). The gap, once again, could be a result of parental choice: Parents whose children are not yet proficient in English may simply prefer regular public schools. The gap could also reflect insufficiently energetic outreach by charters.²³

Staff

In Texas, as across the nation, charter school teachers tend to be younger and less experienced than those in traditional systems. More than one-half of Texas charter school teachers are under 35 years old, they have an average of 7.4 years in the classroom compared to 11.9 years among their district colleagues, and their \$29,343 average annual salary in 2002 was about \$9,000 less than that of teachers in traditional public schools.²⁴

Given that compensation level, it is not surprising that the annual teacher turnover rate in charters was more than three times higher than in traditional schools in 2002 (53 percent vs. 17 percent).²⁵

Educational researchers often cite teacher experience and low turnover rates as indicators of school quality. Yet in studying the dynamics of charter schooling, it is wise to look beneath the surface:

- ❑ What charter teaching staffs lack in experience, they often make up in energy and commitment to a school's mission. According to one survey, 91 percent of charter school teachers say they work in charters "to be involved in an educational reform effort."²⁶
- ❑ While turnover is common among charter start-ups and may signal financial difficulty or organizational disarray, it can also show that a school means business. Mainland Prep, a prekindergarten to eighth grade charter school in La Marque (a Houston suburb), had a 52.9 percent teacher turnover rate in 2001-2002. But the school

requires an unusual level of commitment and uses one-year contracts to grease the skids for teachers who do not excel. The no-nonsense policy seems to be paying off: Mainland Prep's most recent state accountability rating was Exemplary.²⁷

Oversight

The TEA oversees all charters authorized by the SBOE, and TEA's charter office has a good reputation in the business. In the one national study that specifically examined authorizing practices in chartering states, Texas scored near the top. The TEA won high marks for its rigorous and transparent application, approval, and renewal processes and for having an "overall consistent oversight system."²⁸

The TEA's charter office has roughly a 16:1 ratio of staff members to the schools it oversees. This figure is toward the high end among non-district charter authorizers, and it also counts staff borrowed from other parts of the TEA for specific assignments.²⁹ In light of the state's vast size, the office might already need additional resources; that will surely be the case when state-approved charters are allowed to expand.

The Texas Sunset Advisory Commission recently raised concerns about charter oversight in the course of a larger analysis of TEA's relationship with school systems, calling for more rigorous financial monitoring (especially in charters' first years of operation) as well as additional scrutiny of academic performance. While taking issue with some overstatements by the commission (such as raising concerns about overpayments in per-pupil funding routinely corrected after attendance audits), TEA responded that it would need new statutory authority to impose more timely sanctions on charter schools and districts for non-academic problems.

To its credit, the agency also resisted the commission's proposal to drastically step-up monitoring of charter schools' current financial transactions, saying: "This type of intervention would require substantial field work, a major expansion of staff, and a significant intrusion into daily charter school affairs."³⁰ It went on to suggest more oversight from charter boards themselves—a good preventive against more top-down measures.

Overall, TEA seems headed in the right direction. For example, development of a new performance-based monitoring system for all public schools, including charters, can bring better coordination across

divisions and focus evaluation on indicators of student performance and program effectiveness. Indicators will include fiscal compliance, state and federal accountability ratings, complaints, and previous compliance history.³¹

Regrettably, there is sparse information by which to judge the oversight practices of non-state charter

authorizers in Texas. However, with the advent of new, peer-developed principles and standards for authorizer practice recently released by the National Association of Charter School Authorizers, charter schools and the SBOE will have a roadmap for judging whether oversight by TEA and school districts alike is effective and evenhanded.³²

The Law

Texas school reform drew national attention in the 1980s when businessman H. Ross Perot led efforts to enforce tough standards through such measures as “no pass, no play.” However, there were also sustained efforts at decentralization, with Democratic Gov. Ann Richards introducing site-based management to put more power in the hands of parents and teachers at the campus level.³³ The 1995 sunset of the Texas Education Code, and the presence of incoming Republican Gov. George W. Bush, gave new impetus to decentralization efforts. The new education code that emerged moved significant authority from the state to local districts and included a charter school provision that enjoyed bipartisan support.

The 1995 charter provision was modest in scope, authorizing the State Board of Education (SBOE) to create just 20 open-enrollment charter schools and allowing local school districts to approve an unlimited number of charters. Since then, there have been two major revisions to the statute.

In 1997, the Legislature opened the floodgates by allowing 100 additional open-enrollment charters plus an unlimited number of schools that would serve populations that were at least 75 percent at-risk. Sponsors saw this as a way to rapidly expand opportunity for the most underserved students in the state. It also created a new category of at-risk charters held accountable for performance according to the less-demanding criteria for alternative schools. Since their clientele would be drawn from historically lower-

achieving groups, it made some sense not to evaluate the schools against the performance of more affluent and less troubled students.

The criteria for “at-risk of dropping out” named in Sec. 29.081 of the Texas Education Code, however, include everything from pregnancy, to limited English proficiency, to prior attendance in an alternative program (a particularly circular way of establishing risk).³⁴ The criteria lend themselves to subjectivity and, as a result—although it is difficult to prove—there is a growing belief that some charter schools volunteer for the designation simply to evade stringent accountability standards.

As for district-approved charters, only a handful of districts have exercised their rights under the law. Among them is the Houston Independent School District, which has fully used the chartering opportunity, creating a robust portfolio of 26 schools in addition to the 50 open-enrollment charters that operate in the Houston area. Additionally, the San Antonio Independent School District has authorized 10 district-approved charters.

In response to a flurry of scandals and premature closures in 1999-2000 (see the Legacy section on p. 18), the Legislature adopted sweeping new restrictions in 2001. House Bill 6 formally eliminated the category of at-risk schools but still allowed charters (like other public schools) to self-designate as alternative schools if they serve an undetermined number of at-risk students. The 2001 amendments folded the former at-risk charter category into a higher common cap of 215 for all state-approved charters, and allowed for an unlimited number of

At-Risk vs. Alternative Charters

In 1997, when the Texas Legislature opened the door to unlimited chartering of schools whose enrollment was at least 75 percent at-risk of dropping out, a new category of at-risk charters came into being. That category lasted only four years; in 2001, the Legislature ended unlimited chartering of at-risk schools and folded the existing at-risk charters under the statewide cap.

Charter schools, however, can still petition the Texas Education Agency to be evaluated as alternative schools if they serve at-risk students. There is currently no minimum percentage required for this designation, although the Commissioner is expected to adopt one in 2005. Students in alternative schools take the same state tests, but have been subject to far less-demanding performance standards. New alternative accountability plans are currently being developed.

