

CHARTER SCHOOL AUTONOMY: A HALF-BROKEN PROMISE



By Dana Brinson and Jacob Rosch

Foreword by Chester E. Finn, Jr. and Amber M. Winkler

APRIL 2010

UPDATED MAY 2010



The Thomas B. Fordham Institute is a nonprofit organization that conducts research, issues publications, and directs action projects in elementary and secondary education reform at the national level and in Ohio, with special emphasis on our hometown of Dayton. It is affiliated with the Thomas B. Fordham Foundation, and this publication is a joint project of the Foundation and the Institute. For further information, please visit our website at www.edexcellence.net or write to the Institute at 1016 16th St. NW, 8th Floor, Washington, DC 20036. This report is available in full on the Institute's website. The Institute is neither connected with nor sponsored by Fordham University.

CONTENTS

Foreword	4
Executive Summary	7
Introduction	9
Methodology	11
Findings	13
Nationwide Findings	13
State-Level Findings	14
Authorizer-Level Findings	17
Findings by Area of Operation	21
Staffing	21
Vision and Culture	22
Budget and Governance	24
Instructional Program	24
Summary Findings Table	26
Implications for Policy and Practice	32
Implications for State Policy Makers	32
Implications for Authorizers	32
Implications for Charter School Operators	33
Implications for the Charter Sector	33
Closing	34
Acknowledgments	34
Endnotes	35
References	37
Appendices	38
Appendix A: Advisory Panel	38
Appendix B: Autonomy Metric and Scoring Procedures	39
Appendix C: Procedures	41
Appendix D: Charter School Types	44
Appendix E: Interview Protocol	46
Errata	47

FOREWORD

Chester E. Finn, Jr. and Amber M. Winkler

America's charter schools resemble an artist who is expected to paint masterpieces while forced to wear thick mittens. Our policy makers and school authorizers, by and large, have not fulfilled their part of the grand "bargain" that undergirds the charter school concept: that these new and independent schools will deliver solid academic results for needy kids *in return for the freedom to do it their own way*.

There's been plenty of attention in recent years to the results side of that bargain, but precious little to the freedom side. As this study makes plain, though the situation varies greatly by state and by authorizer, charter schools as a whole do not have the autonomy they need to succeed. That represents a major policy failure in American education reform, one that needs to be understood by those who are closely inspecting charter school results, and by policy makers who want this bold experiment to have a fair chance to show what it can do.

The larger policy failure, of course, extends far beyond charters. Recently, the *Wall Street Journal* ran a gutsy and perceptive op-ed by Philip Howard, founder of the non-profit legal reform group Common Good, who observed that "a steady accretion of law since the 1960s has smothered personality and individual responsibility in schools" such that "[t]here's no oxygen left for educators to build healthy school cultures."¹ Howard's antidote for these sickly schools is both obvious and sensible: Give teachers and principals the authority to run their classrooms and schools and hold them accountable for their results.

Autonomy for district-operated schools may strike you as a contradiction in terms, and it must be said that few district-led efforts to confer authority on individual schools and principals have amounted to much. The district model of schooling is still, for the most part, a top-down, bureaucratic, even authoritarian model, and we have ample evidence that it doesn't "empower" principals.² One could argue that it isn't really meant to.

But charter schools are supposed to present a completely different profile. Operational freedom is at the core of the essential concept. It's part of the very definition of a charter school:

Charter schools are created through a formal agreement between a group of individuals and a sponsor (e.g., a local school board, state department, or an independent governing board). . . . [They] either receive blanket exemptions from most state codes and district rules regarding curriculum, instruction, budget, and personnel, or they may apply to waive requirements one by one. In return, most charter schools are expected to meet certain accountability requirements, such as demonstrating student achievement and participating in state testing programs.³

Promoting "smart regulation" for charter (and district) schools is a topic that Fordham has been interested in for nearly a decade. In 2001, for instance, we published *Personnel Policy in Charter Schools* by Mike Podgursky and Dale Ballou. The study found that, freed from procedural red tape but held accountable for results, charter schools tended to pursue innovative hiring and compensation policies. Five years later, we published *Turning the Corner to Quality*, which issued guidelines for strengthening Ohio's charter schools (Ohio is Fordham's "home state")—one of which was to "keep the accountability/autonomy promise." We followed that report with *Trends in Charter School Authorizing* that laid out five elements for successful authorizing, including "adequate resources and autonomy." And in 2007, we published *The Autonomy Gap*, which found, among other things, that charter principals felt they had greater autonomy regarding key school functions than did district-operated public school principals.

Now we return with this examination of the autonomy granted by state charter law and authorizer contracts. As our analytic partner, we engaged Public Impact, one of the nation's most respected charter research shops and one with which we have a long and fruitful working relationship. For example, *Charter School Funding: Inequity's Next Frontier*, done in league with Public Impact, remains one of our most requested (and quoted) publications—five years after its release. It found that charter schools receive about 22 percent less in per-pupil funding than the district schools that surround them—a crucial and worrying discovery, considering that charters need adequate financing *as well as* autonomy if they're to deliver the goods.

You could boil that down to a three-word quid pro quo: autonomy for results. It's *not* autonomy for autonomy's sake. Though freedom is generally a virtue in American society, the point of charter schooling is autonomy as an enabling condition for greater educational effectiveness. Results are what matters in the end, but the essential theory of charter schooling is that results are apt to be better if those running and working in the schools are at liberty to produce them in the ways that they think best—and in ways that may differ widely from school to school. Because these are schools of choice, families will select those with methods that they favor and results of which they approve.

Yes, results matter. And charter schools that don't produce them have no right to continue in operation. (We would apply that same precept to district-operated schools as well.) But what about the autonomy side of the bargain? To deny charters that freedom is akin to tying one arm behind the back of a prize fighter. Or forcing Monet to paint in mittens.

We set out to investigate empirically whether charter schools have the autonomy they need. Analysts examined charter laws in twenty-six states that are home to more than 90 percent of the nation's charter schools. They also inspected charter contracts for 100 schools associated with the country's most active authorizers. (These authorizers, fifty of them, oversee nearly half of the nation's charter schools.) Finally, they interviewed insiders (authorizers, school principals, state charter association leaders) associated with the most and least autonomous schools in the sample.

In the end, individual schools (which are named, and which include two authorized by Fordham in Ohio) were scored on a scale from zero (least freedom) to 100 (most freedom); points were then turned into traditional letter grades. Note, though, that we're not grading the schools themselves. The grades reflect how much autonomy they're granted by their states and authorizers.

Key Findings

The typical charter school in America today lacks the autonomy it needs to succeed—a degree of freedom we equate with a grade *no better* than a C+—once federal, state, and authorizer impositions are considered. For some schools, the picture is brighter but for many it's much grimmer, with far too many charters in the F range. Moreover:

- ***Huge variation exists among states.*** Though the average state earns an encouraging B+, state grades for charter autonomy range from A to F. Arizona, California, Texas, and the District of Columbia, for example, provide much-needed autonomy, while states like Maryland, New Mexico, Wisconsin, and Tennessee—in the words of our analysts—“tie the hands of charters with their overly restrictive statutes.”
- ***The states that scored high on the autonomy index also tend to be the ones with lots of charter schools.*** The analysts note that this relationship is scarcely a surprise. After all, “states extending high levels of autonomy to schools also tend to be freer with charter caps and enable organizations other than districts to authorize schools, both of which encourage more charter schools to form.”
- ***Authorizer contracts add another layer of restrictions.*** On average, they drop schools' grades to B-. (Federal policy and other state and local statutes likely push it down further.) School district authorizers are especially burdensome, placing added restrictions on charter autonomy in six areas—more than any other category of authorizer. Examples include forcing schools to adopt the district's discipline policies, follow a particular curriculum, or abide by standard practice when allocating budget dollars.
- ***Teacher certification rules are most burdensome.*** Almost all charter schools (95 percent) report facing restrictions relative to teacher certification, very likely a consequence of states' interpretations of the federal “Highly Qualified Teachers” mandate. Roughly 70 percent of charters also deal with restrictions around “contract revisions,” a measure of how much flexibility schools have to make mid-course corrections in noncritical areas (e.g., minor curricular changes). About half of them face restrictions when it comes to participating (or not) in the state retirement system; providing special education services; and decision making relative to their governing boards—including freedom to choose its members.
- ***In some key areas, however, most charter schools were relatively free to set their own policies.*** Research has repeatedly shown that two areas of autonomy matter most to building leaders: control over staffing and instruction. Without the right

teaching staff to implement the curriculum, principals report, instructional autonomy is meaningless. State certification aside, most charters enjoy considerable freedom in staff dismissal and curricular matters. Most are also free to establish teacher work rules and school schedules.

What to make of all this? To be sure, charter schools in some places enjoy substantial freedom to do their best without having to wear mittens. But too many—especially in states like Maryland and Wisconsin and those authorized by school districts everywhere—are still shackled with the rules and regulations that have left so many traditional public schools dispirited and ineffectual. To put it simply, for many charters, the promise of autonomy has not been kept. Sometimes this is deliberate—plenty of districts don’t want their charters to succeed. Sometimes it’s accidental—district bureaucrats might be so accustomed to their own regulatory regimen that they can’t conceive of an education world with true autonomy. And sometimes it’s misguided, as responsible authorizers seek to enshrine myriad “lessons learned” from every hiccup,

EARLY VISIONARIES

University of Massachusetts education professor Ray Budde first coined the term “charter school” in the late 1970s. He had in mind a fundamental reorganization of school districts designed to support the work of innovative teachers within the public school system. His 1988 book, *Education by Charter: Restructuring School Districts*, articulated a vision whereby school charters would operate in much the same way as traditional charters had. He used the example of the charter granted to Henry Hudson by the East India Company in 1609. Budde aptly applied that same concept to education. He said that school charters, like their original namesakes, should support “exploration into unknown territory and involv[e] a degree of risk to the persons undertaking the exploration.”⁴

Albert Shanker, longtime president of the American Federation of Teachers, shared Budde’s vision and discussed it publicly in a 1988 speech. He proposed creating schools-within-schools that would be publicly funded, but would allow greater agility to test out new ways of educating students. These small, teacher-led initiatives would be “totally autonomous,” as long as they provided “a better, alternative way of accomplishing the same purpose [as traditional schools].”⁵

setback, and yes, sometimes, scandal into their charter contracts going forward “to make sure that this can never happen again.” But whatever the reason, insufficient autonomy is holding back the charter movement from reaching its potential and producing the results we seek from it.

Many people and organizations help make this study possible. Our thanks go to the Walton Family Foundation for its support of our work relating to charter schools and school choice, and to the Doris & Donald Fisher Fund and the Koret Foundation for their support of this project in particular. This study was also supported in part by our sister organization, the Thomas B. Fordham Foundation. It benefited as well from the expertise of an advisory panel that included former and current school operators, authorizers, and experts on charter legislation. They are Greg Richmond, President & CEO, National Association of Charter School Authorizers; Erin Dillon, Policy Analyst, Education Sector; Deborah McGriff, Partner, NewSchools Venture Fund; James Merriman, Chief Executive Officer, New York City Charter School Center; Paul O’Neill, Senior Fellow, Edison Learning; Nelson Smith, President & CEO, National Alliance for Public Charter Schools; and Perry White, Founder and Executive Director, Citizens’ Academy. Of course, not every suggestion made by every expert could be fitted into the final draft, so any critiques should be addressed to Fordham and the authors, not to the reviewers. (After all, they gave us plenty of autonomy, for better or worse!)

Special thanks to Dana Brinson and Jacob Rosch at Public Impact who conducted the study and wrote the report. Their thorough research was matched by their attention to accuracy and commitment to a first-rate product. Public Impact Co-Director Bryan Hassel also provided valuable insight.

We also appreciate the hard work of Fordham’s own team, especially research assistant Janie Scull, policy analyst Stafford Palmieri, public affairs director Amy Fagan, new media manager Laura Pohl, and Vice President for National Programs and Policy Michael Petrilli, as well as copyeditor Erin Montgomery and designer Bill Buttaggi.

EXECUTIVE SUMMARY

For nearly two decades, charter founders have opened schools across the land on the basis of a distinctive education bargain: operational autonomy—freedom from restrictions typically placed on public schools—in exchange for strong results-based accountability. During that time, many have studied the “results” and “accountability” side of this arrangement, yet to our knowledge there has never before been a systematic national appraisal of the autonomy side. Despite the importance of autonomy to the charter concept—and notwithstanding innumerable anecdotes about various infringements on these freedoms—amazingly little is known about how free (or hamstrung) charter schools really are. Yet such information is fundamental to examining the state of the charter school movement in America and to appraising its value and its potential to advance American education. It is well known that charter schools in most states operate with substantially less money per pupil than do district schools. If they also lack essential freedom in such key areas as budget, curriculum, staffing, etc., it would be naïve to expect them to produce strong results.

This study begins to fill that vexing information gap via a national review of charter school autonomy. In the fall of 2009, The Thomas B. Fordham Institute teamed up with Public Impact to grade the autonomy extended by charter laws in **twenty-six states that are home to more than 90 percent of America’s charter schools**. Analysts also examined 100 individual charter contracts in those states to uncover further restrictions imposed by fifty of the country’s most active charter authorizers, entities that **collectively oversee nearly half of the country’s current crop of charter schools**.⁶

In appraising state charter laws, we measured school autonomy across fourteen areas, resulting in an overall state score ranging from 0 percent (least freedom) to 100 percent (most freedom). We then determined whether each of the 100 charter contracts further restricted freedoms in these areas, yielding a final autonomy score for each school. Finally, we converted these scores into letter grades on a conventional A to F scale. Schools with As experienced the most autonomy and schools with Fs the least. This analysis intentionally omitted those restrictions on school autonomy that are commonly deemed appropriate, such as academic assessment and accountability provisions and protections for student safety and civil rights.

