

Strong Charter School Laws are Those That Result in Positive Outcomes¹

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There is actually considerable disagreement about what makes a strong charter school law. The purpose of this paper is to argue that strong charter school laws should be judged by their positive outcomes and not by the amount of autonomy they grant or the structural conditions present that lead to increased numbers of charter schools. Another purpose of this paper is to identify and explain the key features of strong charter school laws and key state level factors that are related to strong laws.

Effective charter school legislation should lead to anticipated outcomes and should have few or minimal unanticipated outcomes that are negative in nature (e.g., resegregation of schools by race, class, or ability). Lobbies and special interest groups that advocate for charter schools, such as the Center for Education Reform, have been effective in conveying a message that strong charter school laws are those that (i) grant the most autonomy to charter schools and (ii) result in large numbers of charter schools. Contrary to these assumptions, we have seen from our research and state evaluations that permissive laws and states with large numbers of charter schools are often less likely to have positive outcomes.

The belief that strong charter school laws are permissive is rooted in the early body of writing and research on charter schools. During the 1990s, publications about charter schools were much more likely to be rhetorical in nature rather than empirical. Early research and evaluations on charter schools also focused more on issues related to start-up, levels of satisfaction, and presence of innovations. In the late 1990s, the body of writing and research on charter schools shifted toward more empirical research. Also, an increasing proportion of new studies were considering outcomes and impacts of charter schools.

The rhetorical arguments and assumptions about charter schools claim that charter schools will use their autonomy to create focused learning communities and high levels of accountability and that this will result in higher levels of performance. The rhetorical arguments also claimed that charter schools would be innovative, create new professional opportunities for teachers, create new opportunities for community and parental involvement, and have positive impact on other schools

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by sharing innovative practices and by creating a competitive atmosphere. The rhetorical assumptions about charter schools largely have not been achieved.

As charter school reforms were implemented, a number of obstacles became apparent that explain—in part—why charter schools have not been successful in achieving the many lofty goals set for them. These obstacles include (i) difficulty with start-up, particularly as this relates to facilities and staffing, and (ii) insufficient finances in many states. Additionally, the anticipated levels of autonomy that charter schools would receive were not always provided. In part, this is because of the requirements that charter schools participate in state assessment programs and abide by federal regulations such as those governing special education. By requiring common outcome measures, charter schools have been pressured to scrap unique curricular and instructional practices and teach to the test. Pressure for performance on common standardized tests also increased with NCLB. Finally, some of the freedom charter schools had regarding who they could hire has been restricted by NCLB's requirements regarding highly qualified teachers.

In summary, we have seen increasing levels of reregulation of charter schools over time, which has further limited their autonomy. While charter schools are here to stay, they are clearly not operating with the freedoms that were initially envisioned. The fact that charter school reforms are not what was originally intended is another reason for policymakers and policy analysts to rethink what characteristics or features should be present in strong charter school laws.

Methods and Data Sources

Sources of data for this paper are derived from a federally sponsored study of the correlates of success in charter schools as well as from the findings from nine large scale evaluations of charter schools conducted by the author in six states.

The state evaluations include the following:

- ❑ Two evaluations of Michigan charter school reform (Horn & Miron 1999, 2000; Miron & Nelson, 2002). These evaluations covered data collected between 1997 and 2001.
- ❑ Two evaluations of the Pennsylvania charter school reform (Miron & Nelson, 2000; Miron, Nelson, & Risley, 2002). These evaluations covered data collected between 1999 and 2002.
- ❑ One evaluation from Illinois (Nelson & Miron, 2002). This evaluation covered three academic years from 1999 to 2002.
- ❑ Two evaluations of Connecticut charter schools (Miron & Horn, 2002; Miron, 2005). The first evaluation was a five-year comprehensive study that ran from 1997 to 2002. The latter study focused only on the performance of charter schools as measured by their own goals and on results from standardized tests.
- ❑ We conducted a three-year qualitative study of four charter schools in Ohio (Sullins & Miron, 2005). This study helped us understand the context and implementation of the statewide reform. Further insight into the Ohio reform was gained by providing advice on the design of the statewide evaluation and feedback on the final reports from this large evaluation (see LOEO, 2003).

