

## CHARTER SCHOOLS AND THEIR EFFECT ON PROVIDING EQUAL EDUCATION OPPORTUNITIES TO STUDENTS IN PHILADELPHIA

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### I. INTRODUCTION

There are many concerns with the quality of education students receive in our nation's urban schools. Charter schools are among the recent trends in educational reform attempting to improve the quality of education available to students. Charter schools offer the hope of transforming the American education system by creating a new institutional regime and serving as a laboratory for innovative ideas.<sup>2</sup> One goal is to provide parents with an additional school choice for their children, increasing the level of education the child receives as well as the level of parental involvement.<sup>3</sup> There is strong debate on the effects charter schools have on student achievement and a belief that they harm the education received in traditional public schools.<sup>4</sup>

Section I of this note discusses the history of charter schools; the exponential growth across the country and the source of debate surrounding the impact of charter schools. Section II discusses charter school law and enabling statutes with specific emphasis on the Pennsylvania charter school statute. Section III then addresses the statistical comparison between charter schools and

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<sup>2</sup> See BRYAN C. HASSEL, *THE CHARTER SCHOOL CHALLENGE* 6-7 (1999). This new regime offers charter schools autonomy in the education objectives the school wishes to pursue and well as the means to achieve these objectives. It also allows the charter schools to try approaches not attempted in the district schools because of the impositions of state constraints and the lack of incentives. *Id.*

<sup>3</sup> Brian P. Marron, *The Final Reform: A Centrist Vision of School Choice*, 8 *GEO.J. on Poverty L. & Pol'y* 321, 322 (2001). See Also Pearl Rock Kane & Christopher J. Lauricella, *Assessing the Growth and Potential of Charter Schools*, in *PRIVATIZING EDUCATION: CAN THE MARKETPLACE DELIVER CHOICE, EFFICIENCY, EQUITY, AND SOCIAL COHESION?* 221 (Henry M. Levin 2002), stating that parental dissatisfaction with their public school is a major factor in the need to create charter schools. *Id.*

<sup>4</sup> See HASSEL, *supra* note 2, at 8. Many argue that schools will attract the most motivated students, and will encourage race and class desegregation through discrimination in acceptance policies. Another main concern is that charter schools will redirect funds and resources from traditional public schools, furthering the decay of our nation's already under-funded urban schools. *Id.*

traditional public schools nationally; with further analysis specifically addressing comparison achievement levels between charter schools and traditional public schools located within the School District of Philadelphia (“SDP”) along with possible explanations for the disparities in achievement levels. Section IV of this note illustrates the implications charter schools have on providing equal educational opportunities to students in Philadelphia and nationwide; analyzing how charter schools increase the availability for low income and minority students to receive a quality education in urban America. Along with charter school reform, there have been various efforts to increase the quality of education in Philadelphia, including the privatization of public schools. Section V compares the success and limitations of the privatization effort with charter schools. Section VI discusses different methods for how charter school reform can create systemic change in the existing public educational system. I conclude with general legislative and policy recommendations, as well as recommendations specific to the Philadelphia School District to ensure the continued success of charter schools and their ability to provide equal education opportunities to students.

## II. HISTORY OF CHARTER SCHOOLS

Charter schools are one of the options collectively known as school choice.<sup>5</sup> The theory behind school choice is that it permits parents to choose among a variety of non-tuition options if they are unsatisfied with the performance of the district public school.<sup>6</sup> In essence, a charter school is a public school created by a private organization, including teachers, parents, and private corporations.<sup>7</sup> Charter schools are authorized by state enabling statutes; they are publicly

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<sup>5</sup> See Marron, *supra* note 3, at 327. School choice, consisting of interdistrict transfer programs, magnet schools, and voucher programs, is an opportunity to provide less advantaged Americans a choice to send their children to better schools. *Id.*

<sup>6</sup> *Id.* Higher income families have the option of sending their children to private and parochial schools, as well as moving to a school district that provides a better education. School choice, especially charter schools, provides options for families with limited family resources by creating free programs where students can attend if the parents are dissatisfied with the performance of their public schools.

<sup>7</sup> James Ryan, *The Political Economy of School Choice*, 111 Yale L.J. 2043, 2073 (June 2002). See Also LIANE BROUILLETTE, CHARTER SCHOOLS: LESSONS IN SCHOOL REFORM 3-4 (2002). Charter schools operate under a charter, or written contract, with the state. Administration of charter schools can be limited to non-profit organizations, but in some states any organization can create a charter school. *Id.*

funded, tuition-free, and nonsectarian.<sup>8</sup> The object of charter schools is to grant greater flexibility to schools in exchange for greater accountability.<sup>9</sup>

Minnesota was the first state to pass a charter school law in 1991, and currently there are 41 states with charter school laws.<sup>10</sup> Charter schools are one of the fastest growing developments in education, with broad bipartisan support from governors, state legislators, and secretaries of education.<sup>11</sup> In 2005, there were fewer than 3,000 schools nationwide with over 700,000 students attending charter schools.<sup>12</sup> Pennsylvania passed its charter school law in 1997, with 103 total schools across the state, 48 of them in Philadelphia.<sup>13</sup> The vast nationwide support for charter schools illustrates the desire of parents to have an alternative to their district's public schools.<sup>14</sup>

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<sup>8</sup> See Ryan, *supra* note 7, at 2074.

<sup>9</sup> *US Charter Schools, Overview* at [www.uscharterschools.org/pub/usc\\_s\\_docs/o/index.htm](http://www.uscharterschools.org/pub/usc_s_docs/o/index.htm) (last visited Oct. 18, 2004). See Also Kane & L, *supra* note 3, at 205. Five main characteristics of charter schools are autonomy for accountability, choice among public schools, innovation, carefully designed competition in public education, and the use of central ideas to public education such as equal access, nonsectarian curriculum, no tuition, and no admissions test. *Id.*

<sup>10</sup> *US Charter Schools, History* at [www.uscharterschools.org/pub/usc\\_s\\_docs/o/history.htm](http://www.uscharterschools.org/pub/usc_s_docs/o/history.htm) (last visited Oct. 18, 2004); See Also Kane & Lauricella, *supra* note 3, at 204. The concept of "charter" was coined by educator Ray Budde who envisioned a system where school districts granted charter agreements to teachers who wished to create a new curriculum. *Id.*

<sup>11</sup> *US Charter Schools, History* at [www.uscharterschools.org/pub/usc\\_s\\_docs/o/history.htm](http://www.uscharterschools.org/pub/usc_s_docs/o/history.htm) (last visited Oct. 18, 2004); See Also HASSEL, *supra* note 2, at 2. A reason why the growth of charter schools has been so widespread is the absence of political barriers. The support from Republicans stems from the limited amount of competition placed on public schools while operating without tedious regulations. Democrats value the new options charter schools create while adhering to core values such as no tuition, nonsectarian, and no admissions tests. The bipartisan appeal in many states helps charter schools escape the many barriers placed on other school reform programs. *Id.* at 2-3.

<sup>12</sup> *The Center for Education Reform: Charter Schools* at [www.edreform.com](http://www.edreform.com) (last visited Oct 19, 2004).