To supplement the document review, Public Impact conducted over fifty phone interviews with charter school leaders, authorizers, and state charter association representatives linked to some of the most and least autonomous schools in the sample.

Nationwide Findings

- **State laws were the primary sources of constraint on charter school autonomy**, accounting for nearly three-quarters of the infringement that these schools experience.
- **Still, they average a B+ in terms of how much autonomy they provide to schools**. The restrictions state laws place on school autonomy, while significant, are not—in the average case—egregious.
- **Charter contracts drop the national average autonomy grade to B-**. The additional restrictions imposed on schools via authorizing reduced the school autonomy average by about half a letter grade.
- **The ultimate autonomy experienced by the average charter school is likely no better than a C+**. Restrictions from sources we did not examine—such as federal legislation and regulation, state and local statutes, or other policies and practices—surely lower school autonomy even further.
- **Most common restrictions**. Charter schools were most likely to face restrictions on teacher hiring (95 percent). Seventy percent of schools faced some limitations in their ability to renegotiate components of their charter contracts, potentially hindering their ability to make mid-course changes to their programs. About half of schools faced restrictions when establishing their governance boards, choosing a provider of special education services, or determining whether or not to participate in state retirement systems.
- **Most common freedoms**. Schools enjoyed the greatest autonomy over curricula, school calendars, teacher work rules, procurement policies, and staff dismissals.

State-Level Findings

- **The extent of state-level constraint on school autonomy varied widely.** Although nearly half of the twenty-six states examined earned “autonomy grades” in the B range, five states earned As, seven earned Cs, and two states each earned a D or an F.
- **State-imposed restrictions were most acute in the realms of teacher certification,** teacher compensation, and revisions to charter contracts.

Authorizer-Level Findings

- **Authorizers added constraints.** While a less significant source of restriction on schools than state laws, charter contracts reduced average charter autonomy from a B+ under state law to a B-. About 60 percent of charter contracts imposed restrictions beyond state requirements.
- **Authorizers varied significantly in the extent of constraint they imposed.** Thirty percent of those in the study reduced autonomy by more than a letter grade, while nearly 40 percent left the state’s letter grade intact or enhanced school autonomy.
- **Authorizers’ impact on school autonomy varied by authorizer type.** School districts and institutions of higher education typically imposed the most additional constraint while nonprofit organizations and state boards of education imposed the least.

Implications for Policy and Practice

Each encroachment on charter autonomy may stem from a rational and well-intended purpose, such as solving a problem or reducing the likelihood that a bad situation will recur. Yet the cumulative result is what one high-autonomy charter leader termed “death by a thousand paper cuts.” “None are insurmountable,” she admitted, “but together they divert serious time, money, and energy toward compliance and away from our mission of educating our students.”

To keep the autonomy side of the charter bargain, many changes to current practice are needed:

State policy makers should:

- Expand charter autonomy across multiple areas by revising state laws to provide automatic charter school waivers from most laws and regulations that apply to typical public schools;
- Amend state laws to expand staffing (hiring, work rules, compensation, and dismissal) autonomies for charter schools, an area interviews revealed as one of the most important areas of autonomy to school leaders; and
- Expand autonomy by changing laws or policies to (1) foster multiple authorizers, (2) support authorizers in conferring upon charters the full measure of autonomy afforded by state law, and/or (3) restrict authorizer ability to impose additional constraints on key areas of charter operations.

Authorizers should:

- Think twice before codifying well-intentioned impulses into blanket policies or standard practices that restrict autonomy; and
- Consider the informal influence that blanket policies have over the schools they charter (and the applicants who petition them), and the potential for these influences to quash common-sense or path-breaking approaches by the next generation of charter schools.

Charter operators should:

- Know in advance what areas of autonomy must be negotiated, and negotiate aggressively;
- Shop around for an authorizer with a demonstrated history of providing charters with broad autonomies in exchange for results-based accountability; and
- Choose state policy environments, if possible, that extend broad autonomies to charter schools.

Charter advocates at the state, authorizer, and school level should:

- Remain vigilant to protect charter autonomy from creeping regulations; and
- Foster a cadre of school leaders who can advocate for strong autonomy and capitalize on available freedoms.

INTRODUCTION

For nearly two decades, charter founders have opened schools across the land on the basis of a distinctive education bargain: operational autonomy—freedom from laws and regulations which typically apply to public schools—in exchange for strong, results-based accountability. The bargain first allowed potential school operators the opportunity to design and run schools in ways that deviated from traditional district norms, norms which in many districts had produced poor results for decades. Charter sector founders argued that it was these very restrictions—on curriculum, staffing rules, school-level governance, and budgets, for example—that limited schools’ abilities to improve student learning. They argued that, given freedom from these restrictions, charter schools could better educate students.

Nearly twenty years later, charter schools have had mixed results. Some charters have achieved stellar student achievement—taking full advantage of freedoms to extend the school day and year, develop innovative curricula, hire nontraditionally trained teachers, or establish innovative discipline policies to achieve their visions. Other charters over the years have failed to achieve outstanding results. As researchers undertake studies to measure charter achievement, and policy makers turn significant attention toward holding low-performing charters accountable, the question remains, “Are charter schools enjoying the freedoms they were promised in exchange for this level of accountability?”

Despite the importance of autonomy to the charter concept—and notwithstanding innumerable anecdotes about various infringements on these freedoms—amazingly little is known about how free (or hamstrung) charter schools really are. Yet such information is fundamental to examining the state of the charter school movement in America and to appraising its value and its potential to advance American education. It is well known that charter schools in most states operate with substantially less money per pupil than do district schools. If they also lack essential freedom in key areas such as budget, curriculum, or staffing, it would be naïve to expect them to produce strong results.

This report aims to fill this gap through a national study of charter school autonomy. The Thomas B. Fordham Institute joined with Public Impact in examining twenty-six state charter laws and 100 charter school contracts associated with fifty of the country’s most active authorizers. We investigated whether, and how, autonomy varies across states and authorizers. We also interviewed charter school leaders, authorizers, and state charter association representatives linked to some of the most and least autonomous schools in the study. These interviews deepened our understanding of how charter autonomy works—or does not work—in practice.

Autonomy was never meant to be absolute. Since charters are public schools, some limits on their freedom are appropriate (see *Appropriate Limitations on Charter Autonomy*). Policy makers rightly want charter schools to administer state assessments, be accountable for their academic results, be accessible to students, adhere to civil rights laws, and protect their students’ health and safety; we set such restrictions aside as givens.

Beyond those legitimate requirements, however, is potential trouble. Limiting the charter freedoms initially promised by educational reformers thwarts charter school operators from developing independent, innovative, and efficient schools that meet the academic needs of their students. Further, the American education system urgently needs such models to flourish, inform other school approaches, and help scale up what works. States and charter authorizers are in a position to foster an environment in which successful school models can emerge, grow, and spread. Yet they also serve as the greatest potential obstacles to charter autonomy:

- **State laws:** Each state with charter schools has a law governing their operation, as well as many other laws that apply to charter schools. These laws set the stage for school-level autonomy.
- **Charter contracts:** Each charter school enters into an agreement or contract with an “authorizer,” an entity designated by state law to oversee charter schools. This contract may impose additional restrictions on charter school operations beyond those envisioned by state law.⁷

Because these two sources have the largest and most direct impact on charter autonomy, they are the focus of this study. Other potential sources of restriction—federal laws and regulations, state board and department of education policies, local ordinances, and strings attached to funding—may also be important, but are not addressed in this analysis.

Our analysis extends earlier efforts of other organizations to rate state charter laws on related dimensions. The most recent of these efforts is the development of a model charter law by the National Alliance for Public Charter Schools and its comparison of each state charter law against the model.⁸ The Alliance report explores twenty aspects of charter laws, including some that relate to school-level autonomy.⁹ The report devotes significant attention to the accountability side of the charter equation by heavily weighting four specific areas of charter law: charter applications, reviews, and renewals; performance-based contract development; charter monitoring and data collection; and charter renewal, nonrenewal, and revocation decisions. The Center for Education Reform (CER) has also graded state charter laws on a number of accountability and autonomy components.¹⁰ Our report builds on these efforts in two ways: (1) by focusing in-depth on the components of state laws that influence charter autonomy and (2) by examining charter contracts to measure the level of autonomy experienced at the school level, an important new lens through which to view charter school autonomy.

APPROPRIATE LIMITATIONS ON CHARTER AUTONOMY

It is widely recognized that school autonomy was never intended to free charter operators from the following fundamental obligations, which serve to promote both students' wellbeing and societal interests:

- State assessments of student achievement and consequences for poor performance;
- Health and safety regulations;
- Teacher background checks;
- Open enrollment policies;
- Zero tuition policies;
- Civil rights protections;
- Open meeting laws;
- Anti-nepotism rules for governing boards; and
- Financial accountability rules.

METHODOLOGY

Defining autonomy. To focus our analysis on areas where school-level autonomy is most important, we began with a literature review on school autonomy, successful charter schools, and other high-performing schools. We also convened an advisory panel of charter experts who, building off of the findings from the literature review, helped us identify four broad areas in which charter schools need autonomy to succeed: defining and implementing a vision and culture,¹¹ choosing and implementing an instructional program,¹² making staffing decisions,¹³ and controlling finance and governance.¹⁴

Developing a measurement tool. We developed a metric that spanned fourteen types of charter autonomy within these four broad areas (for more detail, see *Areas of Autonomy*). For each of the fourteen areas, we defined what constituted low, moderate, and high levels of autonomy (see Appendix B).

Gathering data. We examined the charter law and other relevant laws in the twenty-six states covered by this study, as well as sample charter contracts.¹⁵ The National Association of Charter School Authorizers (NACSA) provided a list of the most active authorizers in the U.S.—those that had chartered more than ten schools—for a total of sixty-six authorizers. We contacted these sixty-six, requesting two charter contracts from each. We asked that if the authorizer chartered different types of schools—such as start-ups and conversions—that the two contracts reflect this diversity.¹⁶

We gained the participation of fifty authorizers from twenty-six states (including the District of Columbia) for a total of 100 charter school contracts. To further frame our understanding of charter autonomy at the school level, we conducted fifty-one phone interviews with charter principals, authorizers, and state charter association leaders associated with a subsample of ten high- and ten low-autonomy schools.

AREAS OF AUTONOMY

VISION AND CULTURE

- **Waivers:** Are charter schools provided an automatic waiver from state and local policies that typically apply to non-charter schools (excluding non-negotiables like safety and civil rights)?
- **Discipline Policies:** Can charter schools establish their own discipline policies?
- **Contract Revisions:** Can charter schools revise or amend their charter contracts before the end of their initial charter? Is authorizer approval only necessary for major changes in direction?

STAFFING

- **Teacher Certification:** Are state certification requirements waived for charter school teachers?
- **Staff Compensation:** Can charter schools determine salary scale and participation in a retirement system?
- **Work Rules:** Are charter schools and employees exempt from existing collective bargaining agreements (CBAs) or established work rules?
- **Dismissals:** Can charter schools develop teacher dismissal policies?

INSTRUCTIONAL PROGRAM

- **Curriculum:** Can charter schools design their own curriculum?
- **Special Education:** Can charter schools determine who provides their special education services?
- **School Scheduling:** Can charter schools establish school schedules and calendar?

FINANCE/GOVERNANCE

- **Board Composition:** Can charter schools determine the composition of their own governing boards?
- **Budget:** Do charter schools possess substantial budgetary discretion?
- **Management Contracting:** Can charter schools contract with a charter or education management organization (CMO or EMO)?
- **Procurement:** Can charter schools develop their own procurement procedures?

See Appendix B for the complete metric.

METHODOLOGY

While our sample is not random, its wide national coverage does allow us to draw reasonable conclusions about the condition of charter school autonomy in the U.S., differences across states, and the practices of different authorizer types. Collectively, the twenty-six states are home to more than 90 percent of the nation's charter schools.¹⁷ In addition, the fifty authorizers that provided us with contracts have chartered over 2,000 schools, nearly half of those operating in the United States.¹⁸

Analyzing the data. We used our metric to assess charter freedoms granted by state law on a scale from 0 percent (least freedom) to 100 percent (most freedom). This is the *state charter-law score*. We then determined whether each of the 100 charter contracts altered the degree of autonomy experienced by the school across any of the fourteen indicators. Adjusting the state law score to account for these additional restrictions, we produced a final school autonomy score for every school. This *school autonomy score* is not only a grade for the charter contract, but represents the impact of the state charter law *and* the additional restrictions placed on charter schools by authorizers.

Finally, we converted these scores into letter grades on a conventional A to F scale. Schools with As experienced the highest levels of autonomy and schools with Fs, the least. With grades in hand for each state and contract, we looked for differences among states, authorizer types, and school types. Because we analyzed fourteen different areas of autonomy, our data also enabled us to examine which areas of autonomy were most and least likely to be restricted by state laws or charter contracts.

Limitations. Our method supports analysis and discussion only about the levels of autonomy extended to schools through laws and contracts. It does not address school effectiveness or student performance in relationship to levels of autonomy. For further discussion of the methodology employed, its limitations, and our efforts to counter them, please see Appendix C.