- ❑ In Delaware, a three-year evaluation of the charter school reform was started in 2004 with the Year 1 report delivered in December 2004 (Miron, 2004).

Findings from these state studies and a close examination of the context and implementation of the charter school reforms in these states allow us to draw lessons regarding the strengths and weaknesses regarding the charter school laws.

Outcomes By State

Figure 1 illustrates the quality and impact ratings of charter schools that examined student achievement from across the country. The ratings from the 6 states that we are focusing on in this paper are indicated by the large underlined text. As can be seen, the performance of charter schools in Michigan and Ohio are rather negative. The performance of charter schools in Connecticut and Delaware, however, are positive. Our evaluation in Illinois indicated that the performance of charter schools was mixed; and in the case of Pennsylvania, our research showed a very small advantage for charter schools over traditional public schools.

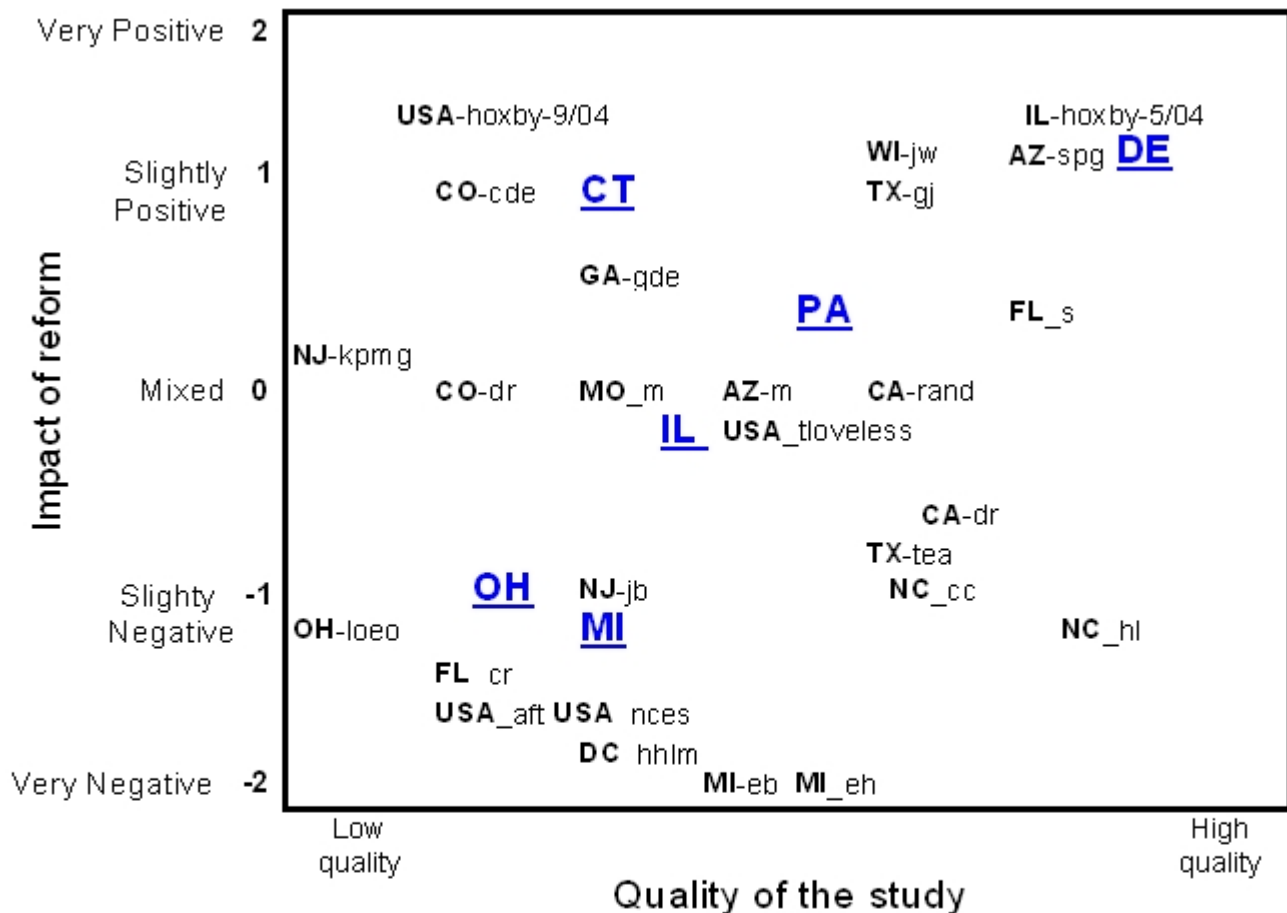


Figure 1. Quality and Impact Ratings for State and National Studies of Student Achievement in Charter Schools