<sup>13</sup> *The Center for Education Reform: Pennsylvania* at [//www.edreform.com/index.cfm?fuseAction=states&sectionNID=58&stateID=22&altCol=2&thisSectionID=34](http://www.edreform.com/index.cfm?fuseAction=states&sectionNID=58&stateID=22&altCol=2&thisSectionID=34) (last visited Oct. 18, 2004). The strength and growth of the charter schools in Pennsylvania comes from the enabling statutes. Pennsylvania allows all eligible applicants to apply for charter schools, allows both new start schools as well as public school converts. The schools have an automatic waiver from most state and district education laws, regulations, and policies, free transportation to students, and the state funds the students 72% to 80% of the average district per-pupil funding. *Id.*

<sup>14</sup> Parents are choosing charter schools over public schools because of the nurturing environment and value system, the small class size, high standards, and greater level for parental involvement. Kane & Lauricella, *supra* note 3, at 221. A Gallop poll initiated in 2000 showed that 46% of Americans gave their local public school a grade of C or lower. *Id.* The parents overall dissatisfaction with the culture and academics of the public schools encourage the growth of charter schools because it creates the need for an alternate form of education. *Id.*

Although the growth of charter schools shows a high acceptance rate, many people are unconvinced of the advantageous effects of charter schools. Many people are concerned that charter schools will become a retreat for middle-class minority and white students, leaving the most at-risk students behind in under funded, inadequate public schools.<sup>15</sup> The main concern for opponents of the charter school system is that by creating a market system in education, poor urban public schools will be unable to compete, causing an increasing level of deterioration.<sup>16</sup> This precise point is what many advocates claim will give disadvantaged minority students a chance at an equal education by providing them with the opportunity to choose a type of school which had previously been reserved for upper-class families.<sup>17</sup> School choice allows students to freely choose among schools, distributing the educational opportunities available though various income brackets and residential areas.<sup>18</sup> The future of charter schools looks promising and the number and availability of schools nationwide will most likely increase. The achievement levels are high and the opportunities provided to urban students will continue to improve.

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<sup>15</sup> Tomiko Brown-Nagin, *Toward a Pragmatic Understanding of Status-Consciousness: The Case of Deregulated Education*, 50 DUKE L.J. 753 (2000). Many opponents to charter schools have feared their effect on public education and desegregation, rather than the level of education provided. Critics claim that the popularity of charter schools will degrade the traditional public schools where most urban children will still attend. Critics also claim that charter schools will allow for intentional discrimination on the basis of race and sex, or that deregulation will have a negative impact on minority communities, leading to the financial ruin of traditional public schools as funds are redirected to charter schools. Another concern is that only the best and most privileged students will take advantage of the new schools because poorer parents will not have the information or motivation to make educational decisions for their children. *Id.* at 773.

<sup>16</sup> Raquel Aldana, *When the Free-Market Visits Public Schools: Answering the Roll Call for Disadvantaged Students*, 15 NAT'L BLACK L.J. 26, 37. Charter Schools will take away funding from the public schools because when a student transfers, the district school must transfer a percentage of the per-pupil funding to the new school. In some case, depending on the district the student attends, this may be an increase from what the public school was originally funding for the student. The students most likely to be left behind in the deteriorating public schools are the poor students and minorities, the very demographic that charter schools were created to protect. When the public schools fail, the children who remain behind will be the ones impacted, especially if there are not enough new schools and programs to accept all the children attending school in the district. *Id.*

<sup>17</sup> JOSEPH P. VITERETTI, *CHOOSING EQUALITY* (1999).

<sup>18</sup> James E. Ryan & Michael Heise, *The Political Economy of School Choice*, 111 YALE L.J. 2043, 2086. School districts that encompass higher property values are able to spend more locally raised revenues on students with less educational burdens because they attend a school with few of the problems surrounding students living in poverty. If states and school districts adhere to a neighborhood-school policy and allow local districts to raise and spend what they wish on local schools, schools will continue to be segregated by income and race, and unequal funding will continue. But if students were given a choice of any school, the schools would have to compete on the basis of services provided with similar resources. Charter school plans would decrease the unequal expenditures among the school districts by increasing the opportunities of students to attend a variety of schools, as well as increasing their efficiency through competition. *Id.*

### III. WHAT MAKES A STRONG CHARTER SCHOOL LAW AND HOW THE PENNSYLVANIA ENABLING STATUTE MEASURES UP

The Pennsylvania charter school statute was enacted in 1997, and last amended in 2002.<sup>19</sup> The Center for Educational Reform, in a report entitled *Charter School Laws Across the States: Ranking and Scorecard, 8th Edition*, scored Pennsylvania law at a “B” among the 26 strong charter school laws.<sup>20</sup> The report asserts that states with stronger laws have a positive effect on student achievement.<sup>21</sup> There are many factors considered for determining what constitutes a strong charter law, including not limiting the amount of charter schools in a state, permitting many entities to authorize charter schools, encouraging new-start schools, and providing automatic waivers from laws and regulations.<sup>22</sup> The charter schools are directly accountable to the authorizing agencies; they monitor the operations of the school as well as renew the school’s charter.<sup>23</sup> By placing these interests in the hands of the local school boards, the state statutes, like that of Pennsylvania, are restricting the ability of schools to experiment with innovative teaching techniques and establish educational reform.<sup>24</sup>

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<sup>19</sup> *The Center for Educational Reform: Charter School Laws Across the States* at [www.edreform.com/\\_upload/charter\\_school\\_law.pdf](http://www.edreform.com/_upload/charter_school_law.pdf) (last visited Oct. 18, 2004). The current number of charter schools operating in Pennsylvania is 103, with 48 schools currently in the School District of Philadelphia. *Id.*

<sup>20</sup> *Id.* See Also Kane & Lauricella, *supra* note 3, at 206. The Center for Educational Reform is an advocacy group devoted to evaluating state charter school statutes and the criteria in ranking statutes in terms of their ability to create and operate schools. Expansive laws, as in Pennsylvania, encourage the independence and promote the development of charter schools. *Id.* Laws that limit the ability of charter schools, or restrictive laws, control the number of schools opened and strictly limit the operation of the new charter schools. *Id.* at 207.

<sup>21</sup> *The Center for Educational Reform: Charter School Laws Across the States* at [www.edreform.com/\\_upload/charter\\_school\\_law.pdf](http://www.edreform.com/_upload/charter_school_law.pdf) (last visited Nov 15, 2004). The report shows that high student achievement and comprehension rates are a direct correlation to the strength of the charter school laws. Of the 26 laws that were ranked “strong”, 65% gained in their evaluations under No Child Left Behind (“NCLB”). Of the weak laws, only two states showed a positive gain.

<sup>22</sup> *Id.* Other factors include allowing many eligible charter applicants, whether schools can be started with or without evidence of local support, the amount of per-pupil funding granted to the charter school, the amount of legal and operational authority the charter schools are granted, the amount of fiscal autonomy the charter schools are granted, and whether the charter school is exempted from collective bargaining. *Id.*

<sup>23</sup> PAUL T. HILL et al., CHARTER SCHOOLS AND ACCOUNTABILITY IN PUBLIC EDUCATION 17-18 (2002)

<sup>24</sup> *Id.* *The Center for Educational Reform: Pennsylvania* at [www.edreform.com/index.cfm?fuseAction=cLaw&stateID=22&altCol=2](http://www.edreform.com/index.cfm?fuseAction=cLaw&stateID=22&altCol=2) (last visited Oct 19, 2004). Between 1993 and 2003, 2.5% of all charter schools closed either because of control issues or heavy burdens imposed on the school by the school district. *Id.* See Also HASSEL, *supra* note 2, at 18. When a statute limits the authorizing entity to the local school boards, it limits the potential for innovation and significant

The Pennsylvania law permits the creation of an unlimited number of schools; it allows new-starts and it permits many groups to be eligible applicants, including parents, teachers, and nonsectarian institutions of higher education, museums, and corporations.<sup>25</sup> It encourages the success of its charter schools by granting them more autonomy in setting their curriculum and adopting new teaching techniques.<sup>26</sup> These laws provide more options to parents searching for schools that will best fit with their educational philosophy and encourage their children's specific learning styles.

#### IV. COMPARATIVE STATISTICAL ANALYSIS.

##### A. COMPARATIVE STATISTICAL ANALYSIS BETWEEN CHARTER SCHOOLS AND PUBLIC SCHOOLS NATIONALLY AND HOW THIS AFFECTS THE DEBATE.

