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FLORIDA CHARTER SCHOOLS:

Hot and Humid with Passing Storms

by Bryan C. Hassel, Michelle Godard Terrell & Julie Kowal



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FOREWORD

With its beaches, amusement parks and sunny climate, Florida has long been regarded as somewhere Americans go to play. But Florida's education reformers are also rolling up their sleeves and getting to work. With multiple private-school choice programs, an innovative school accountability system, a class-size-reduction initiative and a growing public charter school sector, there is a great deal happening in Florida, and the state is attracting national attention.

Not all of these initiatives have been well studied, however. This is especially true of Florida's public charter schools, which have been praised and attacked but not systematically examined. *Florida Charter Schools: Hot and Humid with Passing Storms* seeks to help fill that void. Written by Bryan Hassel, Julie Kowal, and Michelle Godard Terrell, this new report from Education Sector examines the history of Florida's charter school initiative, results to date, and areas where the state can improve. Hassel, Kowal, and Terrell find reason for optimism about Florida's charter school sector and its potential to improve educational opportunities for the state's youngsters, but they also find problems, especially around accountability for public charter schools, that demand the attention of state policymakers.

Hot and Humid is an important resource for educators, policymakers, journalists, and others interested in charter schooling in Florida and throughout the nation. This report is part of a series of case studies analyzing state and urban experiences with charter schooling. Previous reports, published by the Progressive Policy Institute, looked at California, Minnesota, Arizona, Ohio, Texas, Colorado, Indianapolis, New York City, Chicago, and Washington, D.C. Education Sector is continuing this series, and later this year we will publish a similar analysis examining charter schooling in Michigan.

A generous grant from the Annie E. Casey Foundation made it possible for Education Sector to produce this report. We are grateful to the Foundation for its support of this research project, other work at Education Sector, and their overall commitment to educational improvement for low-income youngsters.

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Andrew J. Rotherham
Co-Director
May 2006

Florida is often referred to as “school choice central” because of its many publicly-funded school choice initiatives, which include voucher programs for students with special needs and those in low-performing schools, virtual schools, and magnet schools.¹ But among all the programs, none has reached as many children and families as charter schools. In the 2005-06 school year, there were over 300 charter schools in 42 of the state’s 67 school districts. The schools served nearly 100,000 students, about 3 percent of the state’s public school students.

Charter schools have flourished in Florida largely because of the state’s rapid population growth.² In fact, many of the districts that are experiencing more than a 10 percent increase in student enrollment such as Polk, Lake and Osceola Counties have more than 10 percent of their students in charter schools. And one high-growth district, Sumter County, has over 25 percent of its students enrolled in charter schools. To be sure, the politics of approving a charter school is easier in these booming districts because charters typically absorb new enrollments that might otherwise have required more school construction.

Still, nearly half of the charter schools in the 2004-05 school year were located in the state’s five largest school districts: Miami-Dade, Broward, Hillsborough, Palm Beach and Orange. These districts enroll 51 percent of the state’s charter school students and 44 percent of all public school students. The remaining charter schools were located in 37 other school districts, the majority of which had five or fewer charter schools. Eleven school districts had just one charter school in operation.³

The charter school movement in Florida enjoys strong and increasingly bipartisan political support. Republican Governor Jeb Bush has long been a fervent advocate of charter schools. Indeed, Bush and T. Willard Fair, vice chair of the State Board of Education and CEO of the Urban League of Greater Miami,⁴ organized Liberty City Charter School, the first charter school in Florida. Republican state Sens. Stephen Wise and Daniel Webster and Reps. Rafael Arza, John Stargel and John Legg have also been vocal supporters of the charter school movement, and Legg even serves as an administrator

at Dayspring Academy Charter School in Port Richey, Fla. Support for charter schools is somewhat polarized politically, but a group of centrist Democrats, including Rep. Ron Greenstein and Sens. Loranne Ausley and Ron Klein, have actively supported legislation to improve the quality of Florida’s charter schools, including bills to create an independent authorizer in the state. Several of the state’s institutions of higher education and the Urban League of Greater Miami have also actively supported charter schools, and many legislators send their children to charter schools.⁵

As in other states, charter advocates in Florida have faced resistance from teachers unions, school boards and some parent-teacher associations. These groups opposed the initial charter legislation and have fought several subsequent amendments. In 2006, however, the Florida School Boards Association, the Florida Association of District School Superintendents and the Florida Education Association decided to neither support nor oppose charter school legislation in their legislative platforms. Instead they planned to battle Florida’s school voucher programs. In fact, one might argue that voucher programs have provided political cover for charter schools in Florida; groups that might have spent much of their time fighting charters have focused on vouchers instead.

Since charter schools were first authorized in 1996, state policymakers have tried to promote their growth. They’ve established a \$5 million facilities fund and set a high cap on the number of charter schools that could be authorized in each school district. They also expanded charter renewal terms from three to up to five years. Measured by volume, Florida’s first decade of charter schooling has

certainly been quite successful. The number of charter schools has grown from five to 334 in less than a decade.

But the rapid growth has raised its own problems—problems that must be addressed if the state wants to continue the experiment. Most notably, the second half of the charter school autonomy-accountability bargain has been largely unfulfilled. Until recently few schools have been shut down for poor academic performance. Although 62 Florida charter schools have been closed, the majority have been shut down due to financial and enrollment issues; academic laggards have largely been allowed to remain open.

To some, this situation represents the charter school ideal: free market experimentation that gives parents a wide range of choices. But it also gives ammunition to charter school critics, who argue that some charter school operators fail to serve their students and fritter away state and federal dollars. In response, the state has passed some measures that help weed out such unsuccessful operators. Specifically, the state has strengthened local application and review standards and enforced charter revocation provisions.

This report examines both the achievements and the shortfalls of Florida's first decade of charter schooling. We review Florida's charter school legislation and its evolution over time as well as examine charter schools' performance. We also discuss some of the challenges facing chartering in the state and offer some recommendations for improvement.

Among our principal findings:

- **Charter schools have tremendous support.** Charter schools are the most widespread and popular of Florida's school choice options and enjoy strong support with parents, teachers and legislators. Indeed, over the past few years, charter advocates have successfully passed nearly all of their pro-charter proposals through the legislature. But some of the legislative support for chartering hinges on compromises that weaken charter schools including making districts the primary authorizers and funding charter schools below parity. Efforts to change those conditions face an uphill battle.
- **Florida has embraced innovative charter programs.** Florida has been a leader by developing

Florida Charter Schools by the Numbers

- The state has 334 charter schools, up more than 10 percent from the 2004–05 school year.
- Nearly 1 out of 11 public schools is a charter school.
- Nearly 3.5 percent of students attend a charter school.
- Over half of all charter school students are pre-K and elementary school-age children.
- In the 2004-05 school year, charter schools served a student population demographically similar to district schools: 52 percent of children enrolled in charter schools are children of color, compared to 51 percent in district schools.
- Six percent of charter schools are conversions from district schools.
- Just over 50 percent of charter schools received grades of A or B under the state accountability system in 2005, compared to 66 percent of district schools. Twenty-six percent of charter schools received a D or an F, compared to only 11 percent of district schools.
- As of January 2006, 62 charter schools have been closed, more than 15 percent of all the charter schools that had been opened. (Nationally, the rate is closer to seven percent.) More than a third of the charter schools closures in Florida have been due to financial mismanagement. The other major reasons include lack of enrollment and school governance issues.
- In the 2005-06 school year, 69 percent of charter applicants whose district denied their application appealed their case to the State Board. In 53 percent of those cases, the State Board ruled on behalf of the charter schools.
- Charter schools in the state are small: The average charter elementary school enrolls 292 students, compared to 674 students in the average district elementary school. Seventy percent of charter schools enroll fewer than 300 students. One-third enroll fewer than 100 students.
- During fiscal year 2003, charter schools received 11.4 percent less funding than district schools: \$7,831 vs. \$6,936 per pupil.
- Seventy-six percent of charter school funding comes from the state, compared to 45 percent of district funding. Forty-three percent of charter schools are not eligible for state capital outlay funds.

Sources: J. Allen, and M. Looney, *Charter School Closures: The Opportunity for Accountability*, The Center for Education Reform, October, 2002; Meagan Batdorff, Chester E. Finn, Bryan Hassel, Larry Maloney, Eric Osberg, Sheree Speakman, and Michelle Terrell, *Charter School Funding: Inequity's Next Frontier*, Thomas B. Fordham Institute, August, 2005.

several creative charter policies such as workplace charter schools, charter schools in a municipality, capital outlay funding and the use of impact fees to support charter facilities financing.

- **School accountability is spotty.** Charter schools in Florida are subject to the same state accountability system as district schools. But because they serve smaller numbers of students and have odd grade

configurations, about 40 percent of charter schools were not assigned grades by the state and 12 percent were not subject to Adequate Yearly Progress (AYP) designations under the No Child Left Behind Act (NCLB).

- **Student achievement is mixed.** Based on absolute achievement scores, fewer charter schools excel and more are failing than Florida's district schools. But students who enroll in charter schools typically start out further behind than their district school peers, and comparisons of annual test-score gains show that student achievement in charter schools is about the same as district schools.
- **District authorizing is ineffective.** Local school districts serve as the primary authorizer of charter schools, and some have been indifferent or hostile to qualified applicants. Even charter-friendly districts often lack the capacity to effectively manage the exponential growth of charter schools in their jurisdictions.
- **Florida's charter schools are underfunded.** Florida charter schools receive an average of 11.4 percent less funding than district schools, and financial problems have consistently been the most common reason for charter school closure. Although Florida has supported innovative facilities funding programs for some charter schools, many charters are overburdened with debt.