Table 1: Texas Charter School Law Overview

GENERAL STATISTICS	
Number of Charters Allowed	215 state-approved charters; no cap on district-approved charters and those started by public four-year colleges or universities.
Number of Charters Operating (November 2004)	194 state-approved and 41 district-approved charters, for a total of 235 charters, operating on 316 campuses
APPROVAL PROCESS	
Eligible Chartering Authorities	State Board of Education and school boards of traditional districts
Eligible Applicants	Institutions of higher education, nonprofit organizations, governmental entities
Types of Charter Schools	Converted public, converted private or parochial, new start-ups
Appeals Process	None for state-approved charters; local districts may set their own policies.
Formal Evidence of Local Support Required	For state-approved charters, State Board may require applicants to hold a public hearing; applicants must mail a statement of impact form to all school districts within the proposed geographic boundaries of the charter. For conversion of traditional public schools, a majority of teachers and parents must support conversion.
Recipient of Charter	Governing board of nonprofit agency, governmental entity, college, or university
Term of Initial Charter	Five years for state-approved charters
OPERATIONS	
Automatic Waiver from Most State and District Education Laws, Regulations, and Policies	Some state laws do not apply to charter schools; other exemptions may be determined by the commissioner.
Legal Autonomy	Yes
Governance	Governing board is restricted to individuals with no substantial interest in a management company; the commissioner has issued rules regarding training of governing board members.
Governing Body Subject to Open Meeting Laws	Yes
May Charter School be Managed or Operated by a For-Profit Organization?	Charters may not be granted to for-profit organizations, but the charter holder may contract with them for services.
Transportation Requirements	Neither traditional public schools nor charter schools are required to provide transportation for students, except for Special Education students whose Individualized Education Program requires that; many charters do provide transportation.
Facilities Assistance	None, except for a nonprofit corporation established to help issue bonds to eligible charters
Technical Assistance	Texas Education Agency does not provide technical assistance; charters can contract on a fee-for-service basis with Educational Service Centers; charters do receive free technical assistance from nonprofit entities, such as the Resource Center for Charter Schools.
Reporting Requirements	Charters must participate in state's Public Education Reporting System; commissioner has designated an impartial annual evaluation of open-enrollment charter schools.

FUNDING	
Amount	State funds are guaranteed based on Average Daily Attendance.
Path	Funds flow directly from the state to state-approved charters; funds pass through the districts to district-approved charters.
Fiscal Autonomy	Yes
Start-up Funds	Federal funds available; no state start-up funding
TEACHERS	
Collective Bargaining/District Work Rules	Teachers at state-approved charters work independently; teachers at district-approved charters remain part of the district.
Certification	Not required unless specified in charter
Retirement Benefits	Eligible charter school teachers must participate in the state's retirement system.
STUDENTS	
Eligible Students	Students in geographic area specified in charter, except that charters may specify that students with juvenile court adjudications or documented history of serious discipline problems are not eligible.
Preference for Enrollment	For state-approved charters, charter holder may give preference to siblings as stated in the charter; for district-approved charters, district residents may have preference.
Enrollment Requirements	None
Selection Method (in case of overenrollment)	State law requires lottery or "first come/first served"
Accountability	Charters must participate in statewide testing system in which scores are publicly reported.
OTHER FEATURES	
Additional Reporting Requirements	Commissioner is required to report to legislators in districts where a charter school is being sought.
Zoning Requirements	Local zoning requirements apply; zoning requirements may be stricter for charter schools in municipalities with populations of more than 20,000.

SOURCE: Center for Education Reform; Resource Center for Charter Schools; updates provided by author; and PPI staff research.

charter schools sponsored by four-year public colleges and universities.

House Bill 6 tightened state oversight of charter schools in other areas, requiring operators to comply with local procurement rules; move state funds into approved investment categories; formalize delegations of authority by boards; adopt stricter anti-nepotism rules; run background checks on prospective board members; and eliminate conflicts of interest between charter boards and education management firms.³⁵

One beneficial feature added to the law by House Bill 6 is the requirement that the Texas Education Agency's

20 regional Education Service Centers (ESCs) provide the same level of services to charter schools and traditional schools. Representatives of state-approved charters also sit on ESC boards as non-voting members.³⁶ The ESCs provide mandated training to charter boards and top management as well as other services on a fee-for-service basis. According to the nonprofit Texas Center for Educational Research, more than 70 percent of at-risk and other charters draw on ESCs for help with professional development, technical assistance on instruction, and assistance dealing with the state's complex Public Education Information Management System.³⁷

Student Performance

Are Texas charter schools improving student performance? The answer is a qualified yes. There is reason for encouragement if you look at the whole picture rather than the snapshot. Some charters are doing spectacular work and deserve all the applause they get. A few are failing, however, and should be shut down. Overall, charter schools are currently behind other public schools in average performance, but are making impressive gains and closing the gap.

It is hazardous to make sweeping generalizations about Texas charter school performance due to the range of intent and outcomes in this diverse category of public schooling. It is harder still to give a single definitive answer in Texas. Although evidence abounds, it is more fragmented than in many other states. Headlines about Texas charter school performance usually concern only state-approved charters, leaving aside the sizeable group of charters authorized by local school districts, and examine only those evaluated through the regular accountability system, neglecting those in the alternative system.

An additional wrinkle has been added in the past couple of years: As the state overhauls its accountability system, the tests have changed, the reporting categories have changed, and the ratings schedule has been interrupted. No ratings were issued in 2003 for either the regular or alternative accountability system, and there were no ratings in 2004 for either traditional public or charter schools in the alternative system.

Texas Center for Educational Research Annual Evaluation

Let us begin with the granddaddy of charter assessments in Texas, the annual evaluation of open-enrollment charters produced by the Texas Center for Educational Research (TCER), an independent nonprofit research agency whose trustees are appointed jointly by the Texas Association of School Boards, the Texas Association of School Administrators, and the State Board of Education. Although based largely on 2001-2002 data, its most recent report in 2003 is especially useful, as it examines six years' worth of data and identifies trends as well as current outcomes wherever possible.

There is some harsh news for charter supporters among TCER's 2001-2002 findings, yet the report demonstrates the importance of looking at progress over time:

- ❑ "Traditional public schools outperform charter schools on both standards and alternative education rating categories."³⁸
- ❑ "Outcomes for charter school students enrolled in secondary schools are discouraging. Compared to analogous state comparison group averages, charter school students in grades seven through 12 have lower course completion rates, lower

A Note about Texas Assessments

Charter school results discussed in this report refer to performance on the Texas Assessment of Academic Skills (TAAS), the former system of state tests. The new Texas Assessment of Knowledge and Skills (TAKS) was implemented beginning in the spring of 2003 and is the basis for 2004 accountability ratings. No ratings were produced by the Texas Education Agency (TEA) in 2003, owing to the transition between assessment systems. The TAKS, according to the TEA, is "designed to reflect actual classroom practice by attempting to ask questions in more authentic ways" and requiring students to demonstrate higher-order thinking skills. It covers more subjects than the TAAS and is considered a more demanding regimen of assessments.