Note: This map provides an illustration of estimated impact and quality ratings for 32 studies completed during the past 5 years.

In terms of regulatory accountability (i.e., compliance with applicable regulations and submission of data and information required by state agencies), Delaware had the best results, followed closely by Connecticut. Charter schools in Michigan and Ohio stood out as exceptionally poor when it came to regulatory accountability. Results in Illinois and Pennsylvania were mixed and varied considerably depending on particular authorizers.

It is important to keep in mind that in addition to between state differences, there are also within state differences. Even in poor performing reforms such as those in Michigan and Ohio, highly successful charter schools do exist.² Also, Connecticut and Delaware have a few schools whose performance is less than satisfactory (rather unique to Connecticut is the large proportion of poor performing schools that have closed). Because of the overall differences in performance levels, these six states provide good examples from which to draw lessons.

Key Components of a Strong Charter School Law

By examining the key features of the six charter school reforms and considering the legislative and regulatory frameworks that govern them, we have identified some key features of states that are closely related to successful or unsuccessful charter school reforms. These are listed and described in this section of the paper.

Rigor of Approval Process

Allowing only strong applications with sound and feasible plans is one of the best ways to ensure strong charter schools. Over time, we have seen that in most states the bar goes up as authorizers raise expectations for applicants. Also, the quality of applications tends to improve as new applicant groups (i) respond to increased expectations by authorizers, (ii) learn from peers, and (iii) receive greater support from resource centers and advocacy groups that were not as prevalent in the early and mid-1990s. As we often hear from authorizers, the most important oversight activity begins during the application process.

Delaware and Connecticut have been highly selective in approving applications for charters, and these states have had at most only two authorizers, the state education agency and a local district. Both states have small numbers of charter schools (14 in Connecticut and 13 in Delaware), and both states have gone through moratoriums or time periods when no charter applications were accepted or considered.

In Michigan, it is hard to determine if the rigor of the approval process increased over time. Early on in the reform, there was a race to open large numbers of charter schools. It is fair to say that there was often insufficient scrutiny of applications. By 1999, when lessons could have been learned from the early rush to open charter schools, the cap of 150 charters sponsored by state universities was met. In Pennsylvania, charters are granted by local districts only. Early in the reform, districts granted charters—in part because they were led to believe that if an application met the criteria it had

² In Nelson & Miron (forthcoming) we have conducted a thorough examination of the school level factors that explain differences among charter schools in the same state.

to be granted a charter. The districts had no budgets and no routines in place when it came to reviewing applications for charters. Later, a charter school appeals board was established at which point districts increasingly denied new applications. The process of pursuing an application through the appeals process ensured that more rigor was given to the process of evaluating new applications.

Rigor of Oversight

The rigor of oversight has many components. Not only does this require the systematic collection of data, but it also requires an ability and willingness by authorizers to act on these data. Systematic collection of data can involve required annual reports, annual financial audits, data collected during site visits by authorizers, etc. Extensive data from the statewide collection of data from all public schools often are available for authorizers. This can include student performance data on standardized tests, demographic data on students, background information on teachers, financial data, etc. Unfortunately, in some states such as Michigan and Ohio, data are sometimes not available because a large proportion of schools do not submit the legally required annual reports that cover the goals set in their contracts. Many schools also neglect to report demographic, financial, or complete teacher information.

In states with high rigor of oversight, such as Connecticut and Delaware, annual reports are submitted by all schools. These reports are comprehensive and cover goals set in the charter contracts. Also in these states, state data files contain relatively little missing data.