FINDINGS

Nationwide Findings

Overall grades. The average state charter law earned a score of 87 percent, resulting in an average grade of B+.¹⁹ But grades ranged from A to F across our twenty-six-state sample. Adding in the restrictions imposed by charter contracts reduced the autonomy average by 5 percentage points to 82, or about half a letter grade. Given that this review did not explore all known sources of restrictions on autonomy (e.g., federal legislation, state laws and policies, etc.), it is likely that charter schools in 2009 experienced an autonomy level of no better than a C+. Further, our sample excluded schools chartered by authorizers that oversee only a handful of charters—the vast majority of which are district authorizers. This analysis found districts to be the most restrictive authorizer type, suggesting a further dampening effect on average charter autonomy across the nation.

Most and least common restrictions. Figure 1 details the percentage of schools facing a restriction—either from

state law or charter contract—in each of fourteen key areas of autonomy (These are further explained in *Areas of Autonomy*, pg. 11 and in Appendix B). The brown portion of each bar represents schools facing high restrictions, while the blue portion indicates moderate restrictions on charter schools. For example, in the area of teacher certification, the levels of restrictions are as follows:

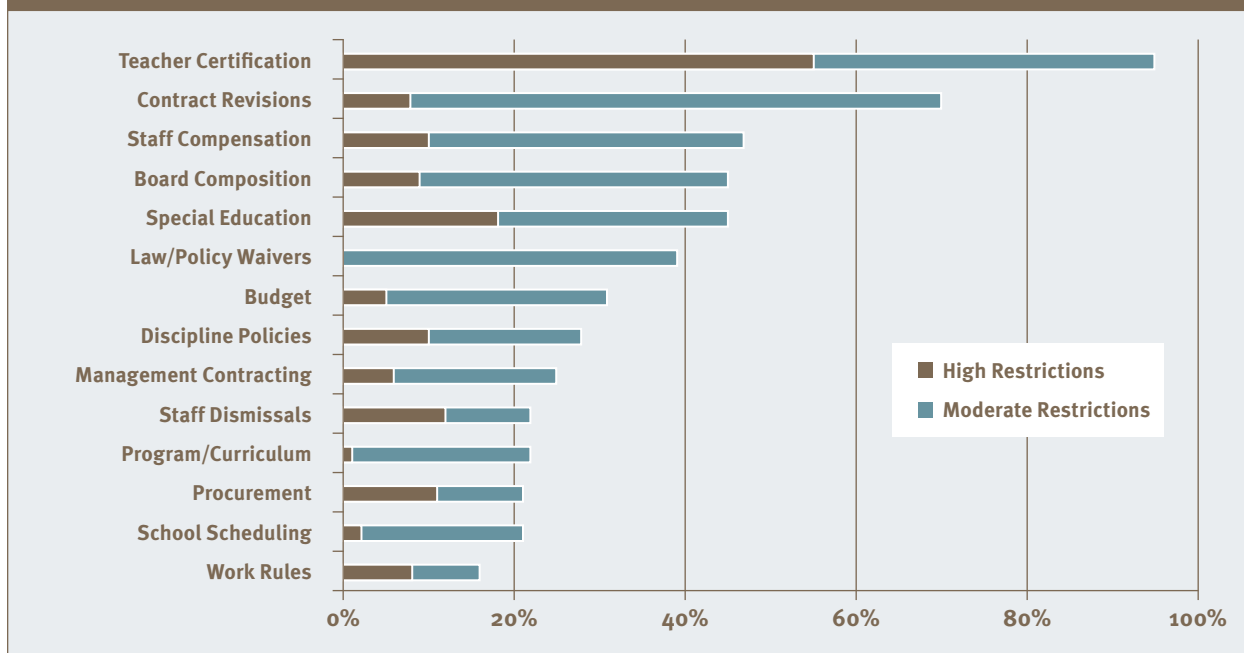
High restriction: All charter school instructional personnel must be certified according to state regulation

Moderate restriction: Some instructional staff must be certified (e.g., only staff in core subjects, or a specific percentage of staff) or school may seek a waiver of certification requirements

No restriction: State certification requirements waived for charter school teachers

Charter schools were most likely to face restrictions related to teacher certification (95 percent) and “contract

Figure 1: Percentage of Schools Facing High and Moderate Restrictions by Area of Autonomy



Note: This figure shows the percentage of schools that were restricted in each of the fourteen areas in the metric.

How to read this figure: Ninety-five percent of schools faced a restriction related to teacher certification, 55 percent faced a high restriction, while 40 percent faced a moderate restriction.

FINDINGS

revisions” (70 percent), the latter meaning the flexibility a school is granted to make mid-course changes (i.e., changing instructional materials or adding a grade level). About half the schools also faced restrictions regarding mandatory participation in or exclusion from state retirement systems, the composition of their governance boards, or who may (or may not) provide special education services.

Charter schools were most likely to enjoy freedom in establishing their own teacher work rules, school schedules, procurement policies, curricula, and staff dismissal policies—with about 80 percent of schools experiencing broad autonomy in each of these areas.

Interviewees identified two freedoms—control over staffing and instruction—as most important to school success. Principals spoke of staffing issues—hiring, evaluating, developing, and dismissing teachers—as equally important parts of a whole. Uniformly, interviewees stated that control over the school’s instructional approach and curriculum was necessary, but that without the right teaching staff, instructional autonomy alone was insufficient in driving achievement.

Interviewees also identified two more domains of school autonomy they deemed necessary for charter success: control over the school budget and freedom with respect to composition of the school’s board and the span of its authority. Yet, state charter laws and charter contracts restricted these two areas for nearly a third and nearly half of schools, respectively.

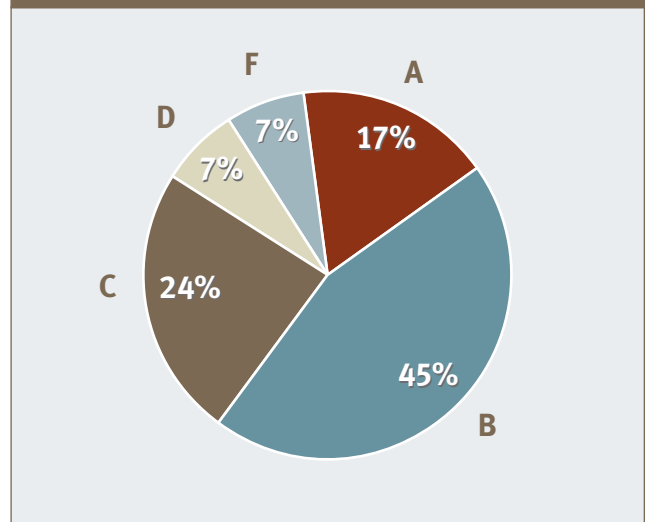
State-Level Findings

As Figure 2 displays, 17 percent of the states provided broad autonomy to charter schools—earning an autonomy grade in the A range—and nearly half of the states earned a grade in the B range. About a quarter of states earned an autonomy grade in the C range, and 14 percent earned a D or an F.

Charter school autonomy varies significantly by state.

Although state laws earn an average grade of B+, this obscures considerable variation in the amount of autonomy that different states extend and the areas of autonomy that they restrict. State autonomy grades range from A to F, with some jurisdictions, such as Arizona, California, Texas, and the District of Columbia, providing for truly autonomous schools while others (including Maryland,

Figure 2: State Charter-Law Grades



How to read this figure: Seventeen percent of the state laws in our sample earned an autonomy grade of A+, A, or A-.

New Mexico, and Tennessee) tie charters’ hands with overly restrictive statutes.

Table 1 shows autonomy scores for the twenty-six states examined here and highlights the range of school autonomy grades *within* each state, which demonstrates the range of additional limitations (or occasional expansions) of autonomy at the charter contract level, a topic discussed below. We should note that we did not review all types of charter schools operating in the twenty-six states reviewed. For more detail on the charter types included from each state, see Appendix D.

States with high autonomy also tend to be states with lots of charter schools.

Of the ten states with the most charter schools, eight are included in our top ten for autonomy.²⁰ One might reasonably expect this relationship, considering that states extending high levels of autonomy to schools also tend to be freer with charter caps and enable organizations other than districts to authorize schools, both of which encourage more charter schools to form. Prospective charter operators are arguably more eager to step up and start charter schools if they know they will enjoy significant freedom once operating.

FINDINGS

Table 1: State and School Autonomy Grades

State (Number of Charter Contracts Reviewed)	State Charter-Law Autonomy Grade	School Autonomy Grade Ranges
Arizona (2)	A	A-
California (10)	A-	A- to B+
D.C. (2)	A-	A-
Pennsylvania (virtual) (2)	A-	B+
Texas (2)	A-	A- to B+
Illinois (2)	B+	B-
Massachusetts (2)	B+	B+
North Carolina (2)	B+	B+
Florida (10)	B	C to F
Indiana (4)	B	B to C
Louisiana—Type 5 (1)	B	D
Michigan (8)	B	C to D+
Minnesota (6)	B	B to C+
Ohio (10)	B	B to B-
Idaho (2)	B-	B to D-
Louisiana—Type 2 (1)	B-	B-
New Hampshire (2)	B-	B- to C+
New York (6)	B-	C+ to C
Connecticut (2)	C+	C+ to C
Delaware (2)	C+	C+ to C
Georgia (start-up) (2)	C+	C+ to D
Utah (2)	C+	C+
Colorado (4)	C	C- to D+
Georgia (conversion) (2)	C	F
Wisconsin (non-instrumentality) (1)	C	F
Tennessee (2)	D+	D+
New Mexico (4)	D-	D-
Wisconsin (instrumentality) (3)	F	F
Maryland (2)	F	F

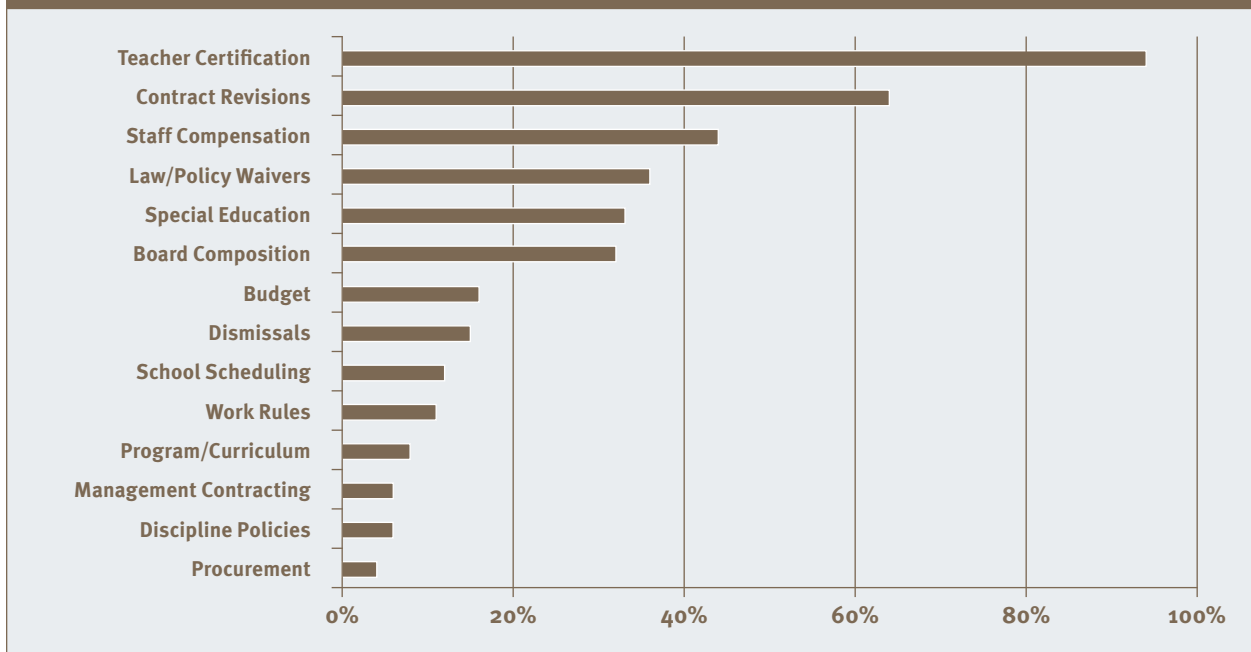
How to read this table: *The California State charter law earned an A- for the autonomy it extended to charter schools; however, the amount of autonomy experienced by schools in the state ranged from A- to B+, because of additional restrictions imposed by the ten charter contracts we reviewed. See Appendix D for discussion of charter types (such as virtual, start-up, conversion, etc.).*

FINDINGS

State laws focus their restrictions on certain areas of charter operation. As Figure 3 illustrates, states most commonly restricted:

- **Teacher certification.** Nearly every school (94 percent)²¹ in our sample experienced some amount of state-imposed control over teacher certification requirements.
- **Revising the charter contract.** Eight schools in our sample were unable to make any changes to their charters until the charter was up for renewal. Most (sixty-two), however, could amend their charters, but it required renegotiation with their authorizers—a process that is more or less onerous depending on the authorizer.
- **Teacher compensation.** Nearly half of the charters faced state-imposed restrictions on staff compensation. Restrictions mandated (or sometimes prohibited) participation in state retirement programs. Ten schools faced the double restriction of mandated participation in the state retirement program and mandatory use of state-established salary schedules.
- **Other areas of restriction.** Nearly one-third of the schools faced state-imposed limitations on determining who provides special education services or who sits on the governance board. About a third of states did not provide charter schools with an automatic waiver from certain regulations that typically apply to traditional schools and districts.

Figure 3: Percentage of Schools Facing Restrictions from State Charter Laws



Note: This figure shows the percentage of schools in our sample that faced restrictions from state charter laws in each of the fourteen areas in the metric.

How to read this figure: Ninety-four percent of schools faced a restriction under state charter laws on teacher certification.