It is difficult to compare charter school statistics among different states because each state has its own charter enabling statutes that contribute greatly to the success of schools within each specific state. However, a broad comparison of the general satisfaction and composition statistics from across the nation is useful to demonstrate the attraction of charter schools from the perspectives of students and parents.

The racial and economic composition of students in charter schools is very similar to regional public schools in similar school district.<sup>27</sup> One of the main

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competition. Many reformers consider this the most essential factor in achieving a strong law because most local school boards are opposed to charter schools. Teachers' unions, who have a strong influence on local school boards are one of the biggest opponents of charter schools and push for more restrictive laws. This is because charter schools are not bound by union contracts and many do not require certification for all teachers. *Id.* This can have an impact on the number of schools granted authorization in a school district and decrease the opportunity for parents to choose a charter school in their area.

<sup>25</sup> The CER Ranking Scorecard gave Pennsylvania law a total of 36.75 out of a possible 50 points using the ten evaluative factors, the overall rank for Pennsylvania out of the 41 states with charter laws was 13.

<sup>26</sup> *Id.* Charter laws often coordinate to the theory of action charter schools are intended to promote. These theories include creating new schools to serve as laboratories for new teaching strategies, free schools from rules so they are able to meet higher expectations, open the school system to allow a set of new school providers, and finally to let the parents' choice drive the entire system to improve. Depending on which strategy the state expects charter schools to accomplish will help determine the expansiveness of the law passed. *Id.* at 17 – 19

<sup>27</sup> U.S. Department of Education, *National Study on Charter Schools, Fourth Year Report*, (January 2000) at <http://www.edreform.com-upload/research.pdf> (last visited Feb. 2, 2005). See Also JAY GREENE et al., *Apples to Apples: An Evaluation of Charter Schools Serving General Student Populations* (July 2003). Schools serving "general student populations" are those that do not target any specific groups, which are excluded from the analysis to better compare with traditional public schools.

arguments opposing charter schools is that they are creating separation along racial and cultural boundaries, creating schools with a dominant ethnicity.<sup>28</sup> Another argument is that only the most affluent children attending public schools will move to the charter schools.<sup>29</sup> National statistics show this is not the case. A 2004 report commissioned by the United States Department of Education shows that charter schools serve a disproportionate number of poor and minority students as compared to public schools.<sup>30</sup> A sampling from the 1997-1998 school year showed statistics of students eligible for a federal lunch program and students with limited English ability were very comparable between both charter schools and public schools.<sup>31</sup> These statistics do not illustrate that all charter schools have an equal make-up of minority students in each school, but that charter schools are educating more minority students than their public school counterparts. Not only are national statistics between charter schools and public schools similar in minority demographics, student compositions of individual charter schools are mostly comprised of similar racial statistics as are found at their nearest public schools.<sup>32</sup>

The success of charter schools cannot simply be measured in the demographics of its population. It must also be measured by the satisfaction level of students and the reason parents withdrew their children from public schools. National statistics ranking the reasons parents enrolled their children in a charter school can illustrate the failing aspects of traditional public schools and the need to create alternate forms of education. These statistics do not show the

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<sup>28</sup> See FINN et al., CHARTER SCHOOLS IN ACTION 160-161 (2000). There are charter schools that target specific groups which do have a dominant race or ethnicity, but this is chosen by similar educational philosophies and not exclusionary admission practices. *Id.* Critics claim that these charter schools invite segregation and are promoting common beliefs and attitudes. *Id.* at 161. A charter school that focuses on bilingual students founded in a Hispanic community will mostly comprise of Hispanic students. *Id.* Charter schools are built on the foundation that each student has a unique learning style and ability, which may correlate with race and family background. *Id.*

<sup>29</sup> See BROWN-NAGIN, *supra* note 15.

<sup>30</sup> *Just the Facts: School Choice* at <http://www.edreform.com/index.cfm?useAction=documentID=57&sectionID=67&NEWYEAR=2005> (last visited Feb. 2, 2005). Studies show one third of national traditional public schools are minorities, where one half of charter school student populations are minorities. *Id.*

<sup>31</sup> See FINN et al., *supra* note 28, at 81. The number of students eligible for free lunch in public schools was 37.6% compared to 36.7% among charter schools students. *Id.* The percentage of students with limited English proficiency in public schools was 10.7, and 10.1% in charter schools. *Id.* The statistics are based on RPP International report entitle *The State of Charter Schools: Third-Year Report*. *Id.*

<sup>32</sup> *Id.* at 62. Seventy-two percent of charter schools are not racially distinct from their surrounding school district. *Id.* This is mostly accountable to the parent's desire to send their children to a school near their home, accounting for similar demographics based on the racial composition of the community.

achievement levels of students as a way to measure success, but they may offer insight into the appeal of charter schools as the fastest growing educational reform system.

Overall, students rated the charter school they were currently enrolled in as 'excellent' 4.9% more often than their previous schools and as 'good' 14.5% more often.<sup>33</sup> The same polling of students also rated their likes and dislikes of their current schools. A majority of students rated academics, such as good teachers, the fact that they "teach it until they learn it," and that the teachers do not let the students fall behind, as the main reasons why they like the charter schools.<sup>34</sup>

Parents polled showed overwhelming support for the charter schools, with two-thirds claiming that the current charter school is better than the previous public school with respect to class size, school size, attention from teachers, quality of instruction, and curriculum.<sup>35</sup> The top reasons why parents moved their child to a charter school, across income status, were the small size of the charter school, the high standards, programs offered closer to the parents' educational philosophy, and a greater opportunity for parental involvement.<sup>36</sup> These statistics illustrate that the innovations charter schools are implementing are reason to give parents hope that they too can find a better educational environment for their children.

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<sup>33</sup> *Id.* at 83. Students are respondents from 39 charter schools in 10 states. *Id.* Although the satisfaction levels of students may not be demonstrative on the success of the school, it can be shown that a comfortable educational setting can impact educational achievement levels. *Id.*

<sup>34</sup> *Id.* at 84. Fifty-nine percent of the students stated they liked the good teachers, 51.3% responded that they liked that the teacher taught until she learned it, and 38.5% of the students liked that the teacher did not let them fall behind. *Id.* The students included among the top things they didn't like about charter schools as extracurricular programs, such poor sports program and not enough other activities. *Id.*

<sup>35</sup> *Id.* at 85. Only 2-3% of parents are dissatisfied with the charter schools. *Id.* Over three-fifths of parents also say the charter school is better with parental involvement, extra help for students, academic standards, accessibility, and discipline. *Id.*

<sup>36</sup> *Id.* at 86. There were some statistical disparities across income when it came to educational philosophy. *Id.* This was the number one concern with parents whose income was greater than \$60,000, but decreasingly lower for middle income families and families with incomes less than \$30,000, who rated educational philosophy as the fifth reason among why they enrolled their child in a charter school. *Id.*



## B. COMPARATIVE STATISTICAL ANALYSIS BETWEEN PHILADELPHIA PUBLIC SCHOOLS V. CHARTER SCHOOLS LOCATED IN THE SAME EDUCATIONAL REGION.