In states with high rigor of oversight, the authorizers are willing and able to act on the information and data collected by authorizers or by state agencies. These states usually have a higher percentage of closures, and a higher proportion of the closures will be due to direct action of authorizers. Unfortunately, some states, such as Michigan and Ohio, can be said to have disincentives for authorizers to close poor performing schools.

Provision of Technical Assistance

Technical assistance is critical for the success of charter school reforms. Examples of the types and nature of technical assistance include the following: (i) assistance with preparing the charter application, (ii) compliance with applicable state and federal regulations (most prominent is special education), (iii) developing and strengthening accountability plans, and (iv) board member training.

Technical assistance is usually provided by state education agencies, authorizers, and charter school resource centers. An increasingly common place for technical assistance to be provided is at state, regional, or national charter school conferences where a large portion of the sessions are devoted to the technical and knowledge needs of charter schools. Schools that contract out services to a management company will either have services provided completely for them or a portion of the services are provided; technical assistance may be provided to help school personnel handle other management tasks.

There are some inherent problems with authorizers providing technical assistance. For example, there may be a conflict of interest for an authorizer to share responsibility for the success of a charter school by providing technical assistance when it is also in a position to judge the success of the school. In many instances, state agencies have limited technical assistance to charter schools

to that which is provided to all other public schools. Specialized assistance for charter schools is then handled by resource centers or charter school networks/associations.

In order to ensure that technical assistance will be provided, it is important to plan and budget for it before and during the implementation of the reform. In some instances, state agencies are unwilling or unable to provide sufficient technical support because they do not have funds allocated for this purpose. This is also a common problem for local districts, many of which are unwilling sponsors of charter schools. Resource centers that provide technical assistance have depended on grants from foundations to support their work. Over time, many of these centers or groups are shifting to fees for particular services.

Extent of EMO Involvement

No body of evidence by independent researchers and evaluators supports the belief that privatized management of charter schools or traditional public schools improves performance or efficiency. Some of my own research suggests just the opposite (Miron & Applegate, 2000; Horn & Miron, 2000). The cross-state analysis done for this paper also suggests that states with extensive involvement by for-profit management companies have poorer results in terms of performance and accountability. Michigan has more than 75 percent of its charter schools operated by for-profit education management organizations (EMOs); and while no figures can be found for Ohio, it is believed to be one of the most attractive states for for-profit EMOs. At the other extreme, Connecticut has had some local nonprofits partner with charter schools but never any for-profit management companies. Delaware has had a long list of EMOs partner with its charter schools (e.g., Edison, Mosaica, and Beacon); but in all but two schools, the management companies were fired.

The extent of EMO involvement obviously is closely related to the rigor of the application process. In Connecticut, it is unlikely that the state authorizer would grant a charter to an applicant group that has an EMO. In Michigan, several state universities would not consider applications for charters from groups that were independent of an EMO. The high rigor of oversight in Delaware is clearly related to the decision by local charter schools to fire or replace their EMOs. The relative level in funding is also likely to be related to the extent that EMOs are involved in charter schools. While some operators like Edison—with its expensive school model—will be discouraged to go into states with low levels of funding, other management companies have models that will work in states with per-pupil funding at or below \$5,000.

Financial Support

Funding does matter, and states that can insure that more resources get to the charter schools in a timely fashion are more likely to have successful and strong charter schools. Some early charter school promoters made sweeping assumptions about charter schools being able to do a better job with less money. The expectations that charter schools would be innovative and serve as research and development units for public education were naive, given that charter schools typically receive the same or less money as traditional public schools.

Funding can be broken into different types of support devoted for differing services. For example, it is not only important to compare resources for instruction between charter schools and

traditional public schools, but also to consider the amount of funding for start-up activities, facilities, transportation, and special education. The funding formulae differ greatly by state, and decisions regarding what is sufficient or adequate funding must consider what costs are included and what is expected of the resources provided to charter schools. For example, on the surface, Connecticut looks as though substantially fewer financial resources are available for charter schools. However, this state has relatively good funding for charter schools because the cost for students with special educational needs in charter schools is paid by local districts. Also, the costs for transportation are covered solely by districts. The funding in Delaware is also deemed to be good because charter schools receive similar levels of revenues as do traditional public schools. In Michigan and Ohio, the charter schools receive noticeable less funding. However, when schools target less costly to educate students, they are able to achieve large cost advantages. The extensive involvement of educational management organizations (EMOs) in these two states also means that in many instances a large portion of revenues is devoted to management and administration but does not reach the classroom.