Authorizer-Level Findings

Operating within disparate state policy environments, authorizers also influenced charter freedoms through their own policies, oversight practices, and accountability requirements. Though state laws created the most constraints, charter contracts added to the burden of restriction on school freedoms.

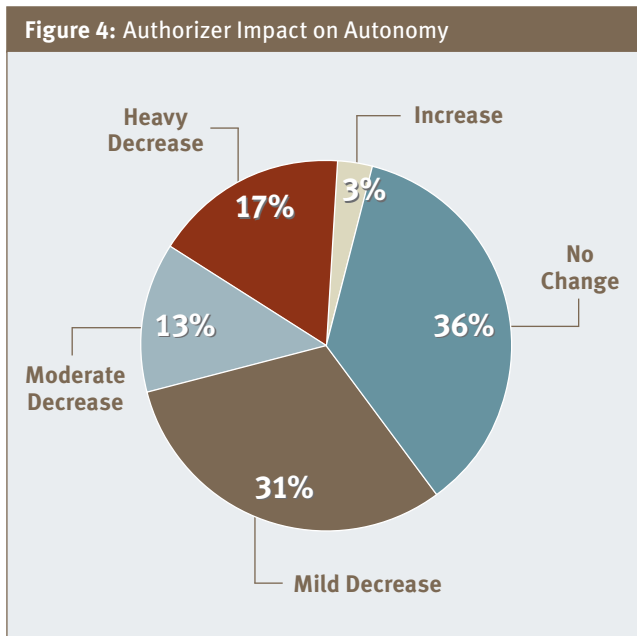
Authorizers’ impact varies nationally. Overall, authorizers tended to reduce charter schools’ autonomy by about half a grade, or 5 percentage points. However, this average obscures a broad range of *authorizer* impacts on charter autonomy (see Figure 4). For 36 percent of the schools in our sample, authorizers did not further reduce autonomy beyond state restrictions. Further, for three schools, authorizers *enhanced* autonomy beyond the state’s autonomy grade. Thirty percent of the schools, however, experienced a moderate or heavy decrease in autonomy—at least one full letter grade—based on authorizer-added limitations.

Although only three authorizers increased the overall autonomy score for schools beyond that allowed by state charter law, authorizers of twenty-one schools actually extended autonomy beyond the state law in at least one

domain. Authorizers who increased charter autonomy typically did so in relation to governance and contract revisions. For example, authorizers increased ten schools’ autonomy over who could sit on their governance board (e.g., in California, several authorizers chose not to act upon their state-granted right to place an individual on their charters’ governing boards). Second, authorizers of seven schools expanded charter freedom over the contract revision process.

Autonomy restrictions vary by authorizer and charter type. States have empowered several types of organizations to serve as authorizers, including state boards of education, school districts, nonprofit organizations, higher education institutions, mayoral offices, and special-purpose charter boards or commissions. Of these authorizer types, nonprofits and state boards of education were the least likely to place additional restrictions on schools, while districts and higher education institutions were most apt to do so—lowering their schools’ autonomy scores by an average of 10 to 11 points, or more than one full letter grade. Table 2 (pg. 18) shows average state scores, additional authorizer restrictions, and final school scores by authorizer type.

District-imposed limitations may stem from the fact that, in many cases, district-authorized schools legally remain part of the district, much like any other public school. If these charters fail to develop legally sound discipline policies or fail to provide special education services in accordance with the law, responsibility ultimately rests with the district. Interviews revealed that district authorizers may choose to protect themselves by reducing charter freedoms in specific areas as a preemptive means of avoiding legal problems later. The other types of authorizers—whose schools are typically legally independent—may not feel as directly responsible for charter failures, and therefore may be in a position to grant greater autonomy to schools.²²



Note: This graph shows the degree to which authorizers further restricted charter autonomy beyond limitations established by state charter laws. A “mild” decrease reduced autonomy by half a letter grade, a “moderate” decrease reduced autonomy by up to one-and-a-half letter grades, and a “heavy” decrease reduced autonomy by about two full letter grades or more. Each reduction increased the regulatory burden charter schools faced.

FINDINGS

Our data also suggest that authorizers with the most schools in their portfolios add fewer restrictions than those with more mid-sized portfolios, on average. (As a reminder: Authorizers with very small portfolios were not included in the study.) Of the ten authorizers with the most schools, eight lowered their schools' autonomy scores by fewer than 5 percentage points. Nine of these ten larger authorizers, however, are non-district authorizers—as such, they already tend to impose fewer restrictions overall than district authorizers. As a result, our data do not allow strong conclusions about the link between authorizer size and school autonomy.

The type of charter school authorized also affects autonomy. Virtual charter schools in our sample operated with the greatest autonomy while conversion charters (traditional district schools converted to charter status) enjoyed the least freedom. Table 3 (pg. 19) shows average state scores, additional authorizer restrictions, and final school scores by school type.

Authorizers' restrictions vary by state law context.

No authorizer in the eight high-autonomy states (those with a B+ or better) further reduced school autonomy by more than half a letter grade. In states with moderate or

low autonomy scores, however, authorizers ranged from placing no further restrictions on schools to reducing autonomy by a staggering three letter grades.

States and authorizers focus their restrictions on different areas of school operations. Figure 5 (pg. 20) shows authorizer restrictions by area of autonomy. Authorizers tend to focus more on some of the finer details of school operations, such as discipline policies, contracting with management organizations, and electing a governance board. We see that no more than a quarter of the authorizers in our sample restricted any single measure we reviewed. For nearly half of these measures, fewer than 10 percent of schools faced authorizer restrictions at all.

Figure 6 (pg. 20) provides a comparison between the areas (and frequency) of autonomy restriction rendered by state laws and charter contracts.

Areas of restriction varied by authorizer type. Table 4 (pg. 19) highlights the areas in which different authorizers chose to restrict autonomy. District authorizers, the most prevalent authorizer in our sample and in the country, placed additional restrictions on charter autonomy in six areas of operation, the most of any authorizer type.²³

Table 2: Degree of Additional Authorizer Restriction by Authorizer Type

Authorizer Type	Average Autonomy Scores		Average Authorizer Restriction ^A
	State	School	
District ^B (n=21)	80%	69%	-11%
Mayor (n=1)	86%	75%	-11%
Higher Education Institution (n=6)	85%	74%	-10%
State Charter Commission (n=4)	87%	82%	-4%
Department of Education (n=11)	84%	82%	-2%
Nonprofit (n=7)	86%	84%	-2%

How to read this table: On average, district authorizers operated in states with an autonomy score of 80 percent. After taking into account additional restrictions imposed by charter contracts, the average autonomy score for schools authorized by districts was 69 percent. Therefore, district authorizers further reduced school autonomy, on average, by 11 percentage points.

^A Values may not sum due to rounding.

^B N is the number of each type of authorizer for which we reviewed contracts.

FINDINGS

Table 3: Degree of Additional Authorizer Restriction by School Type

Charter School Type	Average Autonomy Scores		Average Authorizer Restriction
	State	School	
Conversion ^A (n=12)	74%	58%	-16%
Start-up ^B (n=85)	84%	78%	-6%
Virtual (n=3)	89%	87%	-2%

Note: See Appendix D for discussion of charter types.

How to read this table: On average, conversion charter schools operated in states with an autonomy score of 74 percent. After taking into account additional restrictions imposed by charter contracts, the average conversion charter school autonomy score was 58 percent. Therefore, authorizers of conversion charters further reduced school autonomy, on average, by 16 percentage points.

^A Conversion schools include Louisiana Type 5 charters and the remaining Wisconsin charters.

^B Start-up schools include Louisiana Type 2 charters and one Wisconsin Instrumentality charter (Odyssey-Magellan).

Table 4: Most Restricted Areas of Autonomy by Authorizer Type

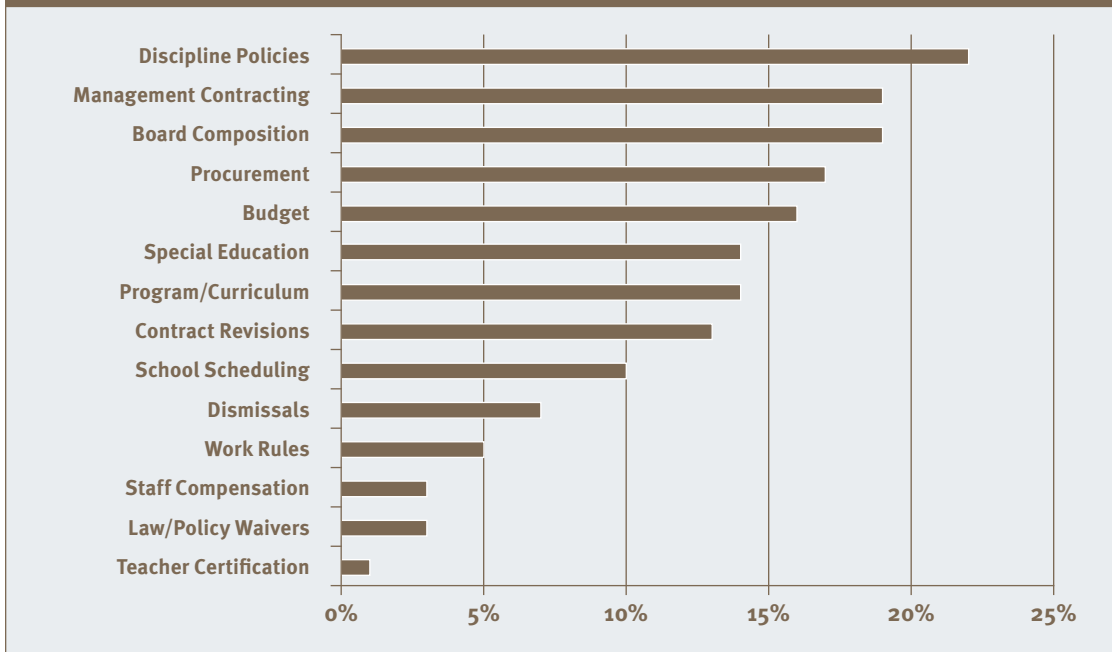
Authorizer Type	Commonly Restricted Areas
District (n=21)	Discipline Policies, Budget, Procurement, Charter Revisions, Curriculum, Board Composition
Department of Education (n=11)	Curriculum, Management Contracting
Nonprofit (n=7)	Charter Revisions, Special Education
Higher Education Institution (n=6)	Special Education, Board Composition, Management Contracting
State Charter Commission (n=4)	Special Education, Procurement
Mayor (n=1)	Curriculum, Special Education, Budget

Note: This table shows the areas where specific types of authorizers were most apt to impose restrictions.

How to read this table: Departments of Education that authorized charters were most likely to restrict charter autonomy in designing a curriculum and contracting with a management organization.

FINDINGS

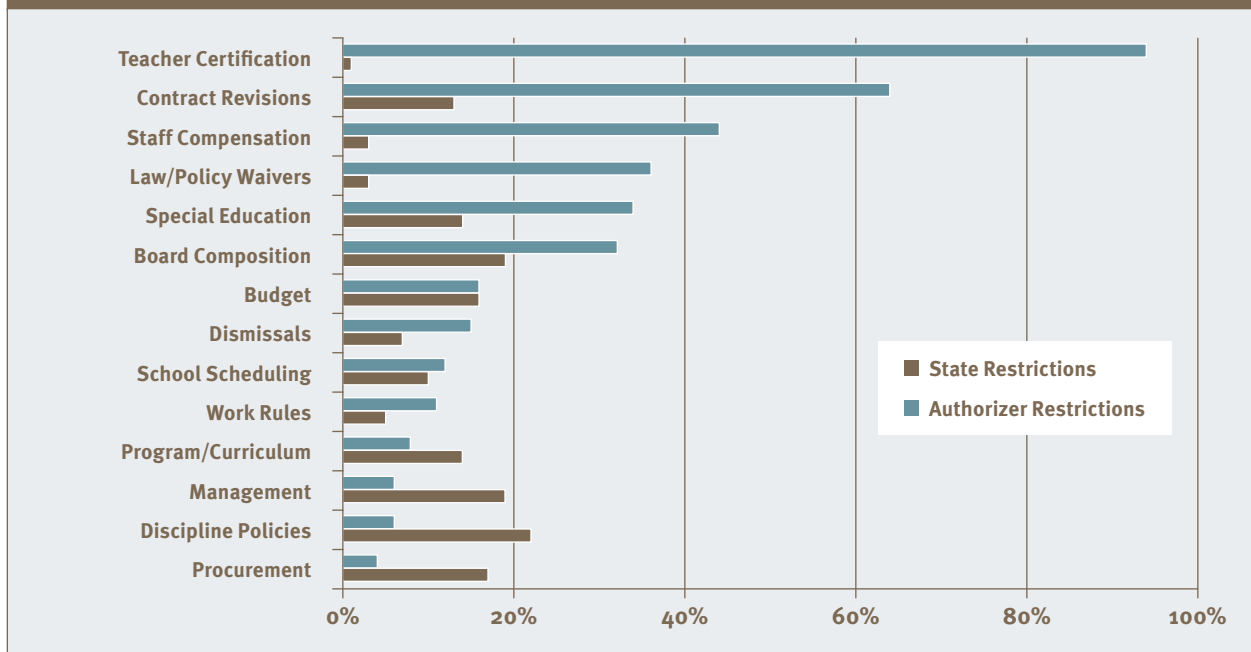
Figure 5: Percentage of Schools Facing Restrictions from Authorizers by Area of Autonomy



Note: This figure shows the percentage of charter contracts that restricted school autonomy in each of the fourteen areas in the metric.