SOURCE: "Third grade students tackle the TAKS in the second wave of testing administrations," *Texas Education Today*, vol. XVI, no. 2, March 2003.

performance on end-of-course exams, lower attendance rates, and higher dropout rates ... ”³⁹

- “Yet TAAS performance across years indicates that although charter school passing rates are considerably below statewide rates, charter schools are closing the achievement gap with traditional public schools.”⁴⁰
- “Continuous enrollment in charter schools appears to positively influence academic performance, with students making strong gains in the second or third year of charter school enrollment ... ”⁴¹

Because the tests have changed since TCER’s report, it is difficult to make direct comparisons to current performance. Yet, it is clear that an overall gap remains between charters and other public schools in terms of current performance. A recent analysis by *The Dallas Morning News*, for example, found an overall 42 percent pass rate on the 2004 Texas Assessment of Knowledge and Skills (TAKS) among charter students, compared to a 67 percent pass rate for all public school students.⁴² But as we shall see, new data confirm TCER’s view that charters are closing the gap.

National Studies

Two recent national studies of charter schools, using similar methodology, include substantial analyses of Texas, yet come to very different conclusions.

Harvard economist Caroline Hoxby has conducted, arguably, the most comprehensive evaluation of charter school performance nationally, making direct comparisons on reading and math tests between 99 percent of charter school fourth graders and their peers at the nearest and most similar district schools.⁴³ The results of the study were positive. Nationally (and for the large majority of states studied), charter students were 5.2 percent more likely to be proficient in reading and 3.2 percent more likely to be proficient in math on state exams.

Texas was one of the few exceptions. While there was no statistically significant difference in reading performance, Texas charter fourth graders were 6.8 percent less likely than their peers to be proficient in math on the 2003 TAKS.⁴⁴

Analyst Jay Greene of the Manhattan Institute came to quite a different conclusion, however. His national study, *Apples to Apples*, directly compared schoolwide testing results between charters and nearby traditional schools

during a period of two years.⁴⁵ The most strongly positive results were found in Texas. The study focused on “untargeted” charter schools—that is, general enrollment charters that by their own description do not serve specific populations such as at-risk students. Greene found that students in general-enrollment charters “are able to make significantly greater progress on standardized test scores than their regular public school counterparts.”⁴⁶

Both the Hoxby and Greene studies examined charters in comparison to their direct competitors, namely, nearby public schools with similar demographics. Their seemingly conflicting conclusions hinge on the student populations studied. Hoxby’s work included many more alternative schools that serve at-risk youngsters and are not included in the standard Texas accountability system.

The Long View

Charter schools that start from scratch usually take a while to get their footing, and it is well known that students who move to a new school often experience a decline in performance. That is why it is important to remember that when a state’s charter sector is growing, some proportion of each year’s data will come from schools that are in their first or second year. As recent studies suggest, charter performance improves as the schools mature.⁴⁷

A 2002 study found that students in Texas’ state-approved charters showed smaller test score gains than if they had remained in traditional public schools, but that these negative effects diminish as charter schools gain operating experience. The differences from traditional public schools become statistically insignificant for charter schools operating for three or more years.⁴⁸

Similarly, a 2001 study by two economists at Texas A&M University found that students who stayed in the same at-risk charter school for three years overtook the performance of at-risk students in traditional public schools.⁴⁹

Making Gains

Some of the most striking evidence that the gap is closing comes from the Texas Education Agency’s (TEA) annual accountability ratings.⁵⁰ They show that the academic performance of Texas charter schools improved sharply between the prior and current ratings periods. This is especially significant given the substantial growth in the number of schools rated: 129 charter schools rated

in 2004 vs. 95 in 2002.⁵¹ (With so many new schools in the sample, one might expect the average to plummet.) Additionally, the 2004 ratings come at a time when the state has “significantly raised the bar” because of the more difficult TAKS assessment, according to State Commissioner of Education Shirley J. Neeley.⁵²

- ❑ In the 2002 ratings, 57.5 percent of state-approved charter campuses were rated Acceptable or higher, compared to 98 percent of all public schools. In the 2004 ratings, 77.4 percent of state-approved charters earned the new rating of Academically Acceptable or better. This cuts in one-half the gap between charters and all public schools.⁵³
- ❑ Charter schools also held their own in the upper-echelon ratings, while tougher state standards resulted in a substantial drop in such ratings for traditional public schools. In 2002, 26 percent of state-approved charters were rated Exemplary or Recognized, compared to 66 percent of all public schools. In 2004, 23 percent of charter campuses won the top designations, while only 39 percent of all public schools earned such ratings.⁵⁴

These TAKS results recently released by TEA show dramatic improvement, closing the gap between charters and other public schools even further. Gains in current performance were strong for schools serving both predominantly at-risk youth and those serving an average student population.

As Table 2 shows, charter schools have posted double-digit gains in passing rates in almost all subjects on the TAKS battery. Some of the leaps are remarkable: Schools serving at-risk students, for example, cut the writing performance gap with district schools in one-half, from 23 points in 2003 to 12 points in 2004. In social studies, the general-population charters closed the gap with district schools from 10 points to four points. The trend of improvement over time seems heartily validated by these results.

Other Indicators

Another recent state source, TEA’s 2002 Comprehensive Annual Report on Texas Public Schools, also contained encouraging news about other aspects of charter growth.⁵⁵ For example, while the four-year high school graduation rate for charter schools (30 percent)

Subject Area	Not At-Risk Charters			At-Risk Charters ^a			School Districts ^b		
	2003	2004	Change	2003	2004	Change	2003	2004	Change
Reading/English Language Arts	72%	80%	8%	55%	66%	11%	79%	86%	7%
Mathematics	53%	65%	12%	31%	40%	9%	70%	76%	6%
Writing	73%	88%	15%	60%	79%	19%	83%	91%	8%
Science	41%	56%	15%	22%	40%	18%	60%	73%	13%
Social Studies	76%	87%	11%	55%	72%	17%	86%	91%	5%
All Tests Taken	44%	58%	14%	26%	36%	10%	59%	68%	9%

^aCharters with 51 percent of students or more at risk of dropping out of school. ^bExcludes charter schools.

NOTE: English-version Texas Assessment of Knowledge and Skills, grades three through 11 (Sum of All Grades Tested, Accountability Indicator).