Our report provides several recommendations to help Florida and other states improve the vitality and quality of their charter schools:

- **Enhance the quality of charter school authorizing.** Florida's charter schools vary greatly in achievement largely because of the varying quality of authorizing districts. State policymakers should hold authorizers accountable for their schools' results, establish alternative routes to charter authorizing and expand current authorizer capacity.
- **Strengthen charter school performance.** Compared to district schools, Florida's charter schools are performing relatively well. But far too many charters are failing. Policymakers and charter advocates should work to improve charter schools' performance by actively recruiting more successful charter school operators and requiring authorizers to crack down on consistently low-performing schools.
- **Ensure charter schools' financial viability.** Many of Florida's charter schools are struggling financially. The state can help ensure the future financial viability of charter schools by making their funding equal with district schools. States can also provide finance-related technical assistance to charter school operators. The state's first experience with the distribution of impact fees to charter schools suggests that policymakers should establish a formula or guidelines for distributing these funds.
- **Extend charter schools' exemption from the class size amendment.** Charter schools should be free to use innovative teaching and educational approaches that best serve their students, and the state's policy on class size reduction is exactly the type of regulation from which charter schools should be exempt.
- **Improve measures of charter school performance.** The state should require charter school authorizers to have performance standards for schools that cannot be held accountable under the state accountability plan or NCLB and to report annually whether performance outcomes are being met.
- **Insulate charter schools from the Florida Supreme Court voucher decision.** Some believe that the recent state Supreme Court decision threatens the legal status of charter schools. State legislators should ensure that the court's reasoning in the voucher case will not apply to other school choice programs—such as charter schools—in the future.
- **Coalesce charter support.** The splintered focus of the state's charter support organizations is a missed opportunity. Forging a more unified movement would help provide greater technical and other support and more effective advocacy for high-quality charter schools across the state.

Growth

Charter school enrollment is booming. In the past year alone, enrollment in charter schools increased by 11 percent, while enrollment in district schools grew only 1.3 percent. Since 1999, Florida's rate of charter school growth has outstripped the national average in every year except 2001.

Student Demographics

Florida’s charter schools serve a student population that is demographically similar to that of district schools. The most recent demographic data on Florida charter schools is from the 2004-05 school year and shows that nearly 50 percent of students in both charter and district schools were white. The remaining 50 percent were divided almost equally between Hispanic and African-American students. Asian and American Indian students together made up less than 5 percent of the student population in both types of schools (See Table 1).

There are some differences, however. District schools serve a larger proportion of students classified as limited English proficient, gifted or having a disability, for instance. It is unclear exactly how different the population of economically disadvantaged students is. The conventional measure—eligibility for free and

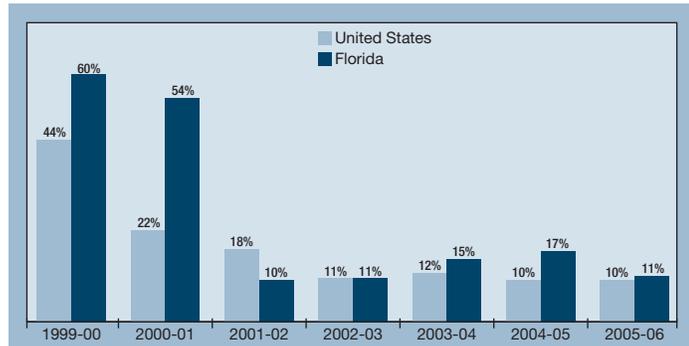
Table 1. Racial/Ethnic Student Enrollment in Charter Schools and District Schools, 2004-05

| | Charter Schools | District Schools |
|--|-----------------|------------------|
| White | 48% | 49% |
| Hispanic | 26% | 23% |
| African-American | 25% | 24% |
| Asian | 1% | 2% |
| American Indian | <1% | <1% |
| Eligible for Free or Reduced-Price Lunch | 37% | 46% |
| Students with Disability | 12% | 16% |
| Limited English Proficiency | 6% | 8% |
| Gifted | 3% | 5% |

Percentages may not total 100% because they do not include multiracial students or students whose race/ethnicity is unknown.

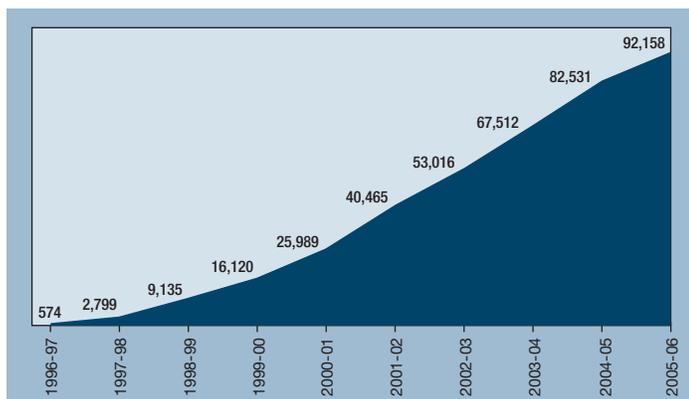
Source: Florida Department of Education, Offices of School Choice and Education Information and Accountability Services.

Growth in Charter Schools, Florida and the United States, 1999-2000 to 2005-06



Source: Florida Department of Education and the Center for Education Reform.

Growth in Charter School Enrollment, 1996-97 to 2005-06



Source: Florida Department of Education.

reduced price lunch—is problematic for evaluating charter schools because many charter schools elect not to participate in the program due to its administrative burdens even when they serve large numbers of low-income students. So while the share of students who are eligible for free and reduced price lunch appears to be higher in district schools than charter schools, the level of economic disadvantage of students in the two types of schools is probably more similar than these numbers suggest.

The Law

Enactment

Florida’s charter legislation, passed in 1996, was the result of nearly a decade of effort at the state and local levels. During the early 1990s, state elections gave Republicans a majority in the House and Senate for the first time in over a century, and the new Republican majority pushed for local decision-making and parental involvement with a series of school choice bills. None of these early bills passed—they were smothered by opponents or got lost in the shuffle—but they built momentum.

Six charter school bills circulated in the state legislature in 1995. The most successful, SB 2396, had bipartisan

sponsorship and authorized the creation of public charter schools. The bill passed the Senate by a vote of 33 to seven. When the bill reached the House, Democrats tied provisions for early childhood education to it, which drew votes from several House members despite their opposition to charter schools, and the bill passed by a vote of 103 to 14. The bill then passed in the Senate and was expected to become law when it returned to the House for final consideration. In the closing hours, however, Democratic Governor Lawton Chiles, who had initially supported SB 2396, expressed his opposition because of conflicts with Republican state commissioner of education Frank Brogan. The Governor's last-minute change of position caused SB 2396 to die in the House.

Charter school advocates returned in 1996, determined to push a bill through the legislature. The 1996 bill included new features, such as the requirement that all teachers in charter schools be certified and that charter schools be subject to the same accountability requirements as district schools, which drew the support of several additional Democratic lawmakers. The bill was accompanied by a growing local and federal focus on flexibility and choice, and it passed the House and the Senate with a bipartisan majority and was signed by Governor Chiles.⁶

The key initial features of the legislation included:

- Charter authorizing by local school boards;
- Caps on the number of charter schools in each district;
- Autonomy to be negotiated in each school's charter;
- Operational funding on the same basis as district school funding; and
- Appeals of district denials to the State Board of Education.

Amendments

The initial charter legislation was just a starting point. From 1997 to 2004, Florida amended its charter school legislation every year, and the charter law differs from the original in several ways:

- **Raising and elimination of caps.** Initially, the caps for charter schools varied by district enrollment. Amendments in 1998 encouraged growth by increasing the number of charter schools that could be authorized in each district. In districts with 100,000 students or more, the cap was raised from seven to 28 schools; in districts with 50,000-99,999

What Roles are Charter Schools Intended to Play?

Like charter school legislation in many states, Florida's charter school statute envisions that charter schools will provide more school choice and innovation and ultimately lead to higher student achievement. The statute states:

- (a) Charter schools in Florida shall be guided by the following principles:
1. Meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system.
 2. Promote enhanced academic success and financial efficiency by aligning responsibility with accountability.
 3. Provide parents with sufficient information on whether their child is reading at grade level and whether the child gains at least a year's worth of learning for every year spent in the charter school.
- (b) Charter schools shall fulfill the following purposes:
1. Improve student learning and academic achievement.
 2. Increase learning opportunities for all students, with special emphasis on low-performing students and reading.
 3. Create new professional opportunities for teachers, including ownership of the learning program at the school site.
 4. Encourage the use of innovative learning methods.
 5. Require the measurement of learning outcomes.
- (c) Charter schools may fulfill the following purposes:
1. Create innovative measurement tools.
 2. Provide rigorous competition within the public school district to stimulate continual improvement in all public schools.
 3. Expand the capacity of the public school system.
 4. Mitigate the educational impact created by the development of new residential dwelling units.

Source: Section 33(2)(a) of Chapter 1002 of the 2005 Florida Statutes.

Distributing Impact Fees, a Case Study of Odyssey Charter School

In 2004, the state legislature passed a law allowing a developer to bypass the local school board and earmark impact fees specifically for a charter school. The first test of the law came in late 2005, when the county commissioners of Brevard County, Fla., approved an agreement with a developer to award all of the developer's school-related impact fees to a local K-8 charter school, Odyssey Charter. Under the agreement, Odyssey Charter School stood to receive \$2.24 million, but then the Brevard County School Board threatened to sue the Brevard County Commissioners if it did not receive a share of the fees. Although Odyssey Charter School meets the requirements of the law, the county commissioners and the school board entered into negotiations to develop an agreement under which Odyssey and the district would split the fees.

Both developers and municipal bodies have watched the Brevard County case closely. The incident has also caused concern among some state legislators because such a large fee was awarded to one school. Most observers believe that a clean-up bill will be proposed that includes a better method for determining what portion of school-related impact fees must be offered to the local district.