How to read this figure: Twenty-two percent of charter contracts imposed a restriction related to discipline policies.

Figure 6: Percentage of Schools Facing Restrictions from State Charter Laws and Charter Contracts by Area of Autonomy



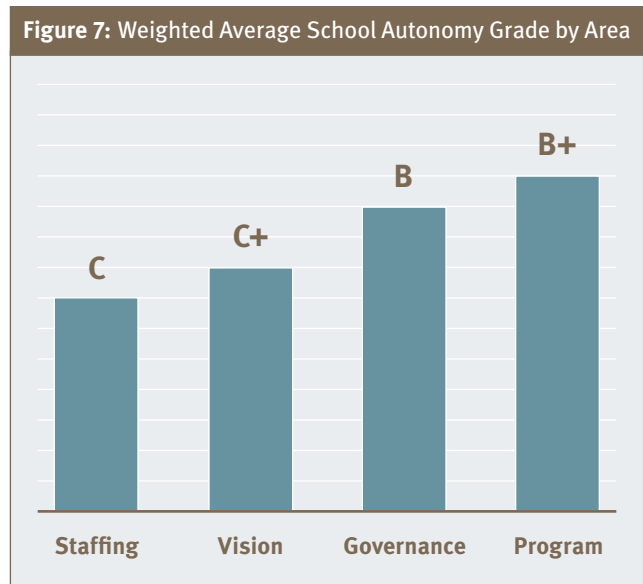
Note: This figure shows the percentage of schools in our sample that faced restrictions from either the state charter law or the charter contract in each of the fourteen areas in the metric.

How to read this figure: In the area of teacher certification, for example, 94 percent of schools faced a restriction written into the state charter law, while just 1 percent of schools faced a similar restriction from their authorizer.

Findings by Area of Operation

The autonomy metric enabled us to assign overall letter grades—taking into account both state law and authorizer impacts on autonomy—to each of the four key areas of charter autonomy that we studied: vision and culture, instructional program, staffing, and budget and governance (see Figure 7). On average, charter schools experienced the highest level of freedom in the area of instructional programming (B+), followed by budgetary and governance freedoms (B). Charter schools experienced the lowest levels of autonomy, on average, in the areas of staffing (C) and implementing a vision and culture (C+).

The next sections explore each of these four main areas of autonomy, from most to least restricted. Within each area, we identify the specific components measured, such as discipline policies, and provide the percentage of schools facing restrictions in those areas from either state laws or charter contracts. We use our interview data to enrich the findings and shed light on how autonomy functions in reality. In discussing interview results, we sometimes differentiate between the responses of those associated with “high-autonomy” schools (an overall autonomy grade of B+ or higher) and “low-autonomy” schools (D+ or lower) (see *Levels of Autonomy*).



Note: This figure shows the average grade state laws and charter contracts earned for the autonomy they extended in each of the four autonomy areas in the metric.

LEVELS OF AUTONOMY:

We classified schools in this study as experiencing high, moderate, or low autonomy.

- **High-autonomy school**—Schools in this study with autonomy grades of a B+ or higher (twenty-one in sample).
- **Moderate-autonomy school**—Schools in this study with autonomy grades of a B- to a C+ (sixty in sample).
- **Low-autonomy school**—Schools in this study with autonomy grades of a D+ or lower (nineteen in sample).

Staffing (Average Autonomy Grade: C)

Research on charter schools identifies the ability to hire like-minded staff as a key to success.²⁴ Our findings reveal that states and authorizers largely extend freedom to charters in the areas of establishing work rules, teacher salaries, and dismissal policies, but place greater restrictions in the area of teacher certification and some components of teacher compensation (such as participation in state retirement programs).

Teacher Certification (95 percent face some limitation)

Teacher certification was the most common area of restriction across all fourteen measures in our metric. Ninety-five of the 100 schools in our sample experienced some limitation regarding whom it could hire to teach. In all but one school, the restriction came from the state charter law. The most common restriction, affecting fifty-five schools, required charters to hire only state-certified teachers. The remaining forty schools had to seek a waiver from some certification requirements, had to hire certified staff in core subjects, or were allowed only a small percentage of uncertified teachers—and these typically had to be on track toward earning certification within a few years.

These restrictions are likely in response to federal requirements for every student to have a “highly qualified teacher.” States have some leeway under federal law to fashion different policies for charter schools, enabling them to employ teachers who are “highly qualified” but not necessarily certified through normal state channels. More than half of the schools in our sample, however, operated in states that bluntly applied blanket state certification requirements on charter schools.

“It’s always a challenge to figure out what ‘Highly Qualified’ means. I have one teacher who is a ten-year veteran with a degree from Brown University and the state people tell me she doesn’t meet the HQ standards. They admit it doesn’t make sense, but they have to enforce it anyway.”

—Principal from a high-autonomy school

Compensation (47 percent face some limitation)

Our compensation metric examined two issues: restrictions related to participation in state retirement systems and restrictions on establishing teacher salaries. On **retirement**, about half of the schools in our sample (forty-six) experienced some constraint—many were required to participate in the state retirement system; others were excluded. Most principals interviewed did not discuss mandatory participation in a state retirement system as a burden. Some believed that participation helped charters compete with the district for experienced teachers. The freedom to opt out, however, allowed some charters to provide different benefits packages that may appeal to those not interested in retiring from a state system. Further, as one state charter representative noted, “There’s an ongoing battle . . . to make charters pay a portion of their per-pupil funds toward helping districts make good on the promises they made to teachers who have already retired from the system, or to provide health insurance to current district teachers. No one wants to talk about the impact that diverting these dollars would have on students.”

On **salary**, few charter schools (eleven) experienced constraints. Interviewees noted they used this freedom both to develop a pay scale competitive with the local district and to retain high performers and remain competitive with jobs outside the teaching profession. Several principals appreciated the freedom to pay professionals who were new to teaching based on their work experience elsewhere. A second principal from a high-autonomy school noted, “In every other industry I know, you can pay people better who do a better job, and that’s a freedom I have and appreciate as a charter school leader.”

Low-autonomy schools, by contrast, had overall limited control over salaries. A district authorizer of one of these schools noted, “Technically the charter is not required to

use the district pay scale, but we do require the school to have some type of scale they apply equally to all staff. We want it to be clear to staff, the parents, and the community what is going on. We can’t have the school deciding how each individual will be paid.”

Teacher Dismissal (22 percent face some limitation)

About one in five schools experienced limitations on teacher dismissal. These restrictions do not include authorizer efforts to prevent discriminatory practices. In fact, an authorizer from a state that scored high on autonomy noted, “Charter schools establish their own dismissal policies, but we require as part of our application process a review of the policies to make sure they are lawful and do not allow for discrimination.” Beyond these basic protections, some low-autonomy schools—particularly those that remain part of their districts—experienced hiring freedom while having to follow standard dismissal procedures. Some principals of low-autonomy schools expressed the desire for greater control over teacher dismissal because lack of that autonomy often resulted in a costly and prolonged process to dismiss an ineffective teacher.

Work Rules (16 percent face some limitation)

Most schools in our sample established their own teacher employment terms. Even some charter schools that did operate under existing collective bargaining agreements had developed memoranda of understanding (MOUs) with unions allowing waivers from the district’s standard work rules. In other places, however, the union sought to enforce the district-wide collective bargaining agreement, regardless of charter school teachers’ wishes. One authorizer said the local union demanded that charters cease providing a longer school day even though teachers agreed to work those hours for an added stipend. “Our charters are only as free as the union will let them be,” the authorizer noted, “but I think that charter schools are schools of choice for students *and for staff*. If the school has an extended day, and teachers sign up for that, they know what is expected of them.”

Vision and Culture (Average Autonomy Grade: C+)

To develop an intentional school culture guided by a charter vision, school leaders need autonomy from many of the rules that govern traditional school districts and the flexibility to amend charter contracts to meet evolving needs. In our sample, the large majority of schools (seventy) had to negotiate with their authorizer to change any component of their charter contract, and more than a

FINDINGS

third (thirty-nine) did not receive a blanket waiver from state regulations.

Revisions to Charters (70 percent face some limitation)

For charter leaders to respond to the changing student needs or amend approaches when original plans are not working, they need the flexibility to make mid-course corrections to their programs. For some schools, this may require amending their original charter. Eight schools in our sample were unable to make any changes to their charters until the charter was up for renewal. Most (sixty-two), however, could amend their charters, but it required renegotiation with their authorizers—a process that would vary in level of difficulty depending on the authorizer.

Because a charter is essentially a performance contract between a school and authorizer, it makes sense that schools cannot change the components of that charter without negotiating with the authorizer. States and authorizers of thirty schools in our sample, however, provided for broader charter autonomy by requiring only that major changes in direction—sometimes referred to as “material changes”—be approved by authorizers before taking effect (i.e., changing the student population served). Schools with this high level of autonomy could make other amendments to their programs without having to first obtain approval from authorizers. Some authorizers protected charter schools’ freedom to make mid-course corrections by developing contracts that gave wide latitude in several areas so changes did not constitute a revision. One authorizer, for example, required each of its schools to develop and follow a discipline policy, but explicitly allowed a school to amend that policy as needed (as long as it complied with the law) without it constituting a change to the charter.

Most of the charter leaders interviewed had not sought amendments or revisions to their charters, but interviews revealed some confusion about how to initiate the process and what constituted a “material” change. This confusion

“If I hadn’t had control over our discipline policy, I probably would not have applied for a charter—it’s that important to the vision of our school.”

—School principal

may explain why most authorizers require across-the-board approval for all changes. While this resolves the question of what constitutes a material change, it also adds another layer of potentially unnecessary restriction.

Waivers from State and District Policies (39 percent face some limitation)

Nearly two-thirds of the schools in our sample received an automatic waiver or were otherwise freed from a wide range of state or district regulations that typically apply to public schools, such as certification requirements, teacher work rules, or the length of a school day or year. The remaining thirty-nine could receive waivers from individual regulations, but only if a higher authority (usually the state board of education) approved. The willingness of states to approve individual waivers varied widely according to interviewees. While one state authorizer admitted that no individual waivers were ever approved (and that charters did not routinely request them), a charter association leader in another state noted that individual waivers were “almost always approved, so much so that it’s nearly automatic.”

Interviews with high- and low-autonomy schools revealed much confusion over the existence of state waivers, what a waiver was, and whether it applied to their schools. One charter association leader in a state that scored low on autonomy admitted, “We have individual schools that don’t have a deep understanding of the flexibility and autonomy that they could advocate for, legally.”

Discipline Policies (28 percent face some limitation)

Most of the restrictions on student discipline policies originated from district authorizer contracts. Over half of the schools with district authorizers experienced limitations in this area. Districts may place greater restrictions on charter discipline policy because they remain legally responsible for charter schools that remain part of the district.

In addition, district authorizers deal most directly with results of strict charter discipline policies: Students who opt out of (or are *pushed* out of) strict charter schools must enroll in other district schools. To avoid these disruptions, some district authorizers encourage or require charter schools to adopt the district’s standard discipline code. One principal conceded, “We made a political decision to follow the district’s code of conduct because we knew from others’ experiences it would improve our chances of gaining a charter.”

Budget and Governance (Average Autonomy Grade: B)

Autonomy to develop an instructional program and manage staff at liberty can only occur when a school enjoys the flexibility to manage its resources and make dynamic decisions. In the areas of governance and finance, nearly half of charters faced a limitation on who could not—or had to—sit on the charter governance board. In addition, about a third of charter school leaders had to negotiate budgetary decisions with authorizers while most enjoyed autonomy in developing procurement policies and contracting with management organizations.

Governing Board Composition (45 percent face some limitation)

The members who sit on a charter school’s governance board can impact a school’s success. States and authorizers may require a certain number of individuals on a board or forbid individuals who may have conflicts of interest from serving on a board (neither of which decreased the autonomy scores in this study). However, forty-five schools in our sample faced restrictions over the composition of their governing boards that extended beyond these commonly accepted limitations. Two-thirds of these restrictions came from state laws and typically allowed authorizers, if they chose, to place an individual on the charter board (a heavy restriction that would earn the law or contract a zero). Nearly as common were less-restrictive requirements for a specific type of person—such as a parent or school employee—to be represented on the board.

Michigan charter schools faced the highest degree of authorizer control over board composition. In fact, some Michigan authorizers design and run the entire charter school board member selection process—even during the middle of the charter term. This wide control allows the authorizer to remove an entire charter board for failing to produce results and replace them.²⁵ Of course, such control may be used judiciously by an experienced, deft authorizer. It could also, in the hands of others, severely restrain the independent operation of a charter school.

Budgetary Control (31 percent face some limitation)

Five schools, all of which remained fiscally part of their local district, had extremely limited control over their budgets. Twenty-six others experienced moderate restriction in this realm, such as a requirement to submit a budget to the authorizer for official approval. This approval process provided authorizers with the ability to demand changes to a proposed budget. As with other restrictions,

this level of control may only have a negative impact on charter schools if the authorizer imposes certain types of spending or unduly restricts charter flexibility while responding to changing budgetary needs.

Contracting with Management Organizations (25 percent face some limitation)

In our sample, six schools were not allowed to contract with a management company even if they wanted to. Nineteen others needed authorizer approval to enter into a management contract. Still, because the decision to contract with a management organization typically occurs during the initial application process—and/or would constitute a “material change” to an existing charter contract—authorizers have significant control over most avenues for a school to engage an outside management organization, even without explicit legal or contractual language stating so.