SOURCE: Texas Education Agency Division of Charter Schools, December 2004.

remained far below the 82 percent rate for all Texas school districts (possibly reflecting the high incidence of at-risk charters), the overall charter graduation rate nearly doubled in the prior two years.

Additional findings are worthy of more attention and study. While TEA does not issue separate studies on each city's district-approved charters (they are folded into the overall ratings), they should not go overlooked. Houston has the largest number of these, and in 2004, 35 percent of its charters evaluated through the regular accountability system earned Exemplary or Recognized ratings. All but one of the rest were rated Academically Acceptable.⁵⁶

The Alternative Story

Since so many Texas charter schools are explicitly designed to serve at-risk students and are evaluated through the alternative rating system, it is important

to glean what we can from these ratings as well. Currently, there are no alternative accountability ratings for traditional public or charter schools. The system is being revamped, but there will have been a three-year hiatus when the next ratings are published later this year.

Looking back at the 2002 ratings, a pattern emerges similar to that in the standard accountability system: a large but narrowing gap in performance. In 2002, 94 percent of all Texas public schools in the alternative system earned Commended or Acceptable ratings—the top two categories—whereas only 61 percent of charter schools in the alternative system made it into that range.

However, between 2000 and 2002, the charter schools showed strong upward movement (again, despite a large expansion in the number of schools studied). In 2000, 73 percent of alternative charters scored in the bottom tier, Needs Review. By 2002, only 39 percent of the schools remained in that category.⁵⁷

Five Charter Challenges

1. Legacy

Texas politics is a contact sport, and charter foes gained plenty of yards during the movement's early history. Some anti-charter vitriol is purely partisan, and some see charters as part of a larger conspiracy against public education. (Then-Gov. George W. Bush's support of the 1995 law is still cited on some charter critics' websites as if he had alighted, charters in hand, from a black helicopter.)

That said, the movement in Texas today still suffers from the defects of mid-1990s practices—especially a boom-and-bust approach to authorizing. Although 10 states had already passed charter laws before 1995, the Texas law seemed rather tentative, allowing just 20 open-enrollment charters for the entire state and unlimited district-authorized charters.⁵⁸ The quota was filled on an almost first-come, first-served basis, with just 23 applications for the 20 spots making it to Austin by the deadline.⁵⁹

If the 1995 law amounted to drilling for oil with a corkscrew, the 1997 amendments produced a gusher that spewed debris along with high-quality crude. Certainly, a strong case could be made for quickly moving to statewide scale. But in acting too hastily, the integrity of the process was compromised.

The Texas Education Agency's (TEA) Charter School Division did its best to keep up with increased demand created by the 1997 law, moving to a more sophisticated application review process that included scoring rubrics and a budget template. In March 1998, the State Board of Education (SBOE) approved 41

of the 86 charter applications received.⁶⁰ But according to John Stevens, executive director of the charter-friendly Texas Business and Education Coalition (TBEC), there was "considerable pressure on the board to fill all 120 open-enrollment charter slots and approve at least some at-risk charters before the Legislature reconvened in 1999."⁶¹

Accordingly, the SBOE moved up the next round of applications from the spring of 1999 to the fall of 1998—and then approved 84 out of 109 applications received, including 25 at-risk charters. Another 25 at-risk charters were granted before the 1999 legislative session. The SBOE also ceased doing face-to-face interviews with applicants, relying instead on evaluations of the written proposals by a 45-member committee appointed by the board and the state education commissioner.⁶²

The 1997 amendments not only boosted chartering in general, but also rapidly filled the new category of at-risk charters. The number of open-enrollment charter schools expanded from 19 in 1997-1998 to 89 in 1998-1999, but nearly two-thirds of the new schools had more than 75 percent at-risk students—meaning that they could apply to be rated under the Alternative Education accountability system.⁶³

Of the 238 state-approved charters that have been awarded since 1996, five have been revoked and 26 have been voluntarily returned or allowed to expire. Fourteen of these were for schools that never opened. (In two cases, the charter founder died and the charters were returned voluntarily.) Overall, 20 charter schools

have closed due to "acute financial problems," according to a recent state report.⁶⁴ Of the 31 charters that have been revoked, returned, or have lapsed, 24 were from the third generation granted in 1998-1999, soon after the 1997 legislation took effect.

For all their notoriety, it should be stipulated that a substantial majority of third-generation charters have thrived: Approximately two-thirds of them earned at

From Generation to Generation

Most states keep track of charter schools by the year the charter was awarded or when the schools opened. Texans, however, discuss charter schools in terms of generations. This practice dates to 1998, when the State Board of Education moved the spring 1999 approval cycle ahead to the fall of 1998. Having approved groups of charters in 1996, 1997, and early 1998, the next group in line constituted a fourth generation and the others were named accordingly. Charters awarded in 2004 are the 10th generation in this line.

Texas House Bill 6: 2001 Reform of the State's Education Code

Sec. 12.1053. APPLICABILITY OF LAWS RELATING TO PUBLIC PURCHASING AND CONTRACTING

(a) This section applies to an open-enrollment charter school unless the school's charter otherwise describes procedures for purchasing and contracting and the procedures are approved by the State Board of Education.

(b) An open-enrollment charter school is considered to be:

(1) a governmental entity for purposes of:

(A) Subchapter D, Chapter 2252, Government Code; and

(B) Subchapter B, Chapter 271, Local Government Code;

(2) a political subdivision for purposes of Subchapter A, Chapter 2254, Government Code; and

(3) a local government for purposes of Sections 2256.009-2256.016, Government Code.

(c) To the extent consistent with this section, a requirement in a law listed in this section that applies to a school district or the board of trustees of a school district applies to an open-enrollment charter school, the governing body of a charter holder, or the governing body of an open-enrollment charter school.

SOURCE: Texas State Legislature, 2001, <http://www.capitol.state.tx.us>.

least an Acceptable rating from TEA in 2004. One-third of them, however, did not. And seven of those rated Academically Unacceptable in 2004 also earned the lowest rating in one or both of the prior ratings periods. And these data do not take into account the majority of charters from this vintage that are part of the alternative accountability system and have had no ratings since 2002.

Commendably, TEA's charter division has toughened the start of the chartering process. Its applicant orientations draw plenty of aspiring charter operators, but the sessions are so comprehensive that many decide not to apply once they see how tough it is to open a charter school.⁶⁵

2. Overregulation

Across the country, a clear pattern has emerged in state regulation of charter schools: A few schools misbehave and legislatures respond with a blunderbuss. In this way, Texas is no exception. Although the amendments adopted in 2001 were well-intended and helped restore public confidence, they also subjected charter schools to paperwork burdens disproportionate to their size and unrelated to their performance.