There are varied statistics on the achievement levels of charter schools across the nation. This section focuses on the specific achievement rates of charter schools located in the School District of Philadelphia (“SDP”). There are 264 public schools in the SDP and 48 public charter schools, making the charter school district the third largest in the state.<sup>37</sup> One in every 10 public school students in Philadelphia now attends a charter school, totaling nearly 21,000 students.<sup>38</sup> The Greater Philadelphia Urban Affairs Coalition (“GPUAC”) compiled a report comparing test scores, drop-out rates, demographics, attendance rates, enrollment, and rates of students receiving special education in the 19 charter schools and 22 public schools serving the high school grade levels.<sup>39</sup> Although charter schools are open to students from the entire City, GPUAC used the geographic definitions used by the SDP to complete a regional comparison because nearly 40% of Philadelphia charter high school students attend charter schools in their own neighborhood.<sup>40</sup> The report shows that the drop-out rates, attendance, and test scores were higher in almost all of the charter schools as compared to the SDP schools, in fact, in 6 out of 8 regions a charter school was the top performing school.<sup>41</sup>

Traditional public schools and charter schools in Philadelphia serve very similar students in terms of race and ethnicity, as well as students that are eligible for the Free or Reduced Lunch program (“FRL”).<sup>42</sup> The summary shows a slightly higher population of white students (21% to 15%) in charter schools, but

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<sup>37</sup> *The Case for Partnership: How Charter High Schools Meet School District Goals in Philadelphia* at [www.gpuac.org/media/CharterHighSchoolsinPhiladelphia.html](http://www.gpuac.org/media/CharterHighSchoolsinPhiladelphia.html) (last visited March 8, 2005).

<sup>38</sup> *Greater Philadelphia Urban Affairs Coalition, Introduction on Charter Schools* at [www.gpuac.org/media/CharterSchoolsIntroduction.html](http://www.gpuac.org/media/CharterSchoolsIntroduction.html) (last visited Oct. 19, 2004).

<sup>39</sup> *GPUAC: Summary of Findings, Conclusions, and Recommendations* at <http://www.gpuac.org/media/CharterSchoolsSummary.html> (last visited March 8, 2005). The Greater Philadelphia Urban Affairs Coalition (“GPUAC”) is a non-profit organization dedicated to providing programs and services to the economically disadvantaged in the Philadelphia area. *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* The tests used in the comparison were the PSSA (Pennsylvania System of School Assessment) and TerraNovas. The charter schools’ median scores for the PSSA tests were better than the SPD median on all subjects tested in all grades, which included ninth grade writing, eleventh grade math, reading, and writing. *Id.* Also, the results for the TerraNova scores showed the median for all four subjects, reading, language, math, and science, were higher in charter schools than the SPD schools. *Id.*

<sup>42</sup> *Id.*

also a slight increase in Hispanic students.<sup>43</sup> Both schools show that almost 70% of the students are eligible for FRL.<sup>44</sup> Attendance rates are almost 15% higher at charter schools than the SDP schools overall, as well as drop-out rates being 10% less at charter schools.<sup>45</sup> Violent incidents and weapons are significantly lower across the 9 regions; with most charter schools having notably lower incidences of both than the comparing district high schools.<sup>46</sup>

These factors not only illustrate the empirical success of charter schools, but also demonstrate the varying attitudes of the students and the community with regard to charter schools. Charter schools are seen as an escape from the failing aspects of the public schools, including high incidents of violence and poor academic achievement rates. By creating a new environment from the ground up, the school is able to place higher expectations on its students, teachers, parents, and the surrounding community; they are creating an environment which encourages students to succeed.

### C. EXPLANATION FOR THE STATISTICAL DISPARITIES BETWEEN THE CHARTER SCHOOLS AND TRADITIONAL PUBLIC SCHOOLS.

Both regional and national statistics show an environment in charter schools that not only encourages students to learn and succeed, but also offers them a secure place to obtain an education. There are many reasons for the apparent success of charter schools, but one key reason is the small class size, which has been proven to affect student achievement levels.<sup>47</sup> The average charter school in Philadelphia has about 250 students, much less than the School District of Philadelphia's (SPD) schools which average almost 2000 students,

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<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup>*Id.* The attendance rate at charter schools is 87.4% as compared to 73.2% at the traditional public schools. *Id.* The drop-out rates, defined as the number of secondary students who left school before graduation and did not transfer to a another school, was significantly lower than the SDP schools: 2.9% for charter school and 12.9% for SPD schools. *Id.* These rates were compiled as part of the Pennsylvania Department of Education standards. *Id.*

<sup>46</sup> *GPUAC: Glossary of Terms and Tables* at [www.gpuac.org/media/CharterSchoolsGlossary.html](http://www.gpuac.org/media/CharterSchoolsGlossary.html) (last visited Oct. 19, 2004). These numbers compared the numbers of violent incidents and weapons confiscated between charter schools and SPD schools. *Id.* Overall, comparing the total number of incidents and weapons confiscated with the SPD schools where at least one charter schools is located there were 774 violent incidents compared to 143 in the charter schools, 191 weapons confiscated in the SPD schools compared to 14 in the charter schools. *Id.*

<sup>47</sup> V.E. LEE & J.B. SMITH, *HIGH SCHOOL SIZE, WHICH WORKS BEST AND FOR WHOM?* in *Educational Evaluation and Policy Analysis* (Fall 1997). Class size has been seen to impact the student in a number of ways, from the individual attention the student receives from the teacher as well as the comfortableness of interaction the student will have in the classroom.

with one school totaling over 3000.<sup>48</sup> The large size of the public schools prohibits students from receiving individualized attention and prohibits teachers from nurturing each student's abilities.<sup>49</sup>

The charter school success can also be measured by parental involvement.<sup>50</sup> It is proven that parents who are involved in their child's education increase the child's success in school.<sup>51</sup> Some say it is difficult to gauge if parental involvement is an accurate tool for determining the success of charter schools. Although parental involvement does affect a child's education, parents that are involved in their child's education will most likely be the same parents who enroll their child in a charter school when they are dissatisfied with the public school or otherwise recognize a need for change.<sup>52</sup> Charter schools not only attract parents who are involved with their children's education, but also create greater opportunities for parents and encourage them to participate.<sup>53</sup>

There are many studies that focus on the input and allocation of resources as the means for creating a better school, such as more funding per pupil, smaller class sizes, and more experienced teachers.<sup>54</sup> James S. Coleman claimed there is no relationship between the resources put into the school and the success of the school's students.<sup>55</sup> If it is not resources which create differences between

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<sup>48</sup> GPUAC: Introduction to Charter Schools at <http://www.gpauc.org/media/CharterSchoolsIntroduction.html> (last visited Oct. 19,2004). The large number of students attending the public schools not only affects the class size and the student to teacher ratio, but it also affects the amount of per cubic space per student, which may also affect achievement levels.

<sup>49</sup> See LEE & SMITH, *supra* note 47.

<sup>50</sup> See FINN et al., *supra* note 28, at 93. Charter schools are succeeding in getting parents to participate. *Id.* The methods in which many charter schools are achieving a high level of involvement include parental contracts requiring a certain number of volunteer hours. *Id.*

<sup>51</sup> *Id.* Parental involvement with the child's school can increase attendance, as well as recognize and improve behavioral problems. See HILL et al., *supra* note 23. Charter school parents are more likely to communicate with teachers, creating an environment focused around individual student achievement. See Also FINN et al., *supra* note 28, at 93-94.

<sup>52</sup> *Id.* Charter schools are schools of choice that require the parents' initial engagement. *Id.* But similar levels of parental involvement are not shown with other schools where initial engagement is required such as magnet programs and private schools. *Id.*

<sup>53</sup> *Id.* Some schools create parent-run after school programs and encourage parents to assume organizational roles. *Id.*

<sup>54</sup> *Id.* at 61-62.