Procurement Policies (21 percent face some limitation)

Only eleven schools faced heavy restrictions regarding procurement, meaning they were required to follow the existing procurement policies of the district or state. Interviewed schools did not regard procurement regulations as particularly cumbersome. One principal revealed, however, that her school had to participate in the same procurement training that the state mandated for districts: “Like any other district, I have to pay five hundred dollars every year to send someone from my school to get trained on procurement best practices—every single year.”

“Many charter applicants think they want autonomy in the area of special education, but they may not yet be aware of what they are taking on.”

—State association leader

Instructional Program (Average Autonomy Grade: B+)

For a charter school, the freedom to develop its own instructional program and then implement that program is central to achieving its academic mission. This study revealed that most charter schools—about 80 percent—have such freedom in regards to curriculum and school calendar. Almost half of them, however, had to negotiate

with the district or use district-provided special education services.

Special Education Provision (45 percent face some limitation)

Most special education restrictions are federally mandated and apply to all public schools, including charter schools. For this review, we did not examine various federal requirements related to special education. Rather, we simply asked who held the power to decide who provides special education services. Nearly half of our sample of schools did not have control over who would provide special education. State law or charter contracts required eighteen schools to obtain all of their special education and related services from the local district and did not allow the school to procure or provide special education services on their own. With no room for negotiation or modification, district provision of special education services can result in a mismatch between the charter model and district services.

More than half of the restricted schools (twenty-seven) could negotiate with the district over who would provide special education services, but interviews revealed that negotiations did not always result in services that the charter operators believed were effective or worked well with their overall school program. Interviews revealed mixed views among charter leaders regarding district involvement in special education: Some wanted more assistance from districts and authorizers while others sought greater freedom to design services that worked well with their instructional models. The quality of district-provided services greatly influenced these reactions.

Curriculum (22 percent face some limitation)

Freedom to establish a curriculum was often a protected area of autonomy, even in low-autonomy schools. For

“We theoretically have wide curricular autonomy, but the state’s recent reauthorization of instructional materials resulted in charters now having to buy texts off of a state-approved list. This can limit curricular freedom even though it is not a direct limitation imposed by the law or authorizer.”

—Charter management organization representative

example, only one school in our sample was required to adhere in full to an existing curriculum. Even among schools with the worse autonomy grades (Ds and Fs), two-thirds still held freedom to design and implement their own curriculum. Authorizers at low-autonomy schools typically stated that curricular autonomy was important to allow the school to fulfill its role of supplementing the district’s portfolio of educational options.

Interviewees pointed to more subtle constraints on curricular autonomy. Some authorizers, for example, may narrow schools’ instructional choices at the application phase—perhaps as a result of past experience. As one high-autonomy district authorizer noted, “In recent years, we have definitely moved away from taking ‘leaps of faith’ on charter applications. In the past, we have seen too many of those leaps [result] in harm to students. There are too many proven approaches out there; [we can’t] justify that level of uncalculated experimentation on students.” Conversely, authorizer limitations may stem less from experience and more from other biases that unnecessarily limit approved curricula to those with which the authorizer is familiar or comfortable.

Establishment of a School Calendar (21 percent face some limitation)

About one in five charter schools faced moderate restriction in establishing the length of the school day or year. Even for those schools with nominal autonomy in this area, several limitations influenced them to follow the district calendar—difficulty accessing district services (e.g., pupil transportation) outside the district school year, lack of additional funding for additional school days, and parental demands for a standard calendar.

Summary Findings

Table 5 provides autonomy scores for each of the 100 schools in our sample ordered from most to least autonomous. For each school, the table shows the state law score and grade, the additional impact of the charter contract on each school’s autonomy, and the school’s overall autonomy score and grade.

FINDINGS

Table 5: School Autonomy Grades

School Name	Authorizer Name	State	State Law Score	State Law Grade	Authorizer Impact on Score	School Autonomy Score	School Autonomy Grade
Gertz-Ressler High School	Los Angeles Unified School District	CA	93%	A-	+4%	96%	A
Civicorps Middle School	Oakland Unified School District	CA	93%	A-	+4%	96%	A
Charter for Excellence	Arizona State Board for Charter Schools	AZ	96%	A	-4%	93%	A-
Salt River Pima-Maricopa Indian Community School	Arizona State Board for Charter Schools	AZ	96%	A	-4%	93%	A-
High Tech High Statewide Benefit	California Department of Education	CA	93%	A-	0%	93%	A-
Aspire: ERES Academy	Oakland Unified School District	CA	93%	A-	0%	93%	A-
Aspire Capital Heights Academy	Sacramento City Unified School District	CA	93%	A-	0%	93%	A-
The Language Academy of Sacramento	Sacramento City Unified School District	CA	93%	A-	0%	93%	A-
High Tech High	San Diego Unified School District	CA	93%	A-	0%	93%	A-
National Collegiate Prep PCS High	D.C. Public Charter School Board	DC	93%	A-	0%	93%	A-
Hope Academy PCS	D.C. Public Charter School Board	DC	93%	A-	0%	93%	A-
Stephen F. Austin State University Charter	Texas Education Agency	TX	93%	A-	0%	93%	A-
Everest Charter School	California Department of Education	CA	93%	A-	-4%	89%	B+
Granada Hills Charter School	Los Angeles Unified School District	CA	93%	A-	-4%	89%	B+
Phoenix Charter Academy	Massachusetts Department of Education	MA	89%	B+	0%	89%	B+
Pioneer Charter School	Massachusetts Department of Education	MA	89%	B+	0%	89%	B+
Evergreen Community Charter	North Carolina Department of Education	NC	89%	B+	0%	89%	B+
Thomas Jefferson Classical Academy	North Carolina Department of Education	NC	89%	B+	0%	89%	B+

FINDINGS

Table 5: School Autonomy Grades — *continued*

School Name	Authorizer Name	State	State Law Score	State Law Grade	Authorizer Impact on Score	School Autonomy Score	School Autonomy Grade
Agora Cyber Charter	Pennsylvania Department of Education	PA	93%	A-	-4%	89%	B+
Achievement House Cyber Charter	Pennsylvania Department of Education	PA	93%	A-	-4%	89%	B+
George Gervin Academy	Texas Education Agency	TX	93%	A-	-4%	89%	B+
Gompers Area Middle Charter School	San Diego Unified School District	CA	93%	A-	-7%	86%	B
Nampa Classical Academy	Idaho Public Charter School Commission	ID	82%	B-	+4%	86%	B
International School of Columbus	Ball State University	IN	86%	B	0%	86%	B
The Bloomington Project School	Ball State University	IN	86%	B	0%	86%	B
Spectrum High School	Volunteers of America-Minnesota	MN	86%	B	0%	86%	B
Academy of Business and Technology	Ashe Cultural Center	OH	86%	B	0%	86%	B
The Academy of Cleveland	Ashe Cultural Center	OH	86%	B	0%	86%	B
Phoenix Community Learning Center	Thomas B. Fordham Foundation	OH	86%	B	0%	86%	B
Columbus Collegiate Academy	Thomas B. Fordham Foundation	OH	86%	B	0%	86%	B
Menlo Park Academy	Lucas County Education Services Center	OH	86%	B	0%	86%	B
New Choices Community School	St. Aloysius of Cincinnati	OH	86%	B	0%	86%	B
Bella Academy of Excellence	St. Aloysius of Cincinnati	OH	86%	B	0%	86%	B
Octavio Paz Charter School	Chicago Public Schools	IL	89%	B+	-7%	82%	B-
Legacy Charter School	Chicago Public Schools	IL	89%	B+	-7%	82%	B-
International School of Louisiana	Louisiana Board of Elementary and Secondary Education	LA	82%	B-	0%	82%	B-

FINDINGS

Table 5: School Autonomy Grades — *continued*

School Name	Authorizer Name	State	State Law Score	State Law Grade	Authorizer Impact on Score	School Autonomy Score	School Autonomy Grade
KIPP Minnesota	Volunteers of America-Minnesota	MN	86%	B	-4%	82%	B-
Virtual Learning Academy	New Hampshire Department of Education	NH	82%	B-	0%	82%	B-
Capitol City Academy	Education Resource Consultants of Ohio	OH	86%	B	-4%	82%	B-
Legacy Academy	Education Resource Consultants of Ohio	OH	86%	B	-4%	82%	B-
Westpark Community School	Lucas County Education Services Center	OH	86%	B	-4%	82%	B-
Achievement First Hartford Academy	Connecticut Department of Education	CT	79%	C+	0%	79%	C+
Maurice J. Moyer Academy	Delaware State Board of Education	DE	79%	C+	0%	79%	C+
Fulton Science Academy	Fulton County School Board	GA	79%	C+	0%	79%	C+
Eagle Ridge Academy	Friends of Education	MN	86%	B	-7%	79%	C+
Nova Classical Academy	Friends of Education	MN	86%	B	-7%	79%	C+
Learning for Leadership	Pillsbury United Communities	MN	86%	B	-7%	79%	C+
Richard Alan Math and Science Academy	Pillsbury United Communities	MN	86%	B	-7%	79%	C+
Academy for Science and Design	New Hampshire Department of Education	NH	82%	B-	-4%	79%	C+
East New York Collegiate Charter School	State University of New York	NY	82%	B-	-4%	79%	C+
New Roots Charter School	State University of New York	NY	82%	B-	-4%	79%	C+
City Academy	Utah State Office of Education	UT	79%	C+	0%	79%	C+
Summit Academy	Utah State Office of Education	UT	79%	C+	0%	79%	C+
The School for Young Children	Connecticut Department of Education	CT	79%	C+	-4%	75%	C

FINDINGS

Table 5: School Autonomy Grades — *continued*

School Name	Authorizer Name	State	State Law Score	State Law Grade	Authorizer Impact on Score	School Autonomy Score	School Autonomy Grade
The Charter School of Wilmington	Red Clay Consolidated School District	DE	79%	C+	-4%	75%	C
Tampa Advantage Academy	Hillsboro County Public Schools	FL	86%	B	-11%	75%	C
Andrew J. Brown Charter	Indianapolis Mayor's Office	IN	86%	B	-11%	75%	C
Indianapolis Lighthouse	Indianapolis Mayor's Office	IN	86%	B	-11%	75%	C
State Landmark Academy	Saginaw Valley State University	MI	86%	B	-11%	75%	C
Detroit Community School	Saginaw Valley State University	MI	86%	B	-11%	75%	C
St. HOPE Leadership Academy	New York City Department of Education	NY	82%	B-	-7%	75%	C
Renaissance Charter School	New York City Department of Education	NY	82%	B-	-7%	75%	C
Girls Preparatory Charter	State University of New York	NY	82%	B-	-7%	75%	C
Hellenic Classic Charter School	New York City Department of Education	NY	82%	B-	-7%	75%	C
Provist Academy Charter	Colorado Charter School Institute	CO	75%	C	-4%	71%	C-
Newpoint High of Tampa	Hillsboro County Public Schools	FL	86%	B	-14%	71%	C-
Ridgeview Global Studies Academy	School Board of Polk County	FL	86%	B	-14%	71%	C-
Chain of Lakes Collegiate High School	School Board of Polk County	FL	86%	B	-14%	71%	C-
Capital Area Academy	Central Michigan University	MI	86%	B	-14%	71%	C-
Cross Creek Charter Academy	Central Michigan University	MI	86%	B	-14%	71%	C-
Thomas McLaren State Charter School	Colorado Charter School Institute	CO	75%	C	-7%	68%	D+
Envision Leadership Prep	Denver Public School District	CO	75%	C	-7%	68%	D+

FINDINGS

Table 5: School Autonomy Grades — *continued*

School Name	Authorizer Name	State	State Law Score	State Law Grade	Authorizer Impact on Score	School Autonomy Score	School Autonomy Grade
West Denver Prep	Denver Public School District	CO	75%	C	-7%	68%	D+
Integrated Science and Asian Culture Academy	School Board of Miami-Dade County	FL	86%	B	-18%	68%	D+
South Tech Academy	School District of Palm Beach County	FL	86%	B	-18%	68%	D+
Keystone Academy	Bay Mills Community College	MI	86%	B	-18%	68%	D+
Ojibway Charter School	Bay Mills Community College	MI	86%	B	-18%	68%	D+
New Bedford Academy	Ferris State University	MI	86%	B	-18%	68%	D+
Francis Reh Academy	Ferris State University	MI	86%	B	-18%	68%	D+
Circles of Success Learning Academy	Memphis City Schools	TN	68%	D+	0%	68%	D+
Memphis Business Academy	Memphis City Schools	TN	68%	D+	0%	68%	D+
Hialeah Educational Academy	School Board of Miami-Dade County	FL	86%	B	-21%	64%	D
DeKalb Path Academy	DeKalb County School District	GA	79%	C+	-14%	64%	D
William J. Fischer Elementary	Louisiana Board of Elementary and Secondary Education	LA	86%	B	-21%	64%	D
Sweetwater Branch Academy	School Board of Alachua County	FL	86%	B	-25%	61%	D-
North Valley Academy	Idaho Public Charter School Commission	ID	82%	B-	-21%	61%	D-
The Learning Community Center	Albuquerque Public Schools	NM	61%	D-	0%	61%	D-
Twenty-First Century Public Academy	Albuquerque Public Schools	NM	61%	D-	0%	61%	D-
Cien Aguas International School	New Mexico Department of Education	NM	61%	D-	0%	61%	D-
Horizon Academy West	New Mexico Department of Education	NM	61%	D-	0%	61%	D-

FINDINGS

Table 5: School Autonomy Grades — *continued*

School Name	Authorizer Name	State	State Law Score	State Law Grade	Authorizer Impact on Score	School Autonomy Score	School Autonomy Grade
Florida School for Integrated Academics and Technology	School Board of Alachua County	FL	86%	B	-29%	57%	F
Stephen Foster Elementary	Appleton Area School District	WI	57%	F	0%	57%	F
Peachtree Middle School	DeKalb County School District	GA	75%	C	-21%	54%	F
Life Skills Center	School District of Palm Beach County	FL	86%	B	-36%	50%	F
Ridgeview Charter School	Fulton County School Board	GA	75%	C	-25%	50%	F
Highland Community School	Milwaukee Public Schools	WI	75%	C	-29%	46%	F
Odyssey-Magellan	Appleton Area School District	WI	57%	F	-14%	43%	F
Baltimore Civitas No. 343	Baltimore City Public Schools	MD	54%	F	-14%	39%	F
Wolfe Street Academy	Baltimore City Public Schools	MD	54%	F	-18%	36%	F
Fritsche Middle School	Milwaukee Public Schools	WI	57%	F	-36%	21%	F

Note: Individual state scores broken down by area of operation, as well as all state/school scores across authorizer type (school district, mayor, non-profit, etc.) and charter type (start-up, conversion, etc.), are available online at http://www.edexcellence.net/index.cfm/news_charter-school-autonomy-a-half-broken-promise. Individual school scores are available by request; email info@edexcellence.net.