Source: Minutes of the Meeting of the Brevard County Commissioners, January 24, 2006, http://www.brevardclerk.us/index.cfm?FuseAction=MinutesRecords.View&BoardMinute_id=780.

students, it was raised from five to 20; and in districts with fewer than 50,000, it was raised from three charter schools to 12. A 2001 amendment authorized the State Board of Education to waive the caps to allow districts to approve additional charter schools, and then in 2003, the caps were removed entirely.

- **Facilities assistance.** In 1998, amendments created a charter school capital outlay trust fund for charter schools that were not provided space by their local school board. A 2004 amendment also made charter schools eligible to receive funds from the impact fees assessed when residential developments caused increased enrollment (See “Distributing Impact Fees, a Case Study of Odyssey Charter School” Sidebar).
- **Appeals process.** In 1996, the legislature gave the State Board the power to hear the appeals of charter schools whose applications had been denied. An amendment in 2002 created a Charter School Appeals Commission to assist the State Board of Education with the appeals and make non-binding recommendations.
- **More stringent accountability.** There have been two major efforts to increase accountability. First, in 2002, an amendment to the state constitution implemented a “Double F” provision that gave the

State Board of Education discretion to intervene in a public school—including charter schools—that received a grade of F under the state accountability program for two years within a four-year period. Second, in 2003, legislators mandated that every charter school emphasize reading and required auditors to provide more information to districts and the State Board of Education about schools' financial conditions.

Key Components of Legislation

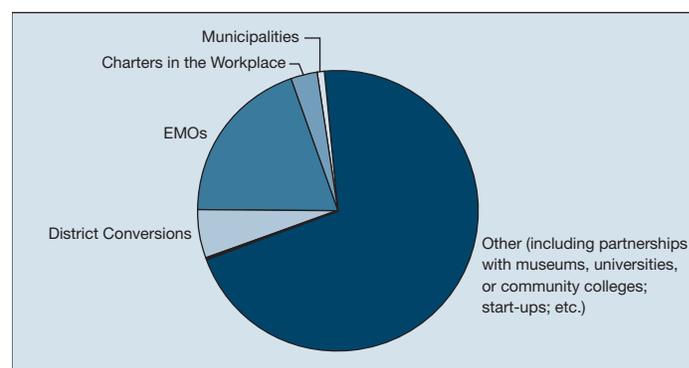
Types of Charter Schools

Charter schools in Florida fall into five general types of management:

- Operated by independent boards;
- Education management organization-run schools (EMO);
- Conversions from district schools;
- Charter schools in the workplace; and
- Municipality-run charter schools.

Independent boards govern three-quarters of all Florida charter schools. These boards are either made up of parents, teachers and community members or operate in conjunction with a local museum, university or community college. In recent years, several of these charter schools have been founded by experienced charter school operators. Of the 44 charter schools that opened in 2005, 30 grew out of an existing school. Some charter school operators replicated existing schools, others created new schools to serve additional grade levels and still others opened a school within a school.⁷

Percentage of Charter Schools by Management Type



EMOs such as Charter Schools USA and Imagine Schools operate 28 percent of charter schools in Florida, and they typically deliver comprehensive educational and management services to several charter schools in a district. Because for-profit companies cannot directly hold a school's charter in Florida, EMOs usually partner with a nonprofit foundation, which will hold the charter with the district.

Six percent of Florida's charter schools are conversions from district schools. This represents a significant increase from the 2001-02 school year when there were no charter school conversions. The increase is attributable

to a recent program offering districts grants of \$200,000 to assist with charter school conversions.

Florida's charter law allows two unusual types of charter schools: charter schools in the workplace and charter schools operated by municipalities. Charter schools in the workplace make up about three percent of operating charter schools in Florida. Approximately one percent of Florida's charter schools are municipality-run. Local school boards must approve the charters of both municipality-run charter schools and charters in the workplace before they are allowed to operate.

Amendments to Florida's Charter Law, 1997-2004

| | | |
|------|---|---|
| 1997 | » | Established a statewide application and review timeline for charter proposals. |
| 1998 | » | Allotted \$5 million for facilities for existing charter schools that were not provided space by their local school boards. |
| | » | Increased the number of charters that can be authorized in each district. |
| | » | Expanded initial charters and renewals to five years. Previously, it had been up to three years. |
| | » | Authorized charter schools in the workplace to increase business partnerships with education, reduce overcrowding in schools and offset the high cost of educational facilities. Under the program, businesses that provide a school facility for the children of their employees may gain charter status. Any part of the facility used as a charter school is exempt from property taxes. |
| 1999 | » | Required charter school governing board members to undergo the same fingerprinting and criminal background checks required of school employees. |
| | » | Expanded law to allow municipalities and other public entities to operate charter schools. |
| | » | Extended renewal periods for particular sets of schools. Schools that demonstrate exemplary academic performance and fiscal management or are run by municipalities or other public entities may renew for up to 15 years. Charter schools operated by nonprofit organizations may extend their charters for up to 10 years. |
| | » | Required the Department of Education regularly to convene a panel to review issues, practices and policies dealing with charter schools and to recommend improvements in their operation and oversight. |
| | » | Created a pilot program for up to six charter school districts, which would be held to performance-based contracts and exempt from most state laws and rules. |
| 2000 | » | Streamlined the procedures for applying for charters. |
| | » | Clarified the reporting requirements for charter schools. |
| | » | Expanded eligible charter applicants to parents. |
| | » | Authorized the State Board of Education to waive the statutory cap to allow additional district-sponsored charter schools and clarified that schools that convert to charter schools are not counted toward the total number of charter schools allowed in each district. |
| | » | Increased allocation for charter school facilities. |
| | » | Provided a tax exemption for facilities used to house charter schools. |
| 2001 | » | Expanded the purposes of charter schools to include competition within the public school system, additional academic choices for parents and students and increasing the capacity of the public school system. |
| | » | Required funds generated through the finance formula by a public school that converts to a charter school to remain with the school. |
| | » | Encouraged municipalities and developers of residential and other projects to incorporate neighborhood schools—including charter schools—into their plans. |
| 2002 | » | Created an appeals commission to assist the State Board in reviewing charter school appeals when local districts deny charters. The commission became operational in 2003. |
| 2003 | » | Clarified accountability and performance reporting. |
| | » | Removed the limits on the number of charter schools. |
| | » | Required charter high schools sponsored by community colleges to provide the opportunity for a student to graduate from high school with an associate's degree. |
| 2004 | » | Made charter schools eligible to receive funds from the impact fees assessed when residential developments cause increased enrollment. |

Finance

The state of Florida funds each charter school based on the number of students that it serves. The state money first goes to the district, which is permitted to withhold a five percent administrative fee. In theory, this fee should be the only funding difference between charter schools and other schools within the district. But in practice charter schools receive significantly less than district schools. Anecdotal evidence suggests that districts often withhold other sources of local funding from charter schools.⁸

Facilities

Florida has been a leader among states in assisting charter schools with facilities financing. The state has used a number of innovative policies including:

Capital outlay funding. Florida has set up a program called Public Education Capital Outlay and Debt Service Trust Funds to help charter schools build facilities. To participate, schools must have been in operation for three or more years, be created as a “feeder” school designed to serve students who have attended or will attend an existing charter school in the district, or be accredited by the Southern Association of Colleges and Schools. Each eligible charter school receives per-pupil facilities funds, and in 2005, the maximum per-pupil distribution was \$929, \$1,066 and \$1,410 respectively for charter elementary, middle and high schools.⁹ Because the legislative appropriation has remained flat for the past four years while the number of students has increased, the per-pupil facilities allocation for each charter school has been growing smaller.

Overview of the Florida Charter School Law

| Approval Process | |
|--|--|
| Number of Schools Allowed | Unlimited |
| Number of Charter Sites Operating | 334 |
| Eligible Chartering Authorities | Local school boards; a state university may grant a charter to a lab school. In May 2006, the Florida Legislature approved a bill to create a statewide charter school authorizer. |
| Eligible Applicants | An individual, teachers, parents, a group of individuals, a municipality or a legal entity |
| Types of Charter Schools | Converted public schools; new start-ups |
| Appeals Process | Applications denied by the local school board may be appealed to the State Board of Education. The Charter School Appeals Commission may make recommendations on the appeal, but the State Board’s decision is binding. |
| Formal Evidence of Local Support Required For Conversion | 50 percent of teachers and 50 percent of parents at the school must support the conversion. |
| Recipient of Charter | Charter school governing body |
| Term of Initial Charter | Three, four or five years with renewal every five years. Nonprofits are eligible for up to a 10-year charter. Lab charter schools operated in conjunction with a university and charter schools operated by a municipality are eligible for up to a 15-year charter. Charter schools operating for two years that have demonstrated success can renew for a 15-year term to facilitate financing. |
| Accountability | |
| Academic Accountability | Students in charter schools must participate in the statewide assessment program and, as appropriate, the Florida Writes Assessment Test, the High School Competency Test and other state assessments. In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation must be provided. |
| Annual Reports | School submits an annual report to the sponsor, which then submits the report to the Commissioner of Education. |
| Revocation | During the term of a charter, the sponsor may terminate the charter for any of the following grounds: failure to participate in the state accountability system, failure to meet the requirements for student performance stated in the charter, failure to meet generally accepted standards of fiscal management, or if the health, safety or welfare of the students is threatened. The State Board may also close a charter school that receives a grade of F under the state accountability program for two years in a row. |