<sup>55</sup> *Id.* James S. Coleman, a sociologist writing for the Department of Health, Education, and Welfare, believed there is no correlation between resources and performance, and that in order to improve the results of a school, one would have to focus on the outputs. *Id.* Some critics may claim that this affects the validity of charter schools because the limited resources are not the source of the problem

schools' production, then the differences in student success rates are most likely attributable to differing classroom practices, family backgrounds and economic circumstances.<sup>56</sup> Other sociologists have agreed with Coleman's idea, noting that although schools districts have attempted to equalize inputs across all of their schools, they were not receiving the same results.<sup>57</sup> John B. Carroll suggested tailoring instructional practices to the varied needs of the individual students.<sup>58</sup> Other scholars have inquired into which practices could increase the level of student achievement.<sup>59</sup> Many of these features include providing a clear focused mission, a core curriculum with high expectations, an organizational scheme that supports the school, and strong leadership.<sup>60</sup> As previously discussed, these are typical of many of the reforms that charter schools are implementing on an individual basis.<sup>61</sup> If high achievement levels can be gained through focusing on methods rather than resources, it is a positive explanation of why new charter school innovations have been successful. Hopefully, under-funded public schools can learn to adopt similar strategies without simply relying on increasing expenditures.

## V. HOW CHARTER SCHOOLS ARE PROVIDING EQUAL EDUCATION OPPORTUNITIES FOR CHILDREN IN PHILADELPHIA.

Charter schools have strong implications for providing equal education opportunities to students residing and attending schools in the Philadelphia urban community.<sup>62</sup> It is illustrated that racial minorities and the economically

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for our urban public schools and the same issues will affect the urban charter schools. *Id.* If the problem with failing schools is the economic circumstances of the students, unequal, poor education in our urban areas would continue to exist.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at 61. John B. Carroll is a Harvard education researcher. *Id.*

<sup>59</sup> *Id.* The level of teaching time was seen to have varied outcomes on student achievements. *Id.*

<sup>60</sup> *Id.* Many of the studies have worked well with poor and minority children. *Id.*

<sup>61</sup> The core of many charter schools is to develop an educational philosophy that is shared throughout the organization, teachers, and parents; one that is designed to help in the educational achievements of the students. Charter schools have been focused around multiple cores and philosophies, including language, cultural, educational interests. When students are part of an organization that shares and promotes the child's interest, it will promote the child's educational achievements.

<sup>62</sup> A high number of charter schools are opening in urban areas because of the detrimental affect urban public schools are having on disadvantaged youth. The charter schools are hoping to provide

disadvantaged attend urban public schools in disproportionate rates to middle-class white students.<sup>63</sup> Nationally, only 24% of all American students attend urban schools, yet 35% of the poor and 43% of racial minorities attend urban schools.<sup>64</sup> Also, African American students are more likely than any other group to attend public schools.<sup>65</sup>

The decline of the urban schools has a long history in the previous racial segregation of our nation's schools.<sup>66</sup> After the desegregation of public schools, the relationship between minorities and their schools changed. White educators developed the schools' curriculum without taking into account the background of the attending minority students, often alienating the students and their parents.<sup>67</sup> Education in urban communities is not empirically unequal, but the social transitions of our country over the past century have created inequalities that detrimentally affect students in urban schools.<sup>68</sup>

Many of the problems stemming from the urban school system can be related to the economic statuses of the people of the region. Taxes often contribute a large portion of the funds available to the school, and the economic situation of the location of the school dictates the amount of resources the school receives.<sup>69</sup> But as mentioned before, school success can be attributed to factors other than financial resources.<sup>70</sup> Charter schools receive the same, if not less, of the per pupil expenditures than the area public school but are implementing educational techniques that conform to specific student needs.<sup>71</sup> This method of

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equal education opportunities by opening doors to different forms of education not previously available to economically disadvantaged urban students.

<sup>63</sup> See Marron, *supra* note 3, at 325.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> See BROUILLETTE, *supra* note 7, at 101-102.

<sup>67</sup> *Id.* See Also Wilbur C. Rich, *Putting Black Kids into a Trick Bag: Anatomizing the Inner-City Public School Reform*, 8 Mich. J. Race & L. 159, 166 (2002). The policy initiatives surrounding the desegregation of public schools did not take into account the realisms surrounding the school districts and the communities that host them. *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> See RYAN, *supra* note 18. Almost 47% of funding for public schools comes from local sources, including resident taxes. *Id.* This increases the educational disparities between poor urban areas and surrounding suburbs.

<sup>70</sup> See FINN et al., *supra* note 55.

<sup>71</sup> See FINN et al., *supra* note 28, at 163. By targeting specific groups of students, charter schools are able to provide a curriculum directly tailored to the students' needs. *Id.*

schooling has not been attempted in traditional public schools because of the Eurocentric curriculum used in American education,<sup>72</sup> but charter schools with dominant populations of minority students can focus on culture-centric curricula.<sup>73</sup>

Some critics believe this is segregating the cultures by alienating other ethnicities in those schools, but these minority students are already alienated in the Eurocentric curriculum in public education; in such a way that their educational success is severely impacted.<sup>74</sup> Charter schools allow parents to choose the curriculum in which a student will best develop, whether culturally, musically, or academically based. Not all children learn best with the same methods, as proven by the failure of public education in urban areas. Focusing on a student's interests and revolving a curriculum around one central core can help parents find the right fit and allow students to learn in a more comfortable environment.

Charter Schools are subject to the same Constitutional requirements as public schools in that they cannot discriminate on the basis of race, ethnicity, or religion.<sup>75</sup> Some schools are at risk of being shut down because too many minority students have enrolled and the state requires the diversity of the student population to match that of the community.<sup>76</sup> It is important to examine the policy rationales involved in creating racially balanced schools. Diversity is an important goal and teaches children the value of other ethnicities and cultures. However, to ensure that each child is meeting minimum educational goals, it may

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<sup>72</sup> See BROUILLETTE, *supra* note 66. Many minority students are receiving education in an environment where they have to assimilate to the culture and standards already in place. *Id.*

<sup>73</sup> See FINN et al., *supra* note 28, at 163. Some charter schools focus on children who are recovering from drug abuse problems or create a curriculum to attract high school drop-outs, while other schools focus on a curriculum revolving around music. *Id.* Although these specialized schools are less diverse, they focus on a coherent education plan, fostering the individual child's development. *Id.*

<sup>74</sup> *Id.* Diverse schools do not ensure equal quality of education. Core curriculums focused around community are practices that encourage student achievement and charter schools provide more options for minority children to find a curriculum that will best serve their ability. *Id.* See Also Rich, *supra* note 67, at 168. There has been research conducted that integrated schools improve the educational performance of Black children, but the research also indicates that this system of multiculturalism works best at the primary education level when racial conceptions have not yet formed. *Id.* This research takes some focus off the requirement of charter schools at the secondary level from centering the curriculum around a dominant culture because it will have little impact on developing the racial attitudes of the students.

<sup>75</sup> *Id.* There are requirements that charter schools must admit anyone who applies or use random selection if the school is oversubscribed. *Id.*

<sup>76</sup> *Id.* Thriving charter schools in North Carolina are attracting minority students at much higher rates than the public schools and are at risk from the state because their student population is not reflective of the surrounding community. *Id.*

be more important to let people decide for themselves where the child will receive the most benefit. The pure fact that a school is diverse does not ensure that each child in the school is receiving an equal education. Diversity teaches children many lessons, but these do not override the concern that children in urban areas are not developing basic reading and math skills.<sup>77</sup> If creating schools that attract a large number of students from a dominant ethnicity improves student achievement, it provides greater opportunities for equal education than ensuring diversity in each school.<sup>78</sup>

Achievement and not integration is the goal of many charter schools. If a parent or community believes that diversity is the best environment for education, charter schools can provide that option. Community and parental support with a curriculum and leadership that students can identify with will promote the educational opportunities that are not advanced in the current public school system.<sup>79</sup> It has been illustrated over the past 50 years that the purpose of integration is to numerically create equal access to education, but it fails to ensure equal educational opportunities.<sup>80</sup> Charter schools create an environment where individual children are given individual educational needs without primary regard to their ethnicity. Charter schools create equal educational opportunities by creating educational environments not previously open to minority and economically disadvantaged students. These opportunities focus foremost around the child's needs and not the appearance of equality, and this is what will advance equal education.