House Bill 6, the 2001 Texas education reform bill, is an unusually fine example of the re-regulatory genre, setting sweeping new rules for all charter schools to correct the deficiencies of a few. Consider, for example, the excerpt from the legislation shown in the insert above. The result is that a small nonprofit

organization known as a charter school must also function as two different kinds of governmental entities, and be subject to legal requirements that were written for traditional public school districts, not single campuses.

House Bill 6 directs the state education commissioner to create what is essentially a regulatory steeplechase for charters. TEA's website features a "Special Supplement to the Financial Accountability System Resource Guide" that, in 78 densely-packed pages, enumerates charter schools' financial reporting and compliance requirements.⁶⁶ Because the law treats charter schools like school districts, they must follow elaborate accounting procedures including a complex chart of accounts. All of this comes on top of other mandatory reporting requirements regarding federal grants and data entry into the PEIMS (Public Education Information Management System) student information system.

Although the original Texas statute arguably lacked sufficient teeth to prevent scoundrels from taking advantage of charter school autonomy, the pendulum has now swung too far in the opposite direction. According to Ted Neeb, a certified public accountant whose firm conducts audits of school districts and who has personally trained charter school boards on their fiduciary responsibilities: "Schools that used to have one person doing their books are now having to hire not only a bookkeeper but also a PEIMS coordinator and other staff to handle the paperwork. Some are contracting with other firms just to do their PEIMS reporting."⁶⁷

Legislation adopted in 2003 attempted to rein in TEA's paperwork demands on both charter schools and traditional public school districts, specifying that "[t]he board of trustees of a school district or the governing body of an open-enrollment charter school has primary responsibility for ensuring that the district or school complies with all applicable requirements of state educational programs."⁶⁸ Yet the regulatory burden borne by individual charter campuses remains heavy.

3. Murky Accountability

Charters have been part of the well-regarded Texas accountability system from the start. The system is particularly well-suited to the special circumstances of charters in some respects, for example, providing them with a start-up year of operation before their first rating.

The system is being overhauled due to the new Texas Assessment of Knowledge and Skills (TAKS) assessments and the requirements of the federal No Child Left Behind Act (NCLB). For advocates of high-quality chartering, it is good to know that TEA is also looking closely at the alternative accountability system, which until now has been far too attractive to Texas charter schools.

Imprecise Alternatives

The Texas Alternative Education accountability system may function as intended for most traditional public schools, with just 1.1 percent of 7,300 district campuses participating statewide. Judging by the numbers, the system seems appropriately limited to schools whose students are truly the hardest cases.

But it has become too comfortable a haven for charter schools. Although they serve larger percentages of minority and disadvantaged students than the traditional system, it is hard to argue that nearly 43 percent of all Texas charter schools belong in the alternative system.⁶⁹ That is a significant drop from two years ago, when a whopping 53 percent of charters were in the alternative system, according to the Texas Center for Educational Research (TCER).⁷⁰

As it has worked up, the system has lowered the bar too far and too easily. Schools have simply requested the designation, and there has not been a firm threshold for the percentage of at-risk students needed to qualify. (The TEA's current review is expected to result in announcement of such a threshold early in 2005.)

In 2002, the regular accountability system required an average passing rate of 90 percent on each Texas Assessment of Academic Skills (TAAS) test for an Exemplary rating, and a passing rate of 55 percent in each subject area for a school to earn an Acceptable ranking. The 2004 accountability standards have been modified with the advent of the tougher TAKS assessment system. While the top rating still requires a 90 percent passing rate in all subjects tested, the new category of Academically Acceptable includes a range of passing rates whose lower thresholds reflect the increased difficulty of the assessments.⁷¹

By comparison, in the last version of the alternative accountability system, a 30 percent passing rate could qualify schools for an Acceptable rating as well as the higher-quality Commended rating, provided schools also achieve significant growth and report one other factor, such as course completion. This begs a question: Once a school has received an alternative designation, what incentive

Table 3: Category Requirements of Texas' Accountability Rating System

Standards for 2004 Ratings	Passing Rates on State Assessments	4-Year Completion Rate (High School Only)	Dropout Rate (Grades 7-8 Only)
Exemplary	90% passing in every subject	95%	0.2% or less
Recognized	70% passing in every subject	85%	0.7% or less
Academically Acceptable	--	75%	2% or less
Reading	50% passing	--	--
Writing	50% passing	--	--
Social Studies	50% passing	--	--
Math	35% passing	--	--
Science	25% passing	--	--

SOURCE: "2004 Accountability Manual," Texas Education Agency, 2004, <http://www.tea.state.us/perfreport/account/2004/manual>.

does it have to shoot for a 90 percent passing rate? Gilbert Moreno, founder of the George I. Sanchez Charter School, warns that schools winning the alternative designation may come to regret it because it labels their students as coming from a less-demanding school.⁷²

There is troubling evidence of perverse incentives on both sides of the charter/non-charter divide. Even as district educators question the quality of nearby charter schools, they also face incentives to refer at-risk students to those same schools with increasing frequency. The TCER raises an important question: “Are at-risk students in traditional public schools being counseled into charter schools to improve accountability ratings?”⁷³

Growth

One thing the 2002 accountability system did right was to incorporate a growth measure on what was then called the Texas Learning Index (TLI), a score that indicated how far students’ performance was above or below the passing standard, and facilitated year-to-year comparisons of students’ academic performance and growth. This allowed Texas public schools to earn a Commended rating despite poor current test scores and gave credit to schools that got good results with initially low-performing students. This was purely a campus-level measure, and it is welcome news that TEA is now considering adding a new, student-based growth measure to its alternative accountability system.

Recognizing schools for achievement growth, not simply for attainment of a particular standard, should be an important component of any accountability system that serves a wide range of schools. It provides an important “carrot” for high-performing schools to continue moving ahead. It also gives charter schools serving high-risk populations a strong incentive to move to the main system, eliminating suspicions that they are unwilling or unable to meet high performance standards.

4. Finance

Texas is embroiled in an epic school finance struggle that revolves almost exclusively around traditional public schools. In a 2004 special session, legislators considered whether to alter the “Robin

Hood” system that redistributes funding from wealthy to needy districts, but they reached no resolutions. Late in 2004, a court ruling gave Texas legislators until October 1, 2005, to develop a new system that addresses inequities and shortfalls in school funding.⁷⁴ Meanwhile, the Legislature has paid little attention to the financing of charter schools, which by any definition are denied “adequacy” under the current state funding system.