Overview of the Florida Charter School Law (continued)

| Operations | |
|---|---|
| Automatic Waiver from State and District Education Laws, Regulations and Policies | Charter schools are generally exempt from the Florida K-20 Education Code, except for those statutes that specifically apply to charter schools and those pertaining to provisions of services to students with disabilities; civil rights; and student health, safety, and welfare. Charter schools are not exempt from statutes governing public records, public meetings, or public inspection. Local school board policies do not apply to charter schools. |
| Legal Autonomy | Yes, but the amount of autonomy depends on the district. |
| Governance | Specified in individual charter |
| Charter School Governing Body Subject to Open Meeting Laws | Yes |
| Charter School May be Managed or Operated by a For-Profit Organization | Charters may not be granted directly to for-profit organizations, but for-profit organizations may manage charter schools. |
| Transportation for Students | It is encouraged but not required. Also, transportation must not be a barrier to equal access. |
| Technical Assistance | Provided by the Department of Education as well as non-governmental entities upon request |
| Reporting Requirements | Charter schools must provide an annual report on financial information and student achievement. |
| Funding | |
| Funding Schedule | Charter schools are on current year funding, and districts distribute funds monthly. Districts may initially distribute funds for up to three months based on the school's projected full-time equivalent student membership. Thereafter, student membership surveys are used to adjust the amount of funds distributed for the remainder of the fiscal year. |
| Amount | All state and district operations funding follows students. Fees for district administrative services may not exceed five percent of total funding. |
| Facilities Assistance | <ul style="list-style-type: none"> • District facilities or property may be made available to charter schools but must be done so on the same basis that they are made available to other public schools in the district. • A maximum of five percent of the school buildings in a district may be converted to charter schools. • Charter school capital outlay funds are available for eligible charter schools. • Land developers may be given the option to provide new charter school facilities as an alternative to paying impact fees to local school boards. |
| Path | State funds pass through district to school. |
| Fiscal Autonomy | Yes |
| Start-up Funds | Federal and state funds available |
| Teachers | |
| Collective Bargaining/District Work Rules | Teachers may remain covered by district bargaining agreements, negotiate as a separate unit with the governing school body or work independently. |
| Certification | Yes, but waivers can be granted in specific, narrow circumstances. |
| Leave of Absence from District | Contingent upon approval of the local school board |
| Retirement Benefits | Teachers who are on approved leaves of absence must participate in the state's retirement system. |
| Students | |
| Eligible Students | Students who live within the district. Charter schools operated by a municipality may limit enrollment to students residing in the municipality. Charter schools in the workplace may limit enrollment to children of employees. |
| Preference for Enrollment | Students who were enrolled previously; students who have siblings at the school; and the children of employees. Charter schools may also give preference to at-risk students. Racial and ethnic balance of charter school may not differ from district or community. |
| Enrollment Requirements | A charter school can limit enrollment to at-risk students and to students within certain boundaries. |
| Selection Method In Case of Over-enrollment | Lottery or other random application process |
| At-Risk Provisions | Charter schools may give preference for enrollment to at-risk students. |

Source: Center for Education Reform, <http://www.edreform.com>; Education Commission of the States, <http://www.ecs.org>; Florida charter school legislation.

Charter Schools in the Workplace

Florida was the first state to allow businesses to open charter schools primarily to serve employees' children. These schools may limit enrollment to children of employees of the sponsoring company but must base admission upon a lottery that involves all children of employees who wish to attend the school. The legislation is designed to reduce classroom overcrowding and help offset the cost of educational facility construction, while creating incentives for business-school partnerships.

In the 2005-06 school year, Florida had five charter schools in the workplace through partnerships with three businesses: Ryder System (a truck-leasing and rental company), The Villages (a retirement community) and JFK Medical Center. The schools have achieved a high level of student performance and increased parent participation and satisfaction. The companies that host the schools also report increased employee satisfaction and decreased turnover.

Sources: Snell, Lisa. (2001, May). *Workplace charter schools: Florida blazes the trail*. Los Angeles: Reason Public Policy Institute; and the Florida Department of Education.

Impact fees. Like many states, Florida allows local governments to assess impact fees on residential developers whose construction is going to result in increased demand for public services. What is unusual in Florida is a piece of 2004 legislation that allows developers to direct their impact fees to charter schools rather than to the school district. As part of the legislation, some or all of the educational impact fees may be designated specifically for the construction of a charter school facility that will mitigate the impact of more construction.

Other supportive provisions. The state has three other notable policies to help charter schools build facilities:

- Provides a property tax exemption for facilities used to house charter schools;
- Requires that surplus district facilities be made available for charter schools; and
- Mandates that if a school converts to charter status district school boards cannot charge the organizers a rental or leasing fee for the existing facility or for the property.¹⁰

Approval Guidelines & Appeals

In Florida, local school boards are the primary authorizers of charter schools. State universities may grant a charter to a lab school—a charter school whose purpose is to

foster educational research—but only after consulting with the local school board. Community colleges also may work with local school districts to develop charter schools that offer secondary education. But such schools are rare.

The legislation establishes basic requirements for charter applicants, and districts may add additional ones. Between 2001 and 2004, charter school organizers submitted 293 applications to 33 school districts. Only about half of the applications were approved. According to a 2005 report by Florida's Office of Program Policy Analysis and Government Accountability (OPPAGA), the three most common reasons for denial are concerns about financial resources, adequacy of school facilities and insufficient planning.

Charter applicants in Florida may appeal an unfavorable decision from a local school district to the State Board of Education. The appeal first goes to the Charter

Charter Schools in a Municipality

Florida amended its charter law in 1999 to allow municipalities to operate charter schools. Under the amendment, municipalities must base admission upon a random lottery that includes all children residing in the town or city limits who wish to attend. Municipalities must also enroll students according to the racial and ethnic balance of the community and seek a charter from the local school board.

During the 2005-06 school year, six Florida municipalities sponsored a total of eight charter schools:

- City of Coral Springs Charter School
- City of Pembroke Pines Charter Elementary, Middle, and High Schools
- North Lauderdale Academy High School
- Marco Island Charter Middle School
- The City of Kissimmee Charter Academy
- Adventura Charter Elementary School

Why would a municipality choose to operate a charter school? According to Charlie Dodge, City Manager for Pembroke Pines, the city sponsored its first charter school in 1998 because the district did not want to open a charter school and the public schools were becoming overcrowded. Dodge, who essentially acts as the system's superintendent, sees the streamlined operations and minimal bureaucracy of the municipal charter system as a major advantage. The relationship has other advantages for students—they can use the town recreational facilities and enroll in classes taught at a local community college. Perhaps most importantly, students in Pembroke Pines' charter schools perform as well as their district peers. The 5,200-student charter system has become so popular that the waiting list for admission sometimes includes over 10,000 students.

Source: Florida Department of Education, personal communication with C. Dodge.

School Appeals Commission, which assists the State Board with appeals. (One-half of Commission members represent currently operating charter schools; the other half represent school districts. There is also one representative from the Department of Education.) The Commission makes a non-binding recommendation to the State Board, whose decision is final and binding. Between 2001 and 2004, charter applicants appealed approximately one-quarter of all district rejections. The process has been used more frequently since the Charter School Appeals Commission was created, perhaps due to procedural improvements or to the Commission's balanced membership. As shown in the table below, more than half of local district denials of charter applications were appealed in 2004-05, and the percentage rose to 69 percent in 2005-06. From 2001 to 2006, the State Board overturned district denials more often than it upheld them, typically because the school district relied upon insufficient evidence or based its decision upon reasons outside those provided in state law.¹¹

Table 2. Appeals to the State Board of Education of District Denials for Charter Status

| | | 2004-2005 | 2005-2006 (as of 1/6/06) |
|-----------------------------|-----------|-----------|-----------------------------|
| Percent of Denials Appealed | | 52% | 69% |
| Disposition | Overtured | 35% | 47% |
| | Upheld | 39% | 20% |
| | Withdrawn | 26% | 6% |
| | Pending | 0% | 27% |

Source: OPPAGA, *Charter School Application Requirements are Reasonable*.

Outcomes

Student Performance and Achievement

In exchange for freedom from many rules and regulations, charter schools are expected to perform as well as or better than their district counterparts. How does that play out in Florida? While on absolute measures charter schools appear to be doing slightly worse than district schools, a detailed examination shows that overall, charter school are performing as well as district schools.

Florida annually assigns letter grades to its public schools based on student performance on the Florida Comprehensive Assessment Test (FCAT). The grades take into account absolute student performance on standardized tests in reading, math and writing; student learning gains overall; and the learning gains of the school's lowest-scoring students. The majority of students enrolled in district schools do not currently meet state grade-level academic standards.¹² The same is true in the state's charter schools.

Still, the 2003-04 school year testing data showed that charter students were less likely to meet grade-level expectations in math and reading than their district school peers. Depending on the grade level, the percentage of students attending a charter school who met expectations was between one and nine percent lower in math and one and six percent lower in reading than students in district schools.¹³

As shown in the tables below, district schools tend to do better than charter schools on state rankings. But charter schools tend to perform better than district schools under the NCLB standards. How is this possible? In short, charter schools are smaller and have fewer student subgroups, and so NCLB targets are comparatively easier to meet. Charter schools also appear to have greater success with low-performing students than district schools. In the 2004-05 school year, for instance, a slightly greater percentage of low-performing students made learning gains in charter schools than other schools.

Table 3. District and Charter Schools' Performance on State Achievement Tests, 2004-05

| Performance Rating | Number of District schools | Percent of Total | Number of Charter Schools | Percent of Total |
|--------------------|----------------------------|------------------|---------------------------|------------------|
| A | 1254 | 45 | 67 | 37 |
| B | 589 | 21 | 27 | 15 |
| C | 619 | 22 | 40 | 22 |
| D | 230 | 8 | 25 | 14 |
| F | 78 | 3 | 22 | 12 |

Percentages may not add up to 100 due to rounding. 12 percent of charter schools were not subject to adequate yearly progress designations under NCLB because the schools did not test more than 10 students.

Source: Florida Department of Education, <http://schoolgrades.fldoe.org/>.