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<sup>77</sup> Robin D. Barnes, *Black America and School Choice: Charting a New Course*, 106 Yale L.J. 2375, 2382 (1997). Since diversifying has not produced the expected educational achievement in minority children, it may be time to search for methods that will impact urban schools and improve educational opportunities. *Id.*

<sup>78</sup> See Rich, *supra* note 67, at 171. Many educational reformists from the African-American community support propositions for an afro-centric curriculum. But a curriculum replacing the traditional Eurocentric one common in most public schools does not exclude other ethnicities or in itself hamper integration. *Id.* School reform activists realize there is more benefit in spending money on programs to improve curriculum and educational resources than money spent on busing children to other communities for the pure purpose of integration. *Id.*

<sup>79</sup> See Barnes, *supra* note 77, at 2402. Charter schools offer the prospect of community based support, which is essential in predominantly minority urban areas. *Id.* Charter schools offer African-American parents and community members a voice at the administrative level, ensuring a school philosophy promoting individual self worth and commitment. *Id.*

<sup>80</sup> *Id.* at 163. A report as early as 1980 found that two-thirds of Black American students attended schools that were 90% Black. Today more than 70% of the country's black students attended schools with a predominate minority population. Integration as the goal of equal education is not living up to the promise of *Brown v. Board of Educations*, 347 U.S. 483 (1954), and other measures must be taken to educate our nation's minority and economically disadvantaged students.

## VI. PRIVATIZATION OF PUBLIC SCHOOLS: THE EFFECT OF EDISON EDUCATIONAL MANAGEMENT ORGANIZATION ON THE CHARTER SCHOOL MOVEMENT IN PHILADELPHIA.

Another attempt by Philadelphia to improve the quality of education in Philadelphia public schools is the movement to privatize schools in hopes of providing higher quality education through increased efficiency. Privatized schools are typically run by for-profit agencies referred to as Educational Management Organizations or “EMOs”.<sup>81</sup> Currently the biggest EMO operating schools is Edison Schools, Inc.<sup>82</sup> The reasons Philadelphia has been prone to state action and the influx of privatization are similar to the reasons that there have been a substantial number of charter schools created in the city since 1997: financial problems and low academic achievement. The city’s contract with Edison has been much debated and protested by both legislators in the city and the community.<sup>83</sup>

The organizational and educational structure of Edison Schools, known as the “Edison Design”, implements a standard curriculum with structured classroom time.<sup>84</sup> Three objectives proposed by the company are to raise academic achievement, increase parental involvement and satisfaction levels, and to improve school climate to foster greater learning.<sup>85</sup>

There is much opposition to the privatization of our nation’s public schools. In Philadelphia alone there were numerous protests and proposed student walk-outs to prevent the takeover of 42 of the poorest achieving schools

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<sup>81</sup> See HILL et al, *supra* note 23, at 74. EMOs can be responsible for as little as managing a school’s financial services to managing every aspect of the school’s operations. *Id.*

<sup>82</sup> *Reclaim Democracy* at [www.reclaimdemocracy.org/weekly\\_article/ Edison\\_failing.html](http://www.reclaimdemocracy.org/weekly_article/Edison_failing.html) (last visited March 7, 2005). The Edison private management company is currently educating 80,000 children across the nation.

<sup>83</sup> *Edison Takes Aim at Philly* at [http://rethinkingschools.org/archive/16\\_02/edis162.shtml](http://rethinkingschools.org/archive/16_02/edis162.shtml) (last visited March 6, 2005). Edison was initially brought into the city to evaluate the problems in the Philadelphia School District and recommend solutions. The recommendations included privatizing 70 of the worst performing schools. Forty-two of these schools were given over to EMOs, with Edison receiving the largest portion. Other EMOs given contracts include Foundation Inc., Temple University and The University of Pennsylvania. *Id.*

<sup>84</sup> See *Reclaim Democracy*, *supra* note 82. Edison also proposes an increase in both the school day in year, accumulating an additional four years of schooling for a child who completes K-12 education entirely in an Edison run school. *Id.*

<sup>85</sup> Lewis D. Solomon, *Edison Schools and the Privatization of K-12 Public Education: A Legal and Policy Analysis*, 30 *Fordham Urb. L.J.* 1281, 1315 (2003). These objectives are very similar to the factors fostered in charter schools, jointly creating support for why these factors are advancing educational achievement levels.



by EMOs.<sup>86</sup> Many of the arguments proposed in opposition to EMOs are similar to those faced by charter schools; that the best students will be siphoned out leaving the public schools the burden of educating the most at risk students.<sup>87</sup> Other arguments against privatization stem from the inherent belief that public education should remain public, and privatization of these schools will create unfair market competition and put the focus of education on profits instead of achievement.<sup>88</sup> Critics believe that Edison will cut costs by hiring less experienced teachers or cut other educational experiences in order to turn a profit.<sup>89</sup> Other concerns include not accounting for student diversity or differences between communities and students when implementing the standard pre-packaged curriculum and education plans.<sup>90</sup> There are many risks in trusting the market to improve education, including the financial instability of many of the EMOs. What will happen to the schools run by EMOs if the companies do not have enough money to continue to manage the school?<sup>91</sup>

Although there are similarities between charter school plans and the objectives of privatized schools, such as a focus on academic achievement, there are many differences that favor opening a charter school over privatizing an entire school district.<sup>92</sup> Edison Schools implements one core education plan among all its schools, emphasizing that many schools in one district can share resources, creating a sense of community. Charter schools can create educational plans that promote the philosophies of the parents and community in which it is located. The charter schools have more flexibility when establishing management and leadership roles, thus creating a stronger notion of accountability to the students and the local community.

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<sup>86</sup> See *Edison Takes Aim at Philly*, supra note 83. Student organizations have provided the most opposition, stating that there is little public input into the plans of the private companies. *Id.*

<sup>87</sup> *Inside Edison Schools* at [www.pbs.org/wgbh/pages/frontline/shows/Edison/etc/faqs.html](http://www.pbs.org/wgbh/pages/frontline/shows/Edison/etc/faqs.html) (published July 3, 2003).

<sup>88</sup> See *Reclaim Democracy*, supra note 82. See Also FINN et al., supra note 2, at 21, that Americans believe privatizing public education would undermine the principle of public education and would cut educational costs in order to make money. *Id.*

<sup>89</sup> See *Reclaim Democracy*, supra note 82.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.* A large concern with the Edison contract in Philadelphia is that the company has been significantly losing money due to cancelled contracts and falling stock prices. *Id.* Edison spends around one million dollars to open each school. They did not have enough funds to initially contribute to the twenty schools under its contract in Philadelphia and was forced to take out a high-interest loan to sufficiently cover the initial operation costs at these schools. *Id.*

<sup>92</sup> It is important to note that some charter schools, including a few in Philadelphia, are managed by EMOs.

The funding between non-profit charter schools and EMOs is also vastly different. Charter schools receive less per pupil funding than their public counterparts. Charter schools located in the School District of Philadelphia receive about 75% of the per pupil costs received by public schools.<sup>93</sup> Privatized Edison schools in Philadelphia, however, receive almost \$900 more per pupil than public schools due to appropriations by the state legislature.<sup>94</sup> Many critics claim that this level of increased funding from the state creates inequities between the schools and gives more financial resources to the privatized schools.<sup>95</sup>

There are advantages to the EMO educational structure, such as a strong curriculum involving art, music, and Spanish lessons starting in Kindergarten. But how are these schools faring in Philadelphia? Overall, the twenty Edison schools have averaged a gain of ten percentage points in the portion of proficient students last year. During the previous seven years the annual gain was less than half a percent.<sup>96</sup> There have also been gains in standardized tests, with 23 schools making adequate yearly progress under NCLB, up from seven schools the previous year.<sup>97</sup> Many people claim that it is too soon to gauge success as most Philadelphia public schools made similar gains.