Although the state’s charter statute appears to provide charter schools with the same per-pupil funding as other public schools, analysts agree there is a sizable gap, even if they differ about its exact magnitude. According to one analysis by TCER, in 2001-2002, combined local, state, and federal revenues available to all types of charter schools were \$6,762 per pupil—nearly \$1,100 less per pupil than in traditional public schools. The gap was smaller (about \$650 per pupil) for charters serving mostly at-risk students.⁷⁵

Texas charters spend nearly twice as much on operations (e.g., transportation, food services, etc.) as do traditional schools—a sure indicator of the need for economies of scale as the movement grows. Even so, Texas charters still manage to spend a higher percentage of their budgets on instruction than traditional public schools (51 percent vs. 45 percent).⁷⁶

The state’s charter schools got some long-overdue good news in December 2004, when the TEA announced that it would correct a formula error that had understated the number of weighted students for whom charter schools received credit, and recalculate 2003-2004 funding on the new basis. This decision will move charters a little closer to funding equity—at least for their operating budgets.⁷⁷

Facilities Funding Shortfall

Charter schools face an immense challenge paying for facilities. Texas has no dedicated source of revenue to help them rent, buy, or renovate their buildings. As a consequence, they must divert revenues that should be paying for instruction to capital needs.⁷⁸

The lack of a charter facilities allotment cripples the state’s ability to leverage other resources. Charters would find it easier to obtain mortgages and renovation loans if they had a consistent stream of facilities revenue, which in turn would multiply the power of every tax dollar spent.

The U.S. Congress has enacted a State Charter School Facilities Incentive Grant Program that provides competitive grants to states that offer formula-based per-pupil aid to support charter facilities.⁷⁹ The grants provide up to a 90 percent match for state funds in the first year, and can be used for everything from guaranteeing bond debt to helping finance long-term leases. In the initial round of grants, California was awarded \$9.85 million, a first installment that might eventually total nearly \$50 million over five years.⁸⁰

In an effort to secure this much-needed federal revenue, Texas charter supporters, led by Phil Montgomery, a Dallas business leader, and Rosemary Perlmeter, a founder of North Hills Charter School, raised the majority of \$593,000 in private funds to bolster the TEA's grant application to the U.S. Department of Education in June 2004. The application was unsuccessful, however, largely because the state had not yet enacted facilities aid. The federal Department of Education is expected to make additional awards in 2006. If the Texas Legislature enacts facilities aid, Texas charter schools will have a chance for federal matching funds in 2006.

In spite of all this, a 2001 study found that Texas "charter schools are cost-efficient. On average, they achieve a given level of student performance at a lower expenditure per student than would be predicted for a comparable traditional public school district."⁸¹

5. Scale

Texas boasts more than 20 million residents, with another 5 million expected by 2010.⁸² Innovation has to spread like prairie fire in order to have an impact in a state this size. But with only 313 campuses, charters remain a speck in the vast Texas education landscape.

Why has the charter movement not "gone to scale?" First, let us be clear. Going to scale is not the same as "opening the spigot." That was tried in 1998 with Texas' third generation of charters.

When entrepreneurs talk about scaling up, they mean reproducing a model that worked so well initially that the logic of replication becomes irresistible. The next step is to find the right markets, the right people, and enough capital to launch more and more successes.

There is no question about demand for more good charter schools. Parents are ready to fill the available spaces. Austin's Not Your Ordinary School, with a current enrollment of 406 students, reports a waiting

list of more than 1,500.⁸³ But the ability to serve new clients is inhibited by several institutional factors.

The Cap

Under current law, there can be no more than 215 state-approved charters at any time. While Texas has not yet hit the ceiling, it is uncomfortably close, with only 14 charter slots currently available for new applicants. In fact, if all but 17 of the charters awarded since 1996 had opened and thrived—that is, if Texas had a closure rate comparable to other states—the cap would have been met by now.

Unless the cap is lifted, open-enrollment charters will not be a source of growth. But the law permits other avenues that have largely gone unexplored.

District Leadership

Locally approved charters are not subject to the open-enrollment cap and are a logical source of additional growth. But there are just 41 of these so far—including 26 in Houston and 10 in San Antonio. The combined enrollment in district-sponsored charter schools is just under 18,000 students this year, out of nearly 80,000 charter students statewide.⁸⁴

It is tough for a school board to create its own competition. Indeed, in some states where districts are virtually compelled by open-ended laws to approve charter petitions, relationships between schools and their sponsoring districts have gotten ugly. But it does not have to be that way. More and more cities see the merits of a portfolio approach to public education, in which the district owns and operates most schools but also uses chartering to meet specific challenges or serve special student populations, help transform the overall system, or simply to expand the number of choices available to parents. But in truth, few school districts nationwide—only Houston, Chicago, Milwaukee, and San Diego—have fully embraced the portfolio approach.

Visionary leadership has driven each of these initiatives. So long as Texas districts see charters as something imposed on them by the state, they will be unable to harness their energy to achieve long-term goals.

College and University Charters

In 2001, Texas created another category of uncapped charters. The SBOE can grant charters to

four-year public colleges and universities to operate schools on their campuses or in the same county, provided that the schools use innovative teaching methods and are supervised directly by experienced college faculty.⁸⁵

In 1997, the University of Texas at Austin (UT-Austin) obtained a charter to create the University Charter School through its Continuing and Extended Education Division, and set up charter campuses at 16 residential treatment facilities and similar social-service sites across Texas. Its campuses, overseen by a managing board under the direction of UT-Austin, serve teenage mothers, abused and neglected children, and other students with extraordinary challenges. At a shelter for battered women, for example, students can attend school without separation from their mothers, free from the stigma that might follow them in traditional schools. Since 1998, University Charter

School has served more than 3,000 students, most of whom subsequently returned to full-time schooling in other public or private schools.⁸⁶

Unfortunately, there are only two university-based charter campuses that serve general student populations under the uncapped provision: an East Austin elementary charter opened by UT-Austin in 2003 and one of the 16 campuses belonging to UT-Austin's 1997 charter group.⁸⁷

Few colleges and universities nationwide operate their own charter schools. Some fear "mission creep," while others have bowed to pressure from charter foes (for example, district superintendents who threaten not to hire graduates from their schools of education). But the opportunity for collaboration should override these concerns. Other great Texas universities should use their chartering ability as creatively as UT-Austin has done.

Recommendations

Make Accountability More Meaningful

Charter schools need what all public schools need: a single accountability system that incorporates both demanding standards and measures of growth toward desired outcomes. The current Texas system makes an arbitrary distinction between schools that serve at-risk and “regular” kids. The public deserves to know whether any school, whatever its clientele, is challenging students to the best of their abilities.

Having deferred the 2004 ratings for alternative schools, the Texas Education Agency (TEA) is now looking at ways to improve the system itself. It should consider two strategies in tandem: Sharply reduce the number of charter schools that are evaluated in the alternative system by defining at-risk students more clearly; and incorporate measures of student-level achievement growth into the accountability system for all schools.