How to read this figure: The (Arizona) state charter law governing the Charter for Excellence school received a grade of 96 percent or an A for the autonomy it extended to the school. The charter contract for the Charter for Excellence school, issued by the Arizona State Board for Charter Schools, reduced that grade by 4 percentage points to an A- or 93 percent.

IMPLICATIONS FOR POLICY AND PRACTICE

Formal laws or contracts and subtle influence both constrain charter autonomy. Each new encroachment—a new reporting requirement, pressure to adhere to common practice, or efforts to micromanage the enrollment composition of a school—may stem from a well-intentioned goal. The result, however, is what one high-autonomy charter leader termed “death by a thousand paper cuts,” a phenomenon that pushes charters inexorably toward existing bureaucratic norms. “None [of these challenges] are insurmountable,” she admitted, “but together they divert serious time, money, and energy toward compliance and away from our mission of educating our students.” To counter this encroachment and uphold the autonomy side of the charter bargain, changes in policy and practice must occur at the state, authorizer, and school levels.

Implications for State Policy Makers

State policy makers committed to extending autonomy to charter schools should begin with revising their charter laws—the greatest source of restriction for many charter schools—by targeting the areas in which they have not yet extended autonomy. Most state laws and rules were not designed with single-campus charter schools in mind. Regulations that may make sense for a typical district—such as an enrollment requirement to qualify for funding, or the development of comprehensive policies for relatively rare situations—can wreak havoc when applied to a 200-student school versus a district of 15,000.

The goal of state policy makers should not be autonomy for autonomy’s sake. Rather, the goal should be educational effectiveness. Autonomy is simply the means to provide charter schools with a fair chance to demonstrate that they can improve student achievement. The areas of state law that should receive immediate attention include:

- **Providing automatic waivers** for charter schools from most laws and regulations that typically apply to districts and traditional public schools. This is a catch-all way for states to provide a broad range of autonomy as a default.

- **Extending staffing autonomy** for charter schools, including freedoms from teacher certification requirements and mandatory participation in retirement programs, which are common areas to restrict, and autonomy from existing salary schedules, established work rules, and staff dismissal policies, which are less-commonly restricted, but centrally important to charter school success, according to staff from both high- and low-autonomy schools.

In addition, since authorizers also play a role in determining charter school autonomy, state policy makers could enhance school autonomy via policies that foster better authorizing, including:

- **Allow for multiple types of authorizers.** Non-district authorizers appear more willing to maintain or extend school autonomy. Their existence may also produce powerful incentives for districts, either to enhance the freedoms of the schools they authorize or to cease authorizing low-autonomy schools altogether.
- **Foster a skilled corps of authorizing agencies.** Authorizers committed to the charter ideal of autonomy for accountability are more apt to use restrictions carefully in pursuit of school quality while maintaining wide latitude for charter schools. States should provide guidance and support to help authorizers use restrictions judiciously and hold authorizers accountable to living up to this ideal.
- **Override authorizers’ ability to impose additional constraints.** For example, state policy makers could not only allow charter schools to deviate from conventional salary schedules but also forbid authorizers from reimposing these requirements.

Implications for Authorizers

Although authorizers place fewer formal restrictions on autonomy than do state laws, they may negatively impact charter autonomy through authorizing practices and informal influence. To protect charter freedoms, authorizers should:

- **Understand that blanket policies and mandatory standard practices may quash both common-sense and path-breaking approaches by the next generation of charter schools.** As authorizers gain chartering experience, they are bound to develop

viewpoints about what practices schools should and should not adopt. In well-meaning attempts to foster school quality, they may be tempted to codify these “lessons learned” into contract restrictions or other constraints on charter autonomy. Ironically, the charter sector was founded in an effort to escape the traditional bureaucratic restrictions that arose from exactly this kind of experience accumulation in the district sector. Though such constraints may well be justified, authorizers should weigh them carefully against a general bias to maintain school autonomy in the charter sector.

- **Recognize that authorizers can wield strong, informal influence over their charter schools, especially those that remain part of the district.** Authorizers committed to charter autonomy should examine not just their formal policies, practices, and contracts, but also the informal communication and indirect requirements that may induce applicants or schools to self-restrict. One principal of a low-autonomy school said, “Our autonomy should be measured not necessarily by what we can finally do, but by the fact that we always have Big Brother watching us. We’re constantly saying, ‘Is that OK? Is that OK?’ I think for most charters like us, it can become easier to play the district’s game than do what we need to do.” This informal influence can be powerful at the application stage, when petitioners eager to obtain charters may compromise their own vision and approach dramatically to meet real or perceived authorizer expectations. These schools’ formal autonomy may remain intact, but they will have narrowed their focus in ways that limit the dynamism of the sector.

Implications for Charter School Operators

- **Know in advance what areas of autonomy must be negotiated.** Charter operators should not hesitate to advocate for the full measure of autonomy provided by law and lobby for broader freedoms in policy and practice.
- **Choose an authorizer with care.** If possible, charter operators should choose an authorizer with a demonstrated history of providing charters with broad autonomies in exchange for high accountability.

- **Choose a state wisely.** For those operators that operate across multiple states, choosing to petition for charters in states that grant high autonomy will provide charter schools with the greatest opportunity to develop innovative and effective institutions.

Implications for the Charter Sector

Beyond state policy makers and authorizers, charter advocates can take steps to support and expand school autonomies. They should:

- **Remain vigilant in protecting charters from creeping regulations.** Even when charter advocates believed that charters enjoyed appropriate autonomy, many noted that it was a constant battle to protect autonomy from bureaucratic creep. As one charter association leader said of district authorizers, “A district is inherently always working toward uniformity—bureaucracy works better that way—so districts try to reduce exceptions, like charters.”
- **Build a pipeline of well-informed, energetic charter school leaders.** Our interviews revealed that whether a charter school had a high or low autonomy grade, its level of actual autonomy hinged in part on the willingness and capacity of its leader to understand her rights, negotiate with authorizers aggressively, and, in some cases, know when it was better to seek forgiveness than permission. Charter proponents should: (1) Undertake efforts to draw these types of leaders into the sector and (2) provide relevant, timely, and comprehensive information or training to leaders. Autonomy is only as good an opportunity as a school leader makes it. Building the supply and skill of charter leaders could serve as a means of protecting autonomy at the school level, even in the midst of a policy environment that is antagonistic to it.

CLOSING

The charter bargain consists of two equally essential components—broad operational autonomy coupled with strong accountability for results. As national and state-level focus turns more intently toward ensuring charters are rightly held accountable for student performance, policy makers and authorizers must also ensure that charter schools are given a fair chance to improve student performance. They can do this by protecting existing autonomies and lifting restrictions in the areas reviewed here. This study has shown that, in many places, states and authorizers fall far short of upholding the promise of autonomy even while strengthening accountability. For charters to fulfill their promise of creating high-quality programs that better meet students' needs, they need both components of the bargain. Leaders at all levels—state, authorizer, and school—can play a role in making good on this dual promise.

ACKNOWLEDGMENTS

The national advisory panel members (listed in Appendix A) deserve many thanks for sharing their time and expertise in the design and draft phases of this project. Their guidance helped us to focus tightly on school-level freedoms and identify relevant proxies for broad areas of autonomy.

We also thank the National Association of Charter School Authorizers for providing an authorizer database that enabled us to identify the most active authorizers in the country.

The authorizers (listed in Table 5) shared examples of typical charter school contracts and, in some cases, agreed to speak with us to provide deeper insights into their authorizing practice. We appreciate as well the leaders of the state charter associations in the states covered by this study; they provided welcome feedback on our state charter-law scoring, pointed us to additional resources, and helped us improve the accuracy of our work. In addition, some of them also shared their insights into the challenges and opportunities that their members experience.

We are especially grateful to the charter principals who took time to share their stories and thoughts about how autonomy, or its absence, has influenced their schools and their work.

Finally, we would like to thank Lauren Morando Rhim for her initial work and guidance on this project, Bryan Hassel and Julie Kowal of Public Impact for their thoughtful editing, Michael Petrilli and Chester E. Finn, Jr. of the Thomas B. Fordham Institute for their comments and suggestions, and Fordham's Amber Winkler for her overall direction and support of the project.

ENDNOTES

- 1 Howard, “Why freer schools are better schools.”
- 2 See, for example, Adamowski, Therriault, and Cavanna’s *The autonomy gap: Barriers to effective school leadership*.
- 3 Yamashiro and Carlos, *More on charter schools*.
- 4 Budde, *Education by charter*.
- 5 Shanker, 1988 speech.
- 6 The Thomas B. Fordham Foundation opted to be a part of this study, even though it is not one of the fifty biggest authorizers (it charters only six schools). As sister organization to the publisher of the report (Thomas B. Fordham Institute), the Foundation welcomed the opportunity to have a sampling of its schools examined. Additionally, due to a sampling error, one school authorized by the Red Clay Consolidated School District in Wilmington, Delaware was included in the study. As of May 2010, Red Clay Consolidated School District had authorized four charter schools; we defined our “biggest” authorizers as those who charter more than ten schools.
- 7 Not every charter school has an actual “contract” with its authorizer. For some, the charter application or petition becomes the document under which the school operates. Other authorizers issue a boiler-plate contract to each school. In this report, we refer to all documents agreed upon by authorizers and charter operators as the guiding document for the charter as “charter contracts” or “contracts” for short.
- 8 The Alliance’s work examines many aspects of state charter laws, including some areas of autonomy included in this study. See: <http://www.publiccharters.org/charterlaws> for the Alliance’s interactive state charter-law rankings database.
- 9 Ziebarth, *How state charter laws rank*.
- 10 Center for Education Reform, Charter school law ranking and scorecard 2010.
- 11 Hess and Higgins, *Learning to succeed at scale*; Merseth et al., *Inside urban charter schools*; U.S. Department of Education, *Innovations in education*; Luyten et al., *School factors related to quality and equity*. We chose three proxies to measure autonomy in the area of “vision/culture,” by which we mean establishing and implementing a vision and school culture. The first proxy, waivers from state and district policies, provides flexibility for a school to implement a unique vision by freeing its leaders from restrictions placed on typical district schools. Freedom to establish a school’s own discipline policy, the second proxy, clearly affects cultivation of a specific school culture. Finally, the freedom to revise a charter contract allows a charter leader to change an instructional program, curriculum, or other component of the charter contract that may stand in the way of the school pursuing its vision or shaping its culture.
- 12 Davies and Hentschke, “School autonomy.”
- 13 U.S. Department of Education, *Innovations in education*; Merseth et al., *Inside urban charter schools*; Johnson and Landman, “Sometimes bureaucracy has its charms.”
- 14 Davies and Hentschke, “School autonomy”; Wohlstetter, Wenning, and Briggs, “Charter schools in the United States”; Finnigan, “Charter school autonomy.”
- 15 In some cases, we reviewed additional state laws if the charter law pointed to other statutes or regulations that applied to charters and were relevant to the fourteen areas measured by our metric. We did not conduct a full analysis of all state laws that may apply to charter schools.
- 16 Because the design and scope of the project called for two contracts per authorizer, we did not request examples of all types of charter contracts an authorizer had negotiated. To see the types of authorizer contracts we reviewed in each state, see Appendix D.