Another major difference between the two educational reform systems that has created so much opposition against Edison schools is the lack of community involvement.<sup>98</sup> Charter schools are managed and lead by the members of the school's community whereas Edison schools have a preset educational design for every community. Edison schools take over pre-existing schools with a pre-existing student population whereas charter schools are mostly independently created schools. This imposes a uniform model on an existing school, prohibiting the Edison schools from drafting an educational philosophy or curriculum designed solely to attract students and parents who will

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<sup>93</sup> See center for Education Reform: *Charter Schools*, supra note 13.

<sup>94</sup> See *Inside Edison Schools*, supra note 87.

<sup>95</sup> *Id.*

<sup>96</sup> Jay Matthews, *Philadelphia Shows Progress in Schools Run by Companies*, Washington Post, November 9, 2004, at A12.

<sup>97</sup> *Id.* But regular Philadelphia schools also made improvements last year and a study in the Philadelphia Inquirer showed that more than 100 schools would not have met standards under NCLB if the state had not lessened its requirements. *Id.*

<sup>98</sup> See *Reclaim Democracy*, supra note 82.

learn best.<sup>99</sup> This fails to take into account the individual student needs, and instead of fostering parental and community involvement, it preexists without any input, limiting outside participation.

The failure to involve the community has some skeptics believing that this will affect the accountability of the EMOs. Edison schools have the advantage of an existing school building. Since charter schools are mostly start-ups, many have to struggle to find space to open a school.<sup>100</sup> Edison schools do provide the benefit of a cohesive education system that is needed in failing schools districts, such as Philadelphia. Any measure taken to improve the academic achievements of the students is a positive step for the city, but EMOs do not offer the long term educational reform advantages of accountability and autonomy offered by charter schools. There is a strong voluntary aspect by parents and the enrolling students in charter schools, along with greater community support, as opposed to the forced takeover situation presented by EMOs.

## VII. IMPACT OF CHARTER SCHOOLS ON THE RESIDING PUBLIC SCHOOL DISTRICTS: CAN CHARTER SCHOOLS IMPROVE PREEXISTING PUBLIC EDUCATION?

Charter schools offer more than the hope of providing additional opportunities to urban students; they may also be able to reform the regional public schools in the existing educational system. There are three mechanisms in which charter schools may be able to encourage change; the laboratory view, the competitor view, and the replacement theory.<sup>101</sup> The theory in which charter schools will have the most effect can be determined by an existing school district's ability to change or adapt to the additional educational reforms. If none of these mechanisms result from the addition of charter schools to the community, charter schools still provide another choice for children who are failing to fully achieve under the current system. Additionally, in order for charter schools to have a broader impact on public education, they must have the autonomy and viability to differentiate themselves from public schools in order to serve as examples or encourage change in the existing system.<sup>102</sup>

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<sup>99</sup> See Matthews, *supra* note 96. This can impact the achievement levels of the schools, because developing an educational system designed around students' needs can be a dominant factor in promoting student success rates.

<sup>100</sup> *Id.*

<sup>101</sup> See HASSEL, *supra* note 2, at 128.

<sup>102</sup> *Id.* at 129-30. If the charter schools do not have the autonomy to implement innovate educational reforms or are not financially able to succeed, then nothing can be learned from these methods and public education will continue as before.

The Laboratory thesis is a common view of charter schools, serving as an experiment for new educational practices and techniques.<sup>103</sup> If these innovative methods are found to be successful they can be replicated by public schools on a broad scale. In order for these theories of charter schools to be furthered, it is important for schools to have wide autonomy when developing their educational programs.<sup>104</sup> If schools are not given the opportunity to implement creative educational practices, they will in effect service the students in similar ways as the public schools.<sup>105</sup> Charter schools may serve as laboratories for approaches other than curriculum and school practices, such as a coherent focus and institutional form created by the schools.<sup>106</sup> In order for these views of charter schools to affect the public schools in the district, they will need to implement innovative techniques and practices in greater numbers. Public schools must be able to sufficiently learn from these successful innovations and implement them into existing school programs, which may be difficult considering the stagnant nature of our public school system.

Another theory for how charter schools may impact the existing public schools is through competition. Public schools will need to compete with charter schools for students, qualified teachers, and respect within the community. By doing so, public schools will increase the quality of education they provide.<sup>107</sup> This theory is based on the idea that public schools will respond positively to the heightened competition posed by charter schools by improving the quality of education offered at their school.<sup>108</sup> It can be seen that not only is widespread reform and change difficult to implement on a broad scale, charter schools may not present the substantial threat needed to make public schools become

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<sup>103</sup> *Id.* at 128.

<sup>104</sup> *Id.* at 130-31.

<sup>105</sup> *Id.* Charter schools have not been found on a wide scale to implement techniques that have not been considered or implemented at the public schools. Fifty-four percent pursue the “basics” approach to curriculum similar to those in public schools, 9% are implementing a culture-centric curriculum, 36% are using “alternative” approaches, but many that have already been seen and widely used in public schools. *Id.*

<sup>106</sup> *Id.* at 132. Charter schools are unique because of the notion of accountability and coherent community that they foster. Charter schools may demonstrate to public schools that these basic ideas can have large impacts on the academic achievement of the students.

<sup>107</sup> *Id.* at 134. This view of the charter school impact can be sufficiently hampered by legislation. Legislators could place a limit to the number of charter school able to open in a district or could possibly create obstacles to the opening of new charter schools. The amount of competition the charter schools pose to the surrounding district may increase the level of resistance by the state. *Id.*

<sup>108</sup> *Id.* at 136. Districts may respond negatively by trying to restrict access to charter schools or limiting the financial resources available, negatively impacting the quality of education in the district.

competitors. The number of charter schools in large cities is low in comparison to the number of students being educated in city public schools.<sup>109</sup> The SDP serves over 800,000 students in over 260 schools whereas there are only 48 charter schools in the district.<sup>110</sup> Legislative response may not be the only limiting factor to charter schools, as start up costs and dedication of founding members may pose inherent difficulties for opening enough charter schools to sufficiently compete with the public schools to create a competitive response.

The replacement thesis is the final way charter schools can change the existing educational system. This theory suggests that if the public schools fail to adapt to the innovative practices used by charter schools or otherwise provide a better quality of education, then charter schools will eventually become the primary source of public school education.<sup>111</sup> This theory would only be realistic if many large companies began creating multiple charter schools in a district; the inherent difficulties and limitations in how charter schools are initiated would impede the creation of such a large number of schools.

Charter schools will change the broader system of public education best by serving as a laboratory for existing public schools. In order to impact the public schools and reform the district, many developments need to be undertaken on the state level to strengthen the existing state of the charter schools. They must be able to fully implement innovative teaching methods that can be successfully carried out and measured. The following section discusses how the future of charter schools can be furthered and recommendations specific to Pennsylvania for continuing the impending success of charter schools.

## VIII. RECOMMENDATIONS AND CONCLUSIONS: THE FUTURE OF CHARTER SCHOOLS.

Charter schools provide great promise for the future of our public education system. The vast growth rate over the past decade has shown the need for educational reform to provide greater opportunities for achievement for our urban students. Will charter schools be able to provide a greater level of education than public schools? In order for the momentum of charter schools to

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<sup>109</sup> *Id.* at 139-40. The public schools may also welcome a decrease in student population, for not having to build or expand schools to accommodate the growing number of students in the district.