□ **Reduce Risk**

As discussed above, it makes sense to give schools credit when they serve troubled students failed by the traditional system. However, letting a subjective and open-ended definition of at-risk serve as an escape route for accountability benefits no one—least of all the students.

There is a small population of students in every jurisdiction who, in a given year, cannot be expected to meet demanding academic standards due to handicapping conditions or recent migration. Even the standards-heavy federal No Child Left Behind Act (NCLB) recognizes this and permits modest exceptions or delays in holding these groups accountable. Educators and policymakers have wrangled for the past three years about just how broad the exception should be for students with disabilities, who might be given an alternate test if the general test is patently useless for gauging their development.

The current loose approach to defining risk is unkind, unsupportive, and pernicious. It says some

students cannot learn because they are poor, have gotten into trouble, or were not challenged in their last school. Every day, the best charter schools are convincing these kids that they can overcome these risks. And every year, such kids are heading off to college.

These excuses should be deleted from the law. Exceptions to general accountability should be drawn far more specifically—and the burden of naming which kids cannot make it should rest on those who prefer the status quo.

Once the criteria for at-risk students are redefined, TEA should require that any school seeking evaluation under the alternative system meet a threshold percentage for students from all such groups combined. The threshold should apply to all public schools, including charters; there should be no incentive for any one type of school to join.

Finally, the ratings themselves should be revisited. The current alternative system contains performance standards that seem peculiar to an outsider. It is difficult to fathom why the same low 30 percent passing rate should qualify a school for both Acceptable and Commended ratings.

□ **Recognize Student-Level Growth**

The previous recommendations are for the alternative system only. A second step must be taken within the main accountability system to enable schools serving disadvantaged youngsters to compete on a level playing field.

In the era of NCLB, all states must create accountability systems that fold Title I schools that serve disadvantaged populations and all other public schools into a single system governed by common high standards. But the U.S. Department of Education has given some leeway to states that want to recognize gains in student performance that may fall short of meeting high standards in a given year but still are on the right track. Both Florida and California, for example, combine requirements for meeting absolute state

standards with measures that show schools are making student performance gains. Colorado is launching an accountability system that will measure attainment of standards but also tell whether the trajectory of student gains is sufficient to attain higher levels of proficiency demanded in future years.

The TEA has actually taken a step in this direction. Its 2004 Accountability Manual provides that schools can gain an Academically Acceptable rating even if they or a subset of their students fail to meet one or more academic ratings standards. If the percentage increase in Texas Assessment of Knowledge and Skills (TAKS) scores exceeds the rate needed to meet standards in two years, the school can move across the Acceptable threshold. (However, schools cannot gain an Exemplary rating in this manner.)⁸⁸

These measures address—commendably—improvement at the level of an entire school or student group. Now TEA should take the next step and base such determinations on student-level data. Such a change would help create a single accountability system that could reveal the true impact of schools on all students.

The TAKS assessments will provide plentiful longitudinal data, which are the key to determining whether schools add value. By looking at students' progress as they move through grades in a given school or system, parents and policymakers will be able to see the value added by schools while accounting for family conditions, affluence, prior educational benefits, and other characteristics. By examining student growth, the system can correct for differences among schools and student populations, eliminating much of the need for alternative measures. (A school with relatively low absolute scores in a given year may have moved low-performing students from the 15th to the 34th percentile nationally. Conversely, a school with perennially high scores may be coasting on its laurels.)

Leaders of charter schools and alternative district schools in Texas seem ready to make common cause on this issue. According to a recent TEA memo, educators have called for evaluation measures that reflect growth rather “than just setting lower standards on the same measures used in the regular accountability ratings.”⁸⁹

Since TEA has decided to delay alternative ratings while the system is being retooled (with input from charter operators), this is an excellent time for the charter and alternative-school communities to join

forces. They have a strong common interest in producing a system that maintains standards, reports current performance, and analyzes student growth in all schools, rather than maintaining one that allows schools to opt for less-demanding standards.

Clean House

The TEA recently sent warning letters to seven charter schools that had low performance ratings for three years in a row.⁹⁰ That is a good sign. Once the accountability system is fixed, permitting a clearer view of all schools' performance, charter authorizers and the charter community itself should begin weeding out the persistent failures.

Texans would do well to recall that the charter model does not expect that every school will succeed. It gives schools time to prove themselves or, if they fail, closes them in an orderly and dignified fashion.

The Texas charter movement is producing a respectable number of truly wonderful schools, a large number of schools that are in the mid-range and showing improvement, and a few that remain at or near the bottom. When closures have occurred, they have been mostly due to financial or operational failure.

Texas should set an example for the nation. It should create an equitable and consistent process for evaluating the performance of all schools, including charters, and cull the bottom-feeders in both the charter and traditional public school sectors.

The law may need to be amended to make this possible. Failure should be dealt with swiftly, with as little disruption and loss of public investment as possible. It took the TEA more than one year to close Prepared Table, a 1,500-student Houston charter school whose founders had engaged in “egregious misbehavior,” which included overstating attendance at a cost to the state of \$1.3 million.⁹¹ According to *The Austin Chronicle*, the charter schools “that have been closed either voluntarily or forcibly still owe the state \$5.7 million that may never be collected.”⁹²

The TEA is drafting new regulations that will set minimum thresholds for academic, financial, and compliance performance for the renewal of state-approved charters. The regulations will also tighten appeals procedures. While there is always a danger that such proposals can exceed the intent of the state charter law in their severity and reach, this is a good time to get the discussion started.⁹³ Due process must

be respected, but if TEA and other authorizers need clearer statutory authority to take action against schools that chronically fail to educate their students, they should have it.

Build Quality at Scale

Having once “let a hundred flowers bloom,” Texas needs a better strategy for growing a more bountiful charter crop.

□ *Scrap the Cap for Successful Schools*

Texas is one of an increasing number of states that are straining against their caps on charters, limiting the choices available to families. The best course would be to eliminate the cap on open-enrollment charters altogether, taking care to provide TEA with the resources needed for strong oversight. If that is not politically feasible, the state should turn the cap into a lever for quality. Schools that have posted consistent Exemplary or Recognized ratings in the Texas accountability system or whose model had attained comparable excellence in other states should be granted the right to exceed the cap and encouraged to open new campuses. Cap exemptions also could go to schools that have produced extraordinary performance in high-need areas, such as work with limited English proficient students or former dropouts. The state could use a portion of its federal charter grant to leverage additional private funds needed to nourish cap-exempt start-ups.

A similar approach might be tried with the charter option under the NCLB. Converting low-performing district schools to charters should only be done with reasonable confidence that the new school will work better.