Table 4. District and Charter Schools Meeting Adequate Yearly Progress Criteria, 2004-05

| School Category | District Schools | Percent of Total | Charter Schools | Percent of Total |
|---|------------------|------------------|-----------------|------------------|
| Schools Meeting AYP Goals | 1124 | 28.5 | 102 | 33.8 |
| Schools Not Meeting AYP Goals (includes Provisional AYP*) | 1982 (820) | 50.3 | 153 (22) | 50.8 |
| Schools for Which Question is Not Applicable | 828 | 21 | 46 | 15.2 |

*Provisional AYP is assigned if a school did not meet AYP, but received a school grade of A or B.

Source: Florida Department of Education, <http://schoolgrades.fldoe.org/>.

According to a report by the Florida Charter School Review Panel, charter schools have also had greater success with students of color. A greater percentage of Hispanic students in charter schools are proficient in reading than their peers in district schools. African-American students in charter schools still score below their district school peers, but between 2000 and 2006 the percentage of African American students in charter schools testing proficient in reading grew at a faster pace than the percentage of African American students testing proficient in reading in district schools.¹⁴

It's important to note that in 2004-05, 40 percent of charter schools were not assigned grades by the state, and 12 percent of charter schools were not subject to AYP designations under NCLB. These schools were given a pass because they do not enroll enough students or they do not include the grade-levels in which Florida's statewide examinations are given.

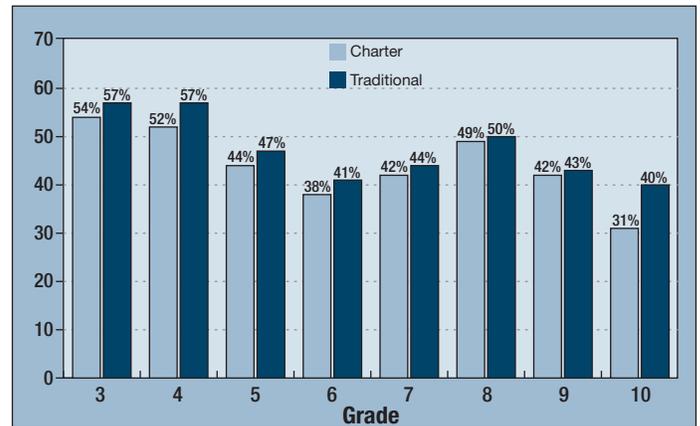
Students who enroll in charter schools typically are further behind academically than their peers in district schools. Students who transfer to a charter school typically have lower scores in their last year at a district school than their peers who stay. In the 2003-04 school year, this gap was largest in seventh grade, where students who transferred to charter schools scored almost seven percent in reading than their peers in district schools.¹⁵

Given this gap, it is not surprising that absolute achievement in charter schools tends to fall below that in district schools. But how are students doing

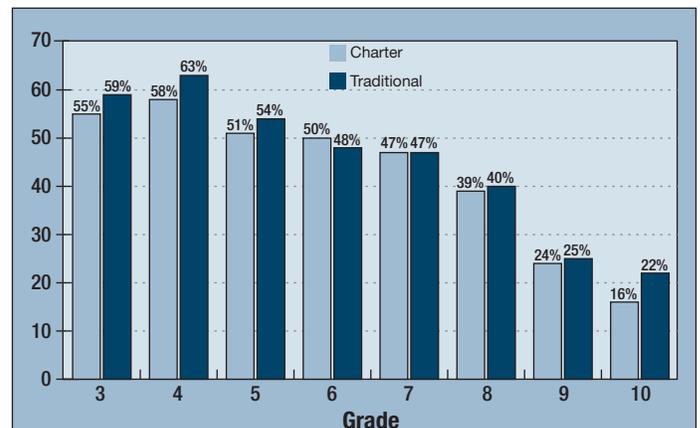
in charter schools after they transfer? Several recent studies have sought to find out. Analyses by the Florida Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Florida Department of Education have compared learning gains over time for elementary, middle and high school students who attended charter and district schools. Both studies found that achievement growth varied by grade level: In elementary school, student learning gains were similar in reading and somewhat lower for charter schools in math. In middle school, charter school students made nearly the same annual learning gains as their district peers. Charter high schools showed better performance, with students achieving an additional year's gain in both math and reading compared to district schools (See figure on Page 19).¹⁶

Percentage of Students Scoring at Grade Level in Charter Schools and District Schools, 2003-04

Percentage of Students Scoring Math

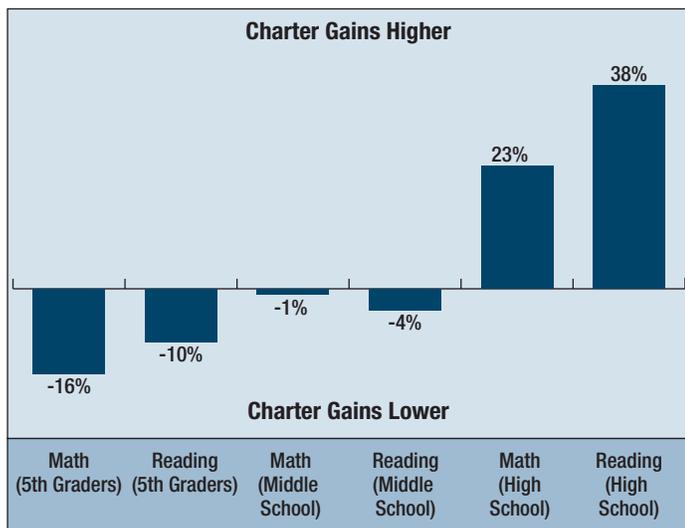


Percentage of Students Scoring Reading



Source: Florida Office of Program Policy Analysis and Government Accountability, Report No. 05-21, April 2005.

Annual Learning Gain Differences Between Charter School and District School Students



Source: Florida Office of Program Policy Analysis and Government Accountability, Report No. 05-21, April 2005.

The most sophisticated statistical analysis to date is a 2006 study by economist Tim Sass, who compared the learning gains of individual students in charter and district schools over a three-year period. Sass’s dataset includes information on 15,000 students who switched between charter and district schools. This unusual feature allows Sass to examine an almost natural experiment, observing a student’s academic trajectory in both types of school. This sort of comparison is superior to previously-discussed comparisons because each student serves as his or her own control group.¹⁷ Using this approach, Sass finds that while student achievement is lower initially in charter schools, charter school students catch up to their non-charter peers by the school’s second year of operation in reading and by the fourth in math.¹⁸ These studies suggest that while student achievement overall is lower in Florida’s charter schools, given their particular student populations, charter schools are serving their students as least as well as district schools overall.

Charter Schools’ Impact Upon District Schools

There is some evidence that competition from charter schools is having a positive impact on student achievement in Florida’s district schools. In 2006, economist Tim Sass looked at this issue and found that students in district

schools that were in competition with charter schools experienced greater increases in math score gains and had no dips in reading scores compared to district schools that did not compete with charter schools.¹⁹

Charter School Closures

In 2005, 15 charter schools were shut down, bringing the total number of charter school closures in Florida to 62. (Some 396 have been opened.) Six of the schools closed in 2005 were located in Miami-Dade County, the district with the largest number of charter schools and one of the most proactive approaches towards charter schools. In addition, in 2004 and 2005, eight charters were revoked due to “Double F’s,” receiving two failing grades in a row under Florida’s accountability system.

Table 5. Charter School Closures, 1998-2005

| Reason for Closure | Number of Schools |
|--|-------------------|
| Financial issues/mismanagement | 21 |
| Failure to meet state accountability standards | 8 |
| Voluntary/did not seek renewal | 8 |
| Violation of charter/contractual agreement | 8 |
| Lack of enrollment | 7 |
| Poor leadership/governance issues | 7 |
| Lack/loss of facility | 5 |
| Total number of closures | *62 |

*The total of the right column (64) exceeds total number of closures (62) because two schools were closed for more than one reason.

Source: Florida Department of Education.

Charter School Movement/State Support Organizations

There are two charter support organizations in Florida, the Florida Consortium of Charter Schools based in Fort Lauderdale and Tallahassee and the Florida Association of Charter Schools based in Gainesville. Charter schools also have the assistance of the Charter School Resource Center, which focuses primarily on technical assistance related to special education. Until 2006, the Center was housed at the University of South Florida. But after controversy over undocumented purchases and travel

School of Arts and Sciences

The School of Arts and Sciences (SAS) in Tallahassee, Fla., is not your typical school. In the K-8 charter school, students work in multi-age classrooms and stay with the same teacher for a three-year period, so that teachers become familiar with the individual needs and learning styles of their students. Instead of issuing report cards with grades, teachers track student progress through portfolios, which contain work selected by students and show their progress towards meeting the state standards. These unconventional approaches have proven to be successful with a wide variety of students. While approximately 20 percent of the school's 230 students are enrolled in free and reduced-price lunch programs, and 22 percent are classified as special needs, SAS students perform well on state standardized tests, outpacing other public school students in their school district. In fact, the average SAS student in the sixth, seventh and eighth grades outperforms the average public school student by a wide margin in both reading and math.

SAS has a supportive, positive relationship with its sponsor, the Leon County School District. SAS has off-site access to district web space and uses the district's e-mail program. SAS Principal Debo Powers regularly attends district principals' meetings, and SAS staff are invited to participate in district professional development opportunities. The district provides physical plant consultation and inspections for the school, and SAS pays the district for food, transportation and insurance services.

SAS was recognized for its success in the US Department of Education's 2004 publication, *Innovations in Education: Successful Charter Schools*. Powers intends to use the recognition to help spread the school's practices. "We don't want to create a wonderful educational environment for just our 230 children. Our goal is bigger. We want to help develop and share ideas with other schools," she says. In order to help disseminate the school's practices, Powers has offered a tour of the school to educators and the public every Monday since 1999. The visit includes a private session with Powers and visits to all the school's classrooms.