Insufficient funding for charter schools places stress on small, independent charter schools and—in the end—can give an advantage to management companies that can provide start-up support, guarantee loans, and provide resources for preparing the initial charter application. Also, EMOs can attain economies of scale more easily and are more familiar with means and strategies for reducing operating costs.

Rate of Growth

Rate of growth is a key component to consider that seems to be related to the success of charter school reforms. It seems apparent that states that have reforms that are implemented more slowly end up having more favorable results. Starting slow allows time for subsequent charter school applicants to learn from earlier applicants. Starting slow also allows authorizers to develop and test oversight mechanisms that will require revisions and improvements over time. It is easier to raise the bar over time and establish high expectations for accountability for new schools than it is to go back and try to enforce oversight and compliance on large numbers of schools rooted in bad practices, but with established constituencies.

Michigan and Ohio have weak charter school reforms—in large part because of the rapid implementation of the reforms. In Michigan, the state university-sponsored charter schools reached the cap of 150 schools by late 1999. Because of the poor performance of the charter schools and the many scandals that discolored the initiative, it was not possible for the Republican leaders of the reform to garner sufficient support from their own party to lift the cap. In both Michigan and Ohio insightful reports prepared by state auditors address the many shortcomings with regard to oversight. Interestingly, both auditors' reports cited insufficient funds for state departments of education to oversee charter schools.

Bipartisan Support

Some charter school reforms have been developed and implemented in a less than ideal fashion when political differences result in one party pushing its own agenda against the will of the other party.

A charged political atmosphere is more likely to lead to reforms that are rushed in implementation—in part because of fear that the reform may not survive an election. The two states with the broadest bipartisan support for charter schools are also the ones with the strongest performance in terms of regulatory and performance accountability (i.e., Connecticut and Delaware). The two states with especially partisan reforms and marred by lawsuits are Michigan and Ohio.

Discussion and Conclusions

The differences among the successful and the rather unsuccessful charter school reforms noted in the previous section comprise a short list of guiding features that we should consider when planning new charter school reforms or when revising existing reforms. These are features that are related to strong charter school laws that are more likely to achieve their anticipated outcomes.

Legislators and policy analysts involved in designing charter school laws could also learn a lot from the existing body of research about reforming education. The Swede, Torsten Husén, spent more than 50 years researching and evaluating school reforms around the world before he developed his rules for reform (Husén, 1990). While these rules predate charter school reforms, they are clearly relevant and important when it comes to developing and implementing large scale reforms of this nature. These general rules included the following:

1. Educational reform is part and parcel of social reform.
2. Reforms cannot be implemented overnight.
3. Resources are needed.
4. Central government and grass-roots participation are key factors.
5. Educational research and development are called for.

Breaking or overlooking these rules can lead to a number of problems in the implementation of the reform and may lead to outcomes that are quite different than planned.

As should be apparent from the description of the key components of a strong law in the previous section, these components or features are often closely related or overlap with one another. Another important observation is that many of these key components are closely dependent on the work of authorizers that sponsor charter schools and oversee their performance. The work being done or sponsored by the National Association of Charter School Authorizers and others that focuses on the role of authorizers is going to help us better understand how legislators can ensure that authorizers have the necessary support and the proper incentives to operate effectively.

Over the past 40 years, The Evaluation Center at Western Michigan University has been engaged in evaluating a whole range of school reforms and education policies. In recent years, much of our work in the education sector has focused on charter school reforms. Interestingly, The Evaluation Center is deemed as an opponent of charter schools by Michigan charter school advocates because our evaluations found the performance of the charter schools to be poor and the accountability to be lacking. In other states, such as Connecticut and Delaware, we are perceived differently because our findings have favored charter schools. Regardless of how our work is perceived by advocates or opponents of charter schools, one key lesson from our own growing body of research and evaluation is our understanding that *charter schools can work* if legislated properly.

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