<sup>110</sup> *See Center for Education Reform*, *supra* note 12. The SPD serves more students than every charter school across the country is educating, which is about 700,000. *Id.*

<sup>111</sup> *Id.* at 141. This view is subject to many of the same limiting concerns as with the competition theory, many more charter schools would need to open in an urban area in order to handle the education of a majority of the districts' students. *Id.* The legislature may also impose limitations on the expansion of charter schools to ensure that the total public school system is not replaced. *Id.*

continue to achieve results there are three main areas that will need to be developed: the charter school laws will need to be strengthened to ensure greater autonomy to implement lasting change, a larger infrastructure will need to be implemented to support large scale reform, and there needs to be greater oversight to ensure the continued success of independent schools.<sup>112</sup>

Earlier, this note discussed the importance of strong charter legislation and the impact of state charter laws on the success of charter schools.<sup>113</sup> To ensure that charter schools can operate in the most effective way, four provisions are essential to each state's charter law: the authority for a non-local body to approve charter schools, the legal independence of charter schools, full per-pupil funding that follows the student to the school, and minimal limitations on the number and source of charter schools.<sup>114</sup>

Two of these factors inhibit the ability of Philadelphia charter schools to improve education: the limitation on authorizing agencies and the per-pupil funding given to transferring students.<sup>115</sup> Districts like the SDP that give local school boards the ability to grant charters can greatly limit the potential impact on traditional public schools. The legislature's decision to allow non-local bodies to authorize charter schools will increase the competition placed on the regions' public schools while simultaneously increasing the financial burden on the districts resources.<sup>116</sup> Pennsylvania does not grant full per-pupil funding to students when transferring to a charter school. The schools currently only receive around 75% of the funding that would have been received in the public school. Assuring full per-pupil funding is important for providing financial viability to the charter schools as well as creating a stimulus capable of initiating change within the public school system.<sup>117</sup>

Another recommendation to ensure the continued success of charter schools is to improve school infrastructure. Many people look at charter schools as escaping the administrative infrastructure that plagues the urban school

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<sup>112</sup> *Id.* at 147.

<sup>113</sup> See *Center for Education Reform: Pennsylvania*, supra note 24.

<sup>114</sup> *Id.* at 148-153.

<sup>115</sup> See *Center for Education Reform*, supra note 24.

<sup>116</sup> See HASSEL, supra note 2, at 148. The Pennsylvania state board does grant appeals to applicants that have been denied authorization at the local level, but this can impose time constraints and additional burdens to applicants in attempting to open a charter school. *Id.* at 149.

<sup>117</sup> *Id.* at 151. Without full financial support from the district, charter schools may not be able to implement the innovative education program that will be felt by the district. The school district will also not realize the full financial burden of competition with charter schools and will have little incentive to change the existing quality of education. *Id.*

districts, but a cohesive infrastructure is needed to guarantee future financial autonomy of charter districts.<sup>118</sup> The infrastructure recommended to aid in the future of charter schools will guide the administrative process that burdens many founders of charter schools, such as facility issues, transportation, and reporting responsibilities.<sup>119</sup> There are three main objectives that forming a cohesive infrastructure among charter schools in a district can achieve: goods and services may be discounted through bulk negotiations and contracts, resources and experiences can be shared with other charter schools, and leadership can be focused on improving teaching and educational practices instead of dealing with administrative concerns.<sup>120</sup> The Philadelphia charter school district is the third largest in the state with over 48 schools, educating over 21,000 students.<sup>121</sup> It is important for the continued growth of Philadelphia that there are support systems for school creators to rely on for help with administrative and financial issues.

Charter schools assume a certain level of accountability in order to achieve the amount of autonomy needed to implement new programs. It is important during the next few years of charter school operation to monitor the success of the charter schools and the ability to hold them accountable for both academic achievement and compliance with local regulations.<sup>122</sup> Some issues surrounding charter school accountability include how to measure the achievement of a charter school with unconventional educational methods, as well as what to do with schools that are not performing up to their promised achievement levels.<sup>123</sup>

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<sup>118</sup> *Id.* at 156-57.

<sup>119</sup> *Id.*

<sup>120</sup> *Id.* When talk of developing an infrastructure is associated with charter schools, many worry that the ineffective and costly administrative issues that surround public schools will haunt charter schools that were created to exhibit independence from those systems. There are a few current systems in place in certain areas where charter schools are finding support: charter schools resource centers and associations have been formed to aid in the creation of charter schools and their individual development. *Id.* The creation of a support system that will allow the charter schools to remain independent from each other and the public school system will significantly contribute to the financial viability of charter schools in the future.

<sup>121</sup> See *GPUAC: Summary of Findings, Conclusions, and Recommendation*, supra note 39. The School District of Philadelphia has recently created the Office of Charter and EMO Schools which will hopefully aid the schools in the initial opening process and can provide valuable insight and resources to the schools. *Id.*

<sup>122</sup> *Id.* at 159-60.

<sup>123</sup> *Id.* Assessing the charter school achievement by the granting agency is often inconsistent and closing the school at the renewal period for not meeting the schools set achievements can do far more harm than working with the schools to meet the performance standards.

Charter laws come under the regime of federal and state laws, including nondiscriminatory admission policies and remaining nonsectarian. Some states have enacted laws specific to charter schools and impose additional reporting requirements that public schools are not subject to.<sup>124</sup> Current oversight of charter schools is done using the current administrative system in the district, which places an extra burden on charter schools because they do not have compliance or regulatory system in place and distracts school leaders from more pressing issues. Developing a fresh system for evaluating academic and regulatory issues will also have the added benefit of instructing failing public school districts in how to better monitor and evaluate their schools.

These recommendations are important across the nation as the charter school movement moves into its second decade of educational reform. There are specific concerns surrounding the Philadelphia charter schools that can be dealt with on a local level. The Greater Philadelphia Urban Affairs Coalition paired with the Pennsylvania Economy League to compile a report to ease the integration of charter schools as a viable school choice in Philadelphia.<sup>125</sup> The recommendations include easing the transition process of students moving from the district schools to charter schools and improving the management of resources allocated to charter schools.

There are currently over 5,000 students on the waiting lists for charter schools in Philadelphia.<sup>126</sup> The SPD can increase the number of charter school openings for students by authorizing the creation of more charter schools. This does not mean authorizing charter schools that are not meeting the minimum requirements as proposed by the state, but the school board is the only authorizing agency in the state, which may strongly contribute to the limited amount of charter schools opening every year. Another area where the city can improve the success of charter schools is in increased notification to the parents of the existence and achievements of charter schools.<sup>127</sup> Many parents may not be aware of the educational opportunities available to their children; including information about charter schools along with SPD publications will fully give parents a choice regarding their public education options.

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<sup>124</sup> *Id.* at 161. Charter schools may be required by the state to hire only certified teachers or conform to the same demographics as the surrounding school districts.

<sup>125</sup> See *GPUAC: Summary of Findings, Conclusions, and Recommendations*, supra note 39. The report entitled *Meeting the Challenge: Managing the Fiscal Impact of Charter School in Pennsylvania* was initially produced in 2001 and has recently been re-proposed to the school district. *Id.*

<sup>126</sup> *Id.* Over 3,000 of these students are on the waiting list for the Math, Civics and Sciences Charter School, one of the highest performing schools in the city.

<sup>127</sup> *Id.*



Education of our nation's children is the key to decreasing class and racial distinctions in our society. Every citizen should have full opportunity to succeed, but the education currently received in our country's urban areas is failing our nation's youth. Over six million students dropped out of school since 1983 and many more are graduating high school without the basic foundations of reading and math.<sup>128</sup> Educational reform is needed to ensure that all students receive an equal education no matter where they grow up, and charter schools are proving to be the best available method. It will take more time to evaluate the success of charter schools, but in Philadelphia they are giving parents a choice, the community a say, and the students a chance.

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<sup>128</sup> See Soloman, *supra* note 85, at 1281-82. Ten million students reached twelfth grade unable to read at a basic level and twenty-two million could not do basic math.