Source: Florida Consortium of Charter Schools Review Vol. III (1), Winter 2005; personal communication with D. Powers.

expenses—and the director's resignation—the Center now operates in cooperation with the Bureau of Exceptional Education and Student Services at the Florida Department of Education.²⁰

With 280 members, the Consortium has the largest number of charter school affiliates. During its seven years as a membership organization, the Consortium has also taken on an advocacy role. In recent years, its lobbying efforts have been largely successful. Their biggest loss was a proposal before the Florida Legislature in 2005 to create multiple charter school authorizers, which was opposed by the state Department of Education and Governor Bush and never passed. In 2006, the Consortium brought several issues before the state legislature including waivers from the state class-size reduction act

and a "clean-up" bill with several smaller changes to Florida's charter legislation. The Florida Association of Charter Schools has a much smaller presence in Florida, with approximately 20 member schools.

Challenges and Obstacles

District Authorizing

The largest challenge facing Florida's charter movement is the inconsistent quality of charter authorizing. Two problems lie at the root of this issue. First, districts are at best indifferent toward charter schools and at worst, hostile to their presence. This stance often makes it difficult for qualified operators to obtain charters. Second, nearly all districts in Florida lack the capacity to effectively manage the charters in their jurisdiction.

A couple of examples shed light on this situation. In 2005, the Osceola County School Board in Central Florida denied five charter proposals in order to protest the state's capital funding allocations. Local board members said that they hoped that forcing the charter schools into the appeals process would draw attention to the district's funding concerns. The State Board overruled the district's denials.²¹ In 2005, the Florida State Department of Education surveyed charter schools about their experiences with their local school districts. Of the state's then 301 charter schools, 202 replied, and 41 reported significant problems with their authorizing district. Complaints included disruptions by school

The One Room School House Project

The One Room School House Project in Gainesville, Fla., serves approximately 90 students in grades K-5. The school opened in 1997 and was one of the first charter schools in the state. The student body is composed largely of minority students from the local neighborhood, and 72 percent of the students are eligible for free or reduced-price lunch. Teachers at the One Room School House focus on the basics, ensuring that students master each subject tested on the FCAT before they participate in the school's many extracurricular activities. Students read a book a week under the Accelerated Reader program, and in 2005, 100 percent of the school's third grade students scored at grade level in reading on the state test. The school also received an A under the state's grading system and made AYP in 2004-05. It was also the first charter elementary school to receive accreditation from the Southern Association of Colleges and Schools.

Source: Personal communication with N. Drake; Florida Department of Education.

district staff during state exams, not getting a fair share of district property taxes and lost test results.²² The following subsections discuss these challenges in further detail.

Lack of Capacity

Districts tend to be hands-off towards charter schools largely because they don't have the resources or capacity to help them. The district staff member responsible for charter schools in Alachua County, for example, oversees the county's 15 charter schools only when he is not coordinating staff development for 4,000 county employees, overseeing curriculum for 50 other schools, receiving all employee grievances and directing after-school programs for 17 elementary schools.²³ Pasco County's charter school office relies heavily upon part-time employees. Much of the work of overseeing five charter schools is undertaken by eight staff members who work between 10 and 20 hours per week and 10 others who work only a few times per year. These are common scenarios even in districts that fully support charter schools.

Lack of Commitment to Chartering

High-quality authorizing should include a rigorous application process, performance contracting and ongoing oversight and evaluation.²⁴ But authorizing in Florida rarely incorporates such features. The problem is that districts have a monopoly on chartering and there are few incentives for local school boards to produce high-quality charter schools. At the ground level, many charter school administrators report that district authorizers attempt to apply all district policies and regulations to their school. To be sure, many district officials resent that the state has made them responsible for schools that operate in direct competition with them. While the appeals process to the State Board has helped ensure that districts make authorizing decisions based on statutory guidelines, the process has also exacerbated tensions between charter schools and their sponsors by requiring local school boards to oversee charter schools whose applications they originally turned down.

Not all relationships between districts and charter schools are antagonistic. Some districts are grateful for charter schools in their communities because they ease the burden of rapid student enrollment growth. And some charter schools do receive high-quality district services and support. But too often anti-charter districts are forced

Downtown Miami Charter School

Founded and organized by the Downtown Development Authority of Miami, the Downtown Miami Charter School received its charter in 2002 from the Miami-Dade County School Board. The school opened as part of an urban revitalization effort in downtown Miami and primarily serves the children of area residents or commuters who work there. The school focuses on core academic subjects, and its teachers and staff strive to create an atmosphere that fosters self-esteem and involves children in their community. The school serves approximately 625 students in grades K-5 and is managed and operated by Charter Schools USA, a for-profit charter management organization that currently operates 15 charter schools in Florida.

Downtown Miami Charter School shows how Florida's school accountability program can help inspire struggling schools. When the school opened its doors in 2002, it struggled to serve its economically disadvantaged student body. While schools in their first year of operation are not assigned a school grade under Florida's accountability system, the school would have received an F based on its test scores. In 2004, the school was graded and received its first F. If the school received another F, it would have been eligible for closure. But the governing board installed a new school leader, principal Terry Maus, who made several changes such as instituting weekly faculty meetings to review student benchmarks. Within the year, the school turned around its performance, and in 2005, it earned a C and met AYP under NCLB. Maus has set the school's sights on a B in 2006 and, with a dedicated leadership team and talented teachers, she expects continued student learning gains in future years.

Source: Personal communication with T. Maus; Florida Department of Education.

Miami-Dade County Office of Charter Schools

Miami-Dade County Public Schools offers more charter schools than any other district in the state. In the 2004-05 school year, the district's 31 charter schools enrolled about 12,000 students, about 3 percent of the district's total student population. The district's Office of Charter Schools also has the largest staff in the state, with a ratio of about seven schools for every staff member.

The office serves as a resource for charter schools, particularly during their first year of operation. Office staff members offer in-depth technical assistance and training for school administrators, and several part-time office employees answer schools' questions and help them comply with applicable laws and regulations.

In return for this support, the Miami-Dade office expects results. In 2005, six charter schools closed in the district. Five of the schools' governing boards closed them voluntarily, but the district did require one school to shut down. The U.S. Department of Education's Office of Innovation and Improvement recently profiled the district in a publication about successful choice programs. District administrators believe that competition between charter schools and district schools is improving both types of schools and helping to accelerate the district's responsiveness to the needs of its students.

Source: U.S. Department of Education, Office of Innovation and Improvement, *Innovations in Education: Creating Strong District School Choice Programs*, Washington, D.C., 2004; personal communication with C. Rodriguez, Administrative Director of Charter School Operations, Miami-Dade County.

Lake Wales Charter School District

In 1998, Polk County became home to Florida's first conversion charter school, McKeel Academy of Technology. As a traditional public school, McKeel struggled, and it voluntarily converted to charter status when it became clear that it would not meet the state's new accountability standards. After McKeel reopened with a focus on technology, it quickly boosted student achievement and has consistently earned A's on the state's grading system. In the 2004-05 school year, the school was also recognized as the top-performing high school in the county.

Following McKeel's success, the city of Lake Wales created Florida's first system of charter schools: All five of the city's schools converted into charter schools. The city decided on the drastic change because the area schools had long been in decline, and the city believed that a more autonomous system of public schools would increase community investment and student achievement. Because Lake Wales is located within the Polk County School district and does not have its own school board, it cannot authorize charter schools itself, so the new charter "district" is governed by a seven-member Board of Trustees and overseen by a superintendent with the assistance of a small central office staff. Since Lake Wales Charter Schools opened in August 2004, the schools have earned a mix of A's, B's and C's under the state accountability system.

To be sure, the Lake Wales charter district has had its share of problems. Running the charter system has been a financial challenge: After some poor planning—and three hurricanes—the district ended fiscal year 2005 nearly \$200,000 in debt. To help solve these financial problems, the charter district raised approximately \$500,000 from private donors in 2006 and plans to launch an annual fundraising drive in 2007.

The charter district has also encountered resistance from the Polk County School Board. In 2005, the board denied Lake Wales' application to open a middle school, Edward W. Bok Academy, due to concerns about the school's reading program and student accountability program. But the State Board of Education voted 6-1 to overturn the local school board decision and allow Lake Wales to open the school. The school is slated to open in the 2006-07 school year, allowing students in Lake Wales to attend a charter school from kindergarten through high school.

Source: Lake Wales Charter Schools, <http://www.lwcharterschools.com/history/>; Florida Department of Education, School Accountability Reports, available online at: http://schoolgrades.fldoe.org/0405/school_grades.cfm; Julia Crouse, "State Upholds Charter Appeal," *The Polk County Ledger*, January 18, 2006.

by state law to sponsor charter schools that they don't want. The result is that most charter schools function without almost any assistance—and some face constant overregulation and threat of closure.

Accountability and Autonomy

The basic charter school bargain—increased autonomy in exchange for greater accountability—has proven a difficult balance in states across the country. Florida

is no different. While charter schools in the state are subject to several accountability systems, none of them effectively hold all of the schools accountable for student academic performance. In addition, both the class-size reduction policy and the "Double F" provision of Florida's accountability plan threaten the autonomy of a significant number of the state's charter schools. The following subsections explore each of these challenges more closely.

Charter Schools Are Not Held Sufficiently Accountable

Failure to Assign Grades

In the 2004-05 school year, only 60 percent of Florida charter schools were assigned grades under the state's accountability system. Schools got a pass for various reasons including being in their first year of operation or testing fewer than 30 students. Moreover, 12 percent of charter schools were not subject to AYP designations. These schools received a pass because they did not test more than 10 students.²⁵

In theory, these ungraded schools are still held accountable because they must report annually on their attainment of the performance standards. In practice, however, the contracts are vague and so is the reporting. An OPPAGA review of contracts for a sample of 50 charter schools found that although most contracts specified improvements in core academic subjects, they frequently failed to establish clear expectations. The annual reports also did not contain the data necessary to assess whether charter schools were meeting the expectations in the contracts.²⁶ To some degree, the problem lies with the state requirement that charter schools develop performance contracts before they open and so, at least for the first year, it's not possible to have an accurate baseline of student performance within the contract. The end result is that parents and the public have limited information with which to hold many charter schools accountable.