□ *Encourage Multicampus Charters and “Franchisers”*

Members of the Hoover Institution’s Koret Task Force recently recommended this strategy in recent testimony before a Texas House committee. Multicampus charters have a single board and operate several campuses, whereas a franchiser also has a single board, provides centralized management services, and can contract with diverse providers to run individual campuses. According to the task force, these two models “are especially appropriate for Texas because

the state is so large and has some sparsely populated districts. They would help Texas get the best of both worlds: economies of scale and a good number of small schools. They would also limit the number of separate entities with which the TEA would have to deal.”⁹⁴

Until recently, most multisite charters around the country were operated by for-profit education management organizations. Now, some promising nonprofits have joined the fray. Several nonprofit charter ventures in California are expanding, getting terrific early results in several locations at once. They are able to master one set of state rules and regulations and make the most of available finances, expertise, and other resources.

One tremendously successful Texas model leads the nation in full-bore expansion. KIPP (Knowledge Is Power Program) schools can now be found in 29 cities, including four in Houston and others in San Antonio, Austin, and Dallas.⁹⁵ Growing from a single public school in Houston, KIPP has become a revolutionary force in American education by demonstrating in city after city that even the most impoverished kids can succeed. (In fact, multi-campus chartering has already gotten a foothold in Texas, with 42 among 194 state-approved charters operating on this basis.⁹⁶)

The effort to replicate success has gotten a major boost from a \$65 million high-school redesign initiative launched by Gov. Rick Perry and supported by the Bill and Melinda Gates and Michael and Susan Dell Foundations. Headquartered at the Communities Foundation of Texas, the Texas High School Project will push for 70 new smaller schools to be created throughout the state, many of them charters. Project director Paula Peters says she is talking with “excellent” charters about replicating their models.⁹⁷

□ *Encourage Universities to Operate Charters*

As noted above, few Texas colleges and universities have created charter schools on or near their campuses. This is a major lost opportunity—student teachers are missing out on real-world experience, high school students could be auditing college courses, and college kids could be mentoring needy youth. It is time to open a dialogue between the charter movement and higher education leaders about the mutual benefits that university-based chartering could bring.

What would it take to draw Texas colleges and universities into the charter arena? State leaders might

take to the bully pulpit, and alumni could be encouraged to focus their giving on this new role for their alma maters.

□ **Expand Virtual Charters Carefully**

In a state as rural as Texas, cyberschools should be a natural fit. Yet, Texas policymakers might be wary of this phenomenon, since virtual charters have drawn stiff opposition from local districts and school boards.

Texas can learn from virtual charters in other states. Pennsylvania discovered that allowing local districts to do virtual chartering without meaningful oversight could lead to serious problems. Pennsylvania's Act 88, passed in late 2001, moved virtual chartering to the state level. It also established new application procedures, asking prospective charter operators to say how much online time would be required, how teachers would interact with students, how the school day would be defined, and how operators would establish the authenticity of student work. It also defined authorizer duties more sharply, requiring annual compliance and performance reviews.

Cyberschool financing could also emerge as a stumbling block. Pennsylvania, for example, has had to provide local districts with state relief, since many of the cyberstudents for which they must now pay were previously enrolled in private or home schools.

Texas also will have to resist the urge to regulate cyberschools so tightly as to defeat their purpose. As one observer recently said, "The still-to-be-answered question for policymakers [is]: How to corral this new breed without breaking its spirit?"⁹⁸

Level the Playing Field

Texas needs to eliminate obstacles to robust growth in three areas if it is to have quality at scale.

□ **Streamline Regulation**

Texas must find ways to hold charters accountable for academic and operational performance without forcing them to divert resources to compliance. It should start by looking through the education code and identifying provisions that make no distinction between charter schools and big school districts. Treating an individual charter campus as a school district for purposes of federal grants may make administrative sense; burdening it with red tape designed for a school district makes no sense at all.

□ **Revamp Finance**

Charter schools are public schools and deserve an equitable share of public funding. Charter supporters have made that case for years, but continue to struggle against the perception that some of their schools are not a good investment. Former Houston school board chief Donald McAdams, who now heads the Center for Reform of School Systems in Houston, addressed that problem by floating an intriguing idea during his stint as a public member of the Joint Select Committee on Public School Finance.⁹⁹

Noting that Texas has both high performing charter schools and "charter schools which have been an embarrassment to the state," he suggested a two-tiered approach. All charters would operate with certain levels of funding and oversight during their initial years. Schools that proved their mettle would move to a second phase with more independence and the same level of funding for facilities and operations available to traditional public schools.

Charter operators appearing before the committee generally liked the idea of tying funding to accountability. Mike Feinberg, co-founder of KIPP, said it is in line with what his schools teach: "If you do the right thing, good things happen. If you do the wrong thing, bad things happen. And everything in life must be earned."¹⁰⁰

Yet, there is a potential catch here. Like any new venture, charters need plenty of start-up funds. The federal charter schools grant helps, as do a variety of philanthropic sources. But a predictable stream of revenue based on student enrollment is critical. While new charters affiliated with institutional partners, such as management firms and school districts, may be able to obtain cut-rate services or ready cash, some of the best charters begin as small "mom and pop" operations. If hampered by insufficient funding in the early stages, these independent ventures might not survive.

That argues for full funding right out of the gate—and then, perhaps, rewarding successful start-ups by relaxing oversight and providing additional monies for expansion and replication.

□ **Provide Facilities Help**

The Texas Charter Coalition, a group of successful charters and support organizations working closely with

the Resource Center for Charter Schools, has developed a facilities-funding proposal similarly tied to quality. A school that achieves significant gains in student learning, or superior ratings over several years in the state accountability system, and has a track record of fiscal accountability, would become eligible for public facilities aid. This idea recognizes

the natural growth trajectory of charter schools, which often start in small temporary spaces but demand real, permanent facilities as they approach their full grade span. A school's first two or three years could serve as a trial run, with the state ready to provide needed funding when it is time to sign a 30-year mortgage.

Conclusion

The Texas example illustrates the challenge faced by today's charter movement: how to meet growing demand while maintaining quality. Its considerable progress is sometimes obscured by headlines about the few schools at the top that generate enormous excitement and world-class achievement and the few at the bottom that use their autonomy for unwise or unethical ends.

For charters in the middle that demonstrate both academic progress and operational proficiency, the key to quality expansion lies in eliminating the financial and regulatory obstacles discussed in this paper. Schools that

have earned their spurs should be allowed to concentrate on student achievement instead of paperwork.

Texas can also lead by acting decisively on schools that fail. A few have been shut down already, but mostly for financial and governance reasons. As the accountability system is refined, we will see more clearly which schools promote student growth, and which do not. Authorizers should have, and apply, the power to terminate failures.

By providing more freedom at the top of the charter scale and more oversight at the bottom, Texas can enhance the contribution its charter sector is making.

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