"Double F" Standards

A constitutional amendment in 2003 gave the State Board discretion to intervene in a charter school that receives a grade of F for two years within a four-year period. The State Board may also recommend one of several types of intervention in a "Double F" charter school including reconstitution or revocation of its charter.²⁷ The policy has more often than not led to a school's closure: Of the six charter schools that received "Double F's" between 2004

and 2005, for example, four were closed. The other two stayed open under special arrangements with their district.

The “Double F” standard, though very straightforward and clear, is blunt on both sides. On one side, it fails to identify schools that bump along the bottom, earning D’s and F’s but never two F’s in a row. Many schools in this category probably require intervention or closure, and yet they escape attention because they are not “Double F” schools.

On the other side, the “Double F” standard may make it difficult for schools to serve disadvantaged populations. Because learning gains are only part of the state grading equation, charter schools that enroll student populations consisting almost entirely of below-grade-level youth may be unable to climb out of the F category without nearly 100 percent of students making large learning gains. This goal may be unattainable even for the best charter schools.

When applying the law to district schools, the State Board is required to consider the characteristics of the school, including student mobility rates, the number and type of exceptional students enrolled in the school and the availability of options for improved educational services before recommending intervention.²⁸ It is not clear, however, if this same requirement applies to charter schools—or if districts are following it faithfully. Many charter schools serving at-risk populations fear that their charters are teetering on revocation, and some districts have even used the policy to prevent such schools from opening. An application for an alternative charter school to serve at-risk fifth graders was denied in Palm Beach County, for example, because the local school board said the school was doomed to close under the current grading system. The same school board denied a charter application for another school for the same reason, but the applicant won an appeal from the State Board.²⁹ While the “Double F” policy is necessary to encourage intervention in charter schools that are not serving their students, there is some risk that it is being applied in ways that deny charter schools the opportunity to offer severely disadvantaged students a better education.

Schools’ Autonomy is Compromised

Class-Size Reduction

The Florida Constitution was amended in November 2002 to reduce the maximum class size in Florida’s public schools. And while Florida’s charter law exempts charter schools

Table 6. Analysis of Example Charter School Performance Contract Outcomes

| Outcome Statement | Deficiency |
|---|--|
| “Average student FCAT scores to improve every academic year.” | This outcome does not indicate the specific subjects in which results are being sought (e.g., reading, math and/or writing) or how much academic improvement students are expected to show in each specific subject area and grade level. |
| “Seventy percent of students will show a decrease in observable aggressive behavior.” | This outcome does not indicate how much of a decrease in aggressive behavior is expected, when this decrease is expected to occur or the measure the school will use to evaluate success. |
| “Mastery of performance standards of elementary students as set forth by the state statutes.” | This outcome could be clearer by identifying the specific subjects in which improvements are being sought (such as reading, math and/or science), what is meant by “mastery,” when these improvements are expected to occur and/or how success will be evaluated (such as FCAT grades, portfolios, teacher observation, etc.). |

Source: OPPAGA analysis of charter school contracts.

from almost all portions of the education code,³⁰ it does not excuse charter schools from the provisions of the state constitution. So beginning in the 2006-07 school year, charter schools will be required to reduce the size of their classes by two students per year or reach the constitutional class size caps. (The caps are 18 students in grades K-3, 22 students through grade eight and 25 students in high school.) Until 2008, the data will be measured at the school level, meaning that a charter school will be in compliance even if some core classes have a higher student-to-teacher ratio. Starting in 2008, however, compliance will be measured at the classroom level.

Charter schools are typically smaller than district schools, and for many the class size requirements will not necessitate any changes. In 2004, a compliance calculation showed approximately 87 percent of charter schools meeting that year’s standards.³¹ But for charter schools with higher ratios, the upcoming compliance standards will require significant changes including hiring more teachers and spending funds to remodel facilities to hold more classes. While district schools receive both operating and facilities funds to implement these reforms, charter schools receive only operating funds, and they will be forced to pay for the facilities costs out of their operating dollars or through additional fundraising.³²

Also, innovative teaching models, such as co-teaching, are not acceptable approaches to meet the requirements of the Class Size Amendment. The State Department of Education has directed charter schools that use co-teaching to review other options in order to bring their class sizes into compliance.³³ Whatever the merits of Florida's class-size reduction policy, it clearly infringes on the autonomy of a sizeable minority of the state's charter schools.

Financial Inequities

Since 1998, financial problems have consistently been the most common reason for charter school closure.³⁴ When the Florida State Auditor General's Office reviewed charter school audits from the 2002-03 school year, for instance, they found that almost one-third of Florida's charter schools operated with a deficit.³⁵ And the percentage of charter schools in Florida with a year-end deficit has increased steadily from 18 percent in 2000 to 29 percent in 2003.³⁶ The deficits are particularly common among start-up charters: About half of the schools with a deficit in the 2002-03 school year were in their first two years of operation.³⁷ There are several reasons for charter schools' financial difficulties, but inequitable funding, a shortage of facilities funds and school-level mismanagement top the list.

Nationally, charter schools are typically underfunded compared to district schools. A 2005 report published by the Thomas B. Fordham Institute examined charter and district school funding in sixteen states and Washington, D.C. and found that, on average, charter funding in the 2002-03 school year fell short of district school funding by 22 percent, or about \$1,800 per pupil.³⁸

The report classified Florida's funding gap as "moderate" compared to other states, with charter schools statewide receiving an average of 11.4 percent, or about \$896 less, than district schools. The Fordham study revealed several reasons for the statewide disparities in funding. First, because Florida charters are authorized by local school districts, they are not recognized as individual local education agencies and that makes it difficult for them to access state and federal program funds directly. Instead, charter schools rely upon district distributions of categorical funds, which are tied to specific students and often arrive at the charter school late in the school year. An even bigger problem is inequity in local funding.

District schools typically receive greater amounts of state and federal funds than charter schools because they serve slightly higher percentages of at-risk and special needs students who carry greater weight in Florida's funding formula. Florida's funding formula also provides districts with a significant number of alternative ways to raise money including raising local property taxes and authorizing discretionary tax levies. Charter schools rarely have access to these additional sources.³⁹ In addition, authorizing districts take a five percent cut of all charter school funds including capital and debt service monies.

Charter schools also lack sufficient access to facilities funds. Since 2001 the amount of money in the capital outlay fund has remained static, while the number of schools has increased by nearly 40 percent. The state has also decided that schools that received capital outlay funding in the 2002-03 school year should receive priority for additional years' funding. While this policy ensures some stability for existing schools, it denies capital funds to schools that opened after the 2002-03 school year and would become eligible to receive funds in 2006.

As discussed above, nearly 30 percent of charter schools operate with a deficit. Although insufficient funding is certainly one cause, financial mismanagement and lack of financial expertise exacerbate the problem. While little data exist on the financial expertise of charter school operators in Florida, we know that charter school employees in other states often have few financial management skills and often discover financial problems only after it is too late to remedy them.⁴⁰

The gaps between charter and district schools in Miami-Dade and Broward County were significantly larger than other districts. According to the Fordham study, Miami-Dade charter schools received 18.9 percent, or about \$1,506, less than district schools in the 2002-03 school year. Charter schools in Broward County trailed district schools by 18.2 percent, or about \$1,396, that year. The wider funding gap in these urban schools is due to the greater proportion of disadvantaged students who enroll in Miami-Dade and Broward district schools and receive additional governmental funding support. The funding gap is also widened by the ability of Miami-Dade and Broward County to access debt service funds to make payments for their school facilities—one of the funding streams unavailable to charter schools. Miami-Dade and Broward County receive significantly more debt service funds than other school districts in the state.

Constitutional Uncertainty about School Choice

In early 2006, the Florida Supreme Court struck down one of Florida's voucher programs, the Opportunity Scholarship Program, concluding that it violated the state constitution's provision requiring a uniform system of public schools. Vouchers distributed under the scholarship program allowed students who were assigned to chronically failing public schools to seek a private school alternative.⁴¹ This decision will likely compel the nearly 700 students who participate in the program to search for new educational options for the 2006-07 school year.

The opinion has also sparked debate among lawyers and officials on both sides of the case about implications for other school choice programs. Since charter schools are operated independently and use approaches that can vary widely from traditional district practices, could they too be found to work against the constitution's uniform provision?

Although the court cautioned against extending the decision to other choice programs, opponents of charter schools could use the decision to challenge the charter school statute. The general impression among charter school advocates, however, is that the court would not use the voucher ruling to strike down Florida's charter school statute, arguing that if charter schools are contrary to a uniform system of public schools, then much less controversial district programs such as magnet and alternative schools would also run afoul of the ruling. And parent and school board support for specialty schools such as magnets is too strong to allow such a ruling to stand.

State Board of Education Chairman Phil Handy has expressed his intention to consider "all options in the legislature and amending the constitution to ensure the principles of access and choice."⁴² Nonetheless, amidst such controversy, Florida's charter schools could get caught in the crossfire. Unless state legislators act to insulate charter schools from a court ruling, charter schools' viability in Florida will remain uncertain.

Table 7. Florida Charter School Finance Data, 2002-03

| | Statewide | | Miami-Dade | | Broward | |
|--|-----------------|----------------|-----------------|----------------|-----------------|----------------|
| Per-Pupil Revenue | | | | | | |
| District | \$7,831 | | \$7,971 | | \$7,669 | |
| Charter | \$6,936 | | \$6,465 | | \$6,273 | |
| Per-Pupil Revenue by Source | District | Charter | District | Charter | District | Charter |
| Federal | \$808 | \$463 | \$943 | \$318 | \$702 | \$224 |
| State | \$3,547 | \$5,261 | \$3,787 | \$5,195 | \$3,502 | \$4,764 |
| Local | \$3,490 | \$583 | \$3,255 | \$307 | \$3,496 | \$596 |
| Indeterminate | -\$13 | \$629 | -\$13 | \$645 | -\$31 | \$689 |
| Total | \$7,831 | \$6,936 | \$7,971 | \$6,465 | \$7,669 | \$6,273 |
| Percentage of Revenue by Source | District | Charter | District | Charter | District | Charter |
| Federal | 10.3% | 6.7% | 11.8% | 4.9% | 9.1% | 3.6% |
| State | 45.3% | 75.9% | 47.5% | 80.4% | 45.5% | 76.0% |
| Local | 44.6% | 8.4% | 40.8% | 4.8% | 45.4% | 9.5% |
| Indeterminate | 0.0% | 9.0% | 0.0% | 10.0% | 0.0% | 11.0% |

Source: *Charter School Funding: Inequity's Next Frontier*. Thomas B. Fordham Institute, pp. 46-53.

RECOMMENDATIONS

As it enters its tenth year, Florida's charter school movement has reached a critical stage. Rapid expansion has revealed many strengths as well as several weaknesses. Charter advocacy groups and state and local policymakers are recognizing these failings and have sought to introduce greater fairness and more accountability into the system.

Legislative proposals currently on the table would create alternative oversight bodies, hold charter schools to more stringent standards of performance and ensure that charter schools have greater flexibility. While these proposals address some of the flaws in Florida's charter system, they do not address all of the critical issues. As a result, we offer a comprehensive agenda for change.

Improve Measures of Charter School Performance

If a school is not being held accountable under the general state accountability plan or NCLB, it should be evaluated against the performance standards in its school contract. These standards should be clear, meaningful and rigorous. Because charter school contracts were initially intended by state legislators to supplement state and federal accountability systems, districts need help developing such performance-oriented contracts.

The state should also require new charter schools to revise their performance expectations at the end of the first year in order to incorporate accurate baseline data. Sponsors should also be required to verify and report annually whether performance outcomes have been met. For schools that do not receive a school grade or AYP determination, the state should report on the degree to which the charter schools met their contractual goals so that every school receives some kind of rating from the state.

Enhance the Quality of Charter School Authorizing

Florida's charter schools vary greatly in quality because of the highly fragmented system of oversight. A trio of approaches could help alleviate these problems. They include holding authorizers accountable, establishing an alternative route to charter authorizing and expanding current authorizer capacity. Improved oversight at the state level would also help ensure charter school quality.

Hold Authorizers Accountable. The State Board is required to issue an annual report on the performance of Florida's charter schools. The state should use this report as an opportunity to publicize the performance of charter school authorizers. This would enable the state to recognize districts that engage in particularly successful authorizing practices as well as shine a light on those with consistently low performance. With greater information and accountability, the state could then consider steps to intervene in, or even disempower, authorizers that are not adequately fulfilling their roles.⁴³

Enable Alternate Sponsors. Florida should empower alternative authorizers to open and oversee charter schools in order to foster innovative educational practices. These organizations should include mayors, universities and nonprofit groups. The resulting competition would provide a greater incentive for districts to improve their authorizing practices. Districts that wanted to keep charter schools within their jurisdictions would also need to forge better systems for approving and overseeing them.

In 2006, the Florida Legislature passed legislation that would create an independent statewide office to sponsor and support charter schools; it would be called the Florida Schools of Excellence Commission.⁴⁴ National studies of authorizers suggest that there are economies of scale in charter authorizing; sponsors that charter large numbers of schools often develop more effective processes.⁴⁵ The Commission will likely reduce the number of appeals to the State Board and relieve unwilling sponsors of their chartering responsibilities while significantly improving the quality and transparency of authorizing across the state.

Expand Capacity. Even school districts that fully support charter schools often lack the capacity to provide adequate oversight. Direct state funding to charter school offices is one option to enhance district capacity without decreasing the funding available to schools. Technical assistance and training for districts is another option. The state office of charter schools or a charter support organization, for instance, could offer instruction to sponsors in applicable laws and best practices. A recent proposal, recommended by OPPAGA and developed by the Charter School Review Panel, may also help build

capacity by providing sponsors with a model contract, including guidelines for establishing clear academic objectives.⁴⁶

Strengthen Charter School Performance

Deal with Low-Performing Schools. Florida’s recent efforts to intervene in low-performing charter schools are commendable—and imperative in a state where charter schools have grown prodigiously. District sponsors should be encouraged to revoke charters from schools that are truly failing, and the “Double F” policy provides a convenient tool for targeting schools that should be shut down. But as noted earlier, the tool is too blunt.

A policy currently under consideration by the State Board of Education would calculate grades differently for schools that serve at-risk students, basing the grade on students’ progress rather than the current combination of absolute scores and learning gains. Another option to ensure that schools do not unfairly face closure is to require that the state and local school boards carefully evaluate the characteristics of each “Double F” charter school before deciding on a course of intervention. The state should also mandate that school districts consider options other than revoking a school’s charter including replacing school leadership, modifying instructional methods and providing more resources. The authorizer should be sure to pair corrective moves with technical assistance, so that underperforming, at-risk charter schools have a meaningful opportunity to improve before facing closure.

At the same time, both authorizers and the state need to take steps to improve the performance of all low-performing schools. Many charter schools that receive C’s and D’s for several years in a row are failing their students just as much as a school that receives two F’s in a row. The State Board and policymakers should implement policies that would shine a light on these underperforming schools and require authorizer intervention or, if improvement is unlikely, to consider closure.

All of these policy changes highlight the importance of ensuring that authorizers have adequate capacity and stronger external support. If authorizers are to engage in continuous oversight and strategic intervention in struggling schools, they will need more staff and technical capacity. Without an accompanying increase in authorizer capacity, these roles may best be carried out by outside organizations. External assistance may be preferable in any case when intensive intervention is needed so that

authorizers can maintain their arms-length, performance-based contractual arrangement with charter schools.

Attract More Successful Charter Operators. In recent years, experienced charter school operators have started large numbers of new charter schools in Florida. Charter school stakeholders should develop a plan to encourage additional applications from such experienced operators to ensure that Florida’s best charter schools are not islands of academic success, but that their accomplishments can be replicated to serve more students.

Help Ensure Charter Schools’ Financial Viability

Create Funding Parity for Charter Schools. Florida should ensure that charter school funding is equal to that of district schools. When compared to other states, the funding gap between district schools and charter schools in Florida is considered moderate. Nonetheless, Florida’s charter schools are struggling financially, and the state can help ensure their future financial viability in several ways. The most straightforward step would be to make the current capital funding stream a permanent part of the state budget, so that the budget would grow at the same rate as charter enrollment. This step would go a long way toward creating parity. It would also eliminate charter schools’ annual struggle for capital outlay funding, a battle that consumes a great deal of time and attention.

In addition to increasing funding, the state can also offer other kinds of help. The Department of Education and Charter School Resource Center can focus on providing finance-related technical assistance to charter schools, particularly those in the early start-up phase, to help them develop their business plans and budget. Policymakers should also develop a system of oversight to determine if a charter school is heading into financial trouble and require authorizers to act on financial information before monetary problems threaten a charter school’s viability.

Examine Distribution of Impact Fees. Florida’s first experience with awarding impact fees to charter schools in Brevard County suggests that there are still some wrinkles to be ironed out in the law. Whether charter schools should be entitled to all of a developer’s school-related impact fees or not, Brevard County’s experience shows that, in practice, school districts are unlikely to allow such distributions without a fight. State policymakers and charter advocates should establish formulas or guidelines for the distribution of impact fees and help prevent disputes over such awards in the future.

Extend Charter Schools' Exemption from the Class Size Amendment

Florida's class size reduction requirements are exactly the type of regulations from which charter schools should be exempt. Charter schools are founded on the free market principals of competition and innovation, and they should have full control over how to determine their class size as they figure out the best way to educate children—and attract parents. It is unlikely—and perhaps unnecessary—that the class size initiative be repealed altogether, but charter schools should be exempt from its requirements.

Insulate Charter Schools from the State Supreme Court's Voucher Decision

Charter schools are not the most controversial school choice program in Florida, but the breadth of the recent state Supreme Court decision does threaten their legal status. In the 2006 legislative session, Republican Rep. David Simmons took a positive first step to protect charters by introducing a bill seeking voter approval of a constitutional amendment that would preclude the court from applying its reasoning to charters in the future. However, this amendment does not address the uniformity provision in the state constitution. Legislators should capitalize upon the strong public and political support for charters to pass this and additional bills that would allow voters to insulate charter schools from future attacks.

Strengthen the Support Network for Charters

The quality of Florida's charter schools would benefit from more political support—and better technical assistance. Charter school advocacy organizations in Florida are weaker than many other education organizations in the

state, and although the charter organizations do not disagree substantively on most issues, the division them reveals a missed opportunity to combine political skills and resources.

The reorganization of the Charter School Resource Center in 2006 severely diminished the level of outside technical assistance available to charter schools, and neither charter support organization currently has the capacity to offer a similar level of assistance. To help schools, charter school leaders must identify the most important gaps in the charter support infrastructure and work with policymakers and private funders to find ways to fill those gaps.

Conclusion

Florida's charter schools have reached a critical stage. After nearly a decade of rapid growth, the promises of charter schooling are beginning to be realized, and more than 300 charter schools educate nearly 3.5 percent of the state's public school children. But significant weaknesses both in the law and its implementation threaten to mar the state's success. Most notably, many of the schools fail to live up to their promise of increased student achievement.

Florida must increase charter oversight and accountability as well as ensure that the schools receive the funding, autonomy and support that they need. Charter schools in the Sunshine State enjoy tremendous political and parental support, and many schools are providing excellent opportunities for students, but for charter schools to realize their full potential, charter advocates and policymakers must act today.

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