ENDNOTES

- 17 We did not review the state charter laws for fourteen states: Alaska, Arkansas, Hawaii, Iowa, Kansas, Missouri, Nevada, New Jersey, Oklahoma, Oregon, Rhode Island, South Carolina, Virginia, and Wyoming. Collectively, these states had 419 charter schools in 2009, only 8 percent of all charter schools. Source: Center for Education Reform, *National Charter School & Enrollment Statistics 2009*. Available at: http://www.edreform.com/_upload/CER_charter_numbers.pdf.
- 18 The fifty authorizers in our sample had authorized 2,026 schools by the 2007-08 school year, at which time there were 4,220 charter schools operating across the nation.
- 19 This is a weighted average. The simple average autonomy score for our 100 schools was a 76 percent, or a C. Alternate weighting schemes, such as weighting state grades by charter enrollment in the states, return similar grades to what we report here. See Appendix C for more detail on sample weighting.
- 20 There are fourteen schools in our “autonomy top ten” because six states (FL, IN, LA, MI, MN, OH) tied with an 86 percent for ninth and tenth places. Only two of the ten biggest charter states (those with the most charter schools) are not in our top ten: CO (C autonomy grade) and WI (C/F autonomy grade). Source for charter numbers: Center for Education Reform, *National Charter School & Enrollment Statistics 2009*. Available at: http://www.edreform.com/_upload/CER_charter_numbers.pdf.
- 21 When contractor restrictions are factored in, this rises to 95 percent.
- 22 “Legally independent” refers to charters that are fully responsible for their own actions and do not remain under the legal umbrella of another entity such as a school district. Authorizers of legally independent schools typically state in charter contracts that they, as authorizers, are not legally liable for charter school actions and cannot be sued for actions taken by the charter schools.
- 23 In 2008, the National Association of Charter School Authorizers reported 819 active authorizers in the country, of which 726 were local districts. Only 10 percent (seventy-three) of these districts had authorized more than five schools. See: http://www.qualitycharters.org/files/public/Authorizing_Report_2008_FINrev_web.pdf.
- 24 U.S. Department of Education, *Innovations in education*; Merseth et al., *Inside urban charter schools*; Johnson and Landman, “Sometimes bureaucracy has its charms.”
- 25 Our metric coded these Michigan-specific restrictions on charter board composition as authorizer-based rather than state-law-based. Michigan’s state law does require authorizers to “adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each public school academy subject to its jurisdictions,” but does not require authorizers to deviate from schools’ proposals on these issues. Michigan authorizers may argue, however, that they effectively must impose these restrictions in order to fulfill their broader responsibilities as overseers of public schools.
- 26 See the National Alliance for Public Charter Schools’ 2010 charter dashboard. Available at: <http://www.publiccharters.org/dashboard/schools/page/overview/year/2010/>.
- 27 O’Neill and Ziebarth, *Charter School Law Deskbook*.
- 28 Education Commission of the States, “State Profiles—Charter Schools.” Available at: <http://mb2.ecs.org/reports/Report.aspx?id=65>. Accessed: September 2009.
- 29 For a more in-depth view of these various system-level autonomies across all states with charter laws, see the National Alliance for Public Charter Schools’ *How State Charter Laws Rank Against the New Model Public Charter School Law*. Available at: http://www.publiccharters.org/files/publications/DB-ModelLaw_Report_01-12-10.pdf.

REFERENCES

- Abdulkadiroglu, Atila, Josh Angrist, Sarah Cohodes, Susan Dynarski, Jon Fullerton, Thomas Kane, and Parag Pathak. 2009. *Informing the debate: Comparing Boston's charter, pilot and traditional schools*. Boston: The Boston Foundation.
- Adamowski, Steven, Susan Bowles Therriault, and Anthony P. Cavanna. 2007. *The autonomy gap: Barriers to effective school leadership*. Washington, DC: Thomas B. Fordham Institute and American Institutes for Research.
- Anderson, Lee, and Kara Finnigan. 2001. Charter school authorizers and charter school accountability. Paper presented at the annual meeting of the American Educational Research Association, April 10-14, in Seattle, Washington.
- Ascher, Carol, and Arthur R. Greenberg. 2002. Charter reform and the education bureaucracy: Lessons from New York State. *Phi Delta Kappan* 83 (7): 513-18.
- Booker, Kevin, Brian Gill, Ron Zimmer, and Tim R. Sass. 2009. *Achievement and attainment in Chicago charter schools*. Santa Monica, CA: RAND Corporation.
- Braun, Henry, Frank Jenkins, and Wendy Grigg. 2006. *A closer look at charter schools using hierarchical linear modeling (NCES 2006-460)*. Washington, DC: National Assessment of Educational Progress, National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education.
- Budde, Ray. 1988. *Education by charter: Restructuring school districts*. Andover, MA: Regional Laboratory for Educational Improvement of the Northeast & Islands.
- Center for Education Reform. Charter school law ranking and scorecard 2010. <http://www.charterschoolresearch.com/>.
- Center for Education Reform. National charter school & enrollment statistics 2009. http://www.edreform.com/_upload/CER_charter_numbers.pdf.
- Davies, Brent, and Guilbert C. Hentschke. 1994. School autonomy: Myth or reality—Developing an analytical taxonomy. *Educational Management Administration & Leadership* 22 (2): 96-103.
- Finn, Chester E. Jr., Bruno V. Manno, and Gregg Vanourek. 2000. *Charter schools in action: Renewing public education*. Princeton, NJ: Princeton University Press.
- Finnigan, Kara S. 2007. Charter school autonomy: The mismatch between theory and practice. *Educational Policy* 21 (3): 503-27.
- Gross, Betheny, and Kirsten Martens Pochop. 2008. How charter schools organize for instruction. In *Hopes, fears, & reality: A balanced look at American charter schools in 2008*, ed. Robin J. Lake, 9-22. Seattle: National Charter School Research Project, Center on Reinventing Public Education, University of Washington Bothell.
- Hassel, Bryan C. 1999. *The charter school challenge: Avoiding the pitfalls, fulfilling the promise*. Washington, DC: Brookings Institution Press.
- Hess, Frederick M., and Monica Higgins. 2008. *Learning to succeed at scale*. Chicago, IL: National Association of Charter School Authorizers.
- Howard, Philip K. 2010. Why freer schools are better schools. *Wall Street Journal*, March 25.
- Johnson, Susan Moore, and Jonathan Landman. 2000. "Sometimes bureaucracy has its charms": The working conditions of teachers in deregulated schools. *Teachers College Record* 102 (1): 85-124.
- Luyten, Hans, Jaap Scheerens, Adrie Visscher, Ralf Maslowski, Bob Witziers, and Rien Steen. 2005. *School factors related to quality and equity: Results from PISA 2000*. Paris, FR: OECD Publishing.
- Mathews, Jay. 2009. *Work hard. Be nice.: How two inspired teachers created the most promising schools in America*. Chapel Hill, NC: Algonquin Books.

REFERENCES

- Merseth, Katherine K., Kristy Cooper, John Roberts, Mara Casey Tieken, Jon Valant, and Chris Wynne. 2009. *Inside urban charter schools: Promising practices and strategies in five high-performing schools*. Cambridge, MA: Harvard Education Press.
- Millot, Marc Dean. 1996. *Autonomy, accountability, and the values of public education: A comparative assessment of charter school statutes leading to model legislation*. Washington, DC: ERIC Document Reproduction Service (No. ED 418203).
- National Association of Charter School Authorizers. 2008 authorizing report. http://www.qualitycharters.org/files/public/Authorizing_Report_2008_FINrev_web.pdf.
- O'Neill, Paul T. and Todd Ziebarth, 2009. *Charter School Law Deskbook*. Washington, DC: National Alliance for Public Charter Schools.
- Petrilli, Michael J. 2005. Charters as role models. *Education Next* 5 (3): 56-58.
- Shanker, Albert. 1988. Speech given at the National Press Club, March 31, in Washington, DC.
- U.S. Department of Education. Office of Innovation and Improvement. 2004. *Innovations in education: Successful charter schools*, by Nina S. Rees, Michael J. Petrilli, and John Fiegel. Washington, DC: U.S. Department of Education with WestEd. <http://www2.ed.gov/admins/comm/choice/charter/report.html>.
- Watson, John, Butch Gemin, Jennifer Ryan and Matthew Wicks. 2009. *Keeping Pace With K-12 Online Learning: An Annual Review of State-Level Policy and Practice 2009*. Evergreen, CO: Evergreen Education Group. <http://www.kpk12.com/downloads/KeepingPace09-fullreport.pdf>
- Wilson, Steven F. 2009. *Success at scale in charter schooling*. Washington, DC: American Enterprise Institute.
- Wohlstetter, Priscilla, Richard Wenning, and Kerri L. Briggs. 1995. Charter schools in the United States: The question of autonomy. *Educational Policy* 9 (4): 331-58.
- Yamashiro, Kyo, and Lisa Carlos. 1995. *More on charter schools: Issues at a glance*. San Francisco, CA: WestEd.
- Ziebarth, Todd. 2010. *How state charter laws rank against the new model public charter school law*. Washington, DC: National Alliance for Public Charter Schools. http://www.publiccharters.org/files/publications/DB-ModelLaw_Report_01-12-10.pdf.

APPENDICES

Appendix A: Advisory Panel

The national advisory panel included former and current school operators, charter authorizers, and experts on charter legislation. They met in the summer of 2009 to help craft the study design and metrics and also provided feedback on the draft report.

Erin Dillon, Policy Analyst, Education Sector

Deborah McGriff, Partner, NewSchools Venture Fund

James Merriman, Chief Executive Officer, New York City Charter School Center

Paul O'Neill, Senior Fellow, Edison Learning

Greg Richmond, President, National Association of Charter School Authorizers

Nelson Smith, President and CEO, National Alliance for Public Charter Schools

Perry White, Founder and Executive Director, Citizens' Academy

Appendix B: Autonomy Metric and Scoring Procedures

VISION AND CULTURE		
Measure	Indicator	Score
Waivers From State/ District Policy	School is not eligible for waivers of law and policy	0
	School is not granted blanket waivers, but may apply for specific waivers	5
	School granted automatic waiver of all state and local policies (excluding health, safety, civil rights, academic and fiscal accountability, etc.)	10
Discipline Policies	School must use district discipline policy	0
	School may seek waiver from district discipline policies	5
	School may establish its own discipline policy	10
Charter Revisions	School is prohibited from making revisions to charter agreement outside of formal renewal process	0
	School may make revisions but all revisions subject to negotiations with authorizer	5
	School may make revisions, but only major changes in direction (e.g., student population served, overall education program, use of EMO) require authorizer pre-approval	10
TOTAL POSSIBLE POINTS		30

PROGRAM		
Measure	Indicator	Score
Instructional Program	School must follow established curriculum, including sequencing and pacing, in all subjects	0
	School may design some but not all elements of its curriculum, or must seek a waiver from instructional program requirements	5
	School may design its own curriculum (e.g., select curriculum materials, develop pacing guides, graduation requirements)	10
Special Education Provisions	School is required to obtain all special education and related services from the district	0
	School negotiates with local district to determine how special education services will be provided	5
	School is wholly responsible for determining how to provide or obtain special education services	10
School Time	School must follow established school schedule and calendar (e.g., length of day, school calendar)	0
	School must follow either established school schedule or calendar or must seek a waiver to alter school schedule or calendar	5
	School may establish individual school schedules and calendar	10
TOTAL POSSIBLE POINTS		30

APPENDICES

Appendix B: Autonomy Metric and Scoring Procedures *(continued)*

STAFFING		
Measure	Indicator	Score
Teacher Employment Terms	School employees are automatically covered by existing district CBA or established work rules	0
	School employees must abide by select terms of CBA or established work rules	5
	School employees are employees of the charter school and are exempt from existing district CBA or established work rules	10
Dismissal	School must follow staff dismissal procedures prescribed by state or district	0
	School may seek waiver of staff dismissal procedures	5
	School may dismiss staff without restrictions beyond basic civil rights and anti-discrimination protections	10
Certification	All charter school instructional personnel must be certified according to state regulation	0
	Some instructional staff must be certified (e.g., only staff in core subjects, or a specific percentage of staff) or school may seek a waiver of certification requirements	5
	State certification requirements waived for charter school teachers	10
Compensation	Salary schedule and retirement plan dictated to charter school	0
	Specific aspects of salary schedule or retirement plan or both are dictated to charter school.	5
	School is granted full discretion related to determining salary scale and retirement system	10
TOTAL POSSIBLE POINTS		40

FINANCIAL AND GOVERNANCE		
Measure	Indicator	Score
Board Governance Structure	Composition of school board is prescriptive (i.e. law prescribes membership)	0
	Composition of school board is somewhat prescriptive (e.g., some members of board are prescribed)	5
	Composition of school board is not prescriptive (e.g., no limits beyond language related to nepotism and/or basic conflicts of interest)	10
Budgetary Fungibility	School must follow established state guidelines for the allocation of all funding	0
	School can negotiate level of budgetary discretion	5
	School has substantial budgetary discretion	10
Management Organizations	School is prohibited from contracting with a management organization	0
	School is prohibited from contracting with a for profit management organization or the contract is subject to authorizer approval	5
	School may enter into a partnership with a management organization	10
Procurement	School must follow standard procurement procedures used by district or state	0
	School may seek waiver of standard procurement procedures used by district or state	5
	School may develop own procurement procedure reflecting standard best practices (e.g., seek multiple bids for large contracts)	10
TOTAL POSSIBLE POINTS		40

Appendix C: Procedures

Defining Autonomy

We based our definition of autonomy on the premise that charter schools should be accountable for outputs and have autonomy over inputs. Based on meetings with our advisory panel and on our literature review (which covered school autonomy, successful charter schools, and high-performing schools), we identified four main areas where charter schools need freedom: vision and culture, instructional program, staffing, and finance and governance.

Developing a Measurement Tool

To quantify autonomy, we sought a measurement tool that was comprehensive but practical enough to employ across many schools in multiple states. The final metric spanned fourteen distinct charter freedoms that fell within the four main areas of autonomy identified above. For the full metric, see Appendix B.

Components not included in our metric

First, our definition recognizes some basic requirements—those related to academic results and accountability, fiscal responsibility, health and safety, and civil rights protections—as necessary restrictions on autonomy.

Additionally, our definition does not consider the individual autonomy of staff within a school (e.g., a teacher’s autonomy to decide how to teach certain material). Our focus is on the school’s autonomy relative to oversight entities such as authorizers, districts, and states.

Finally, we do not consider deliberate decisions by a charter school to limit its own autonomy to be an infringement on autonomy. Schools choosing to delegate day-to-day operations to a management organization, for example, do not earn lower autonomy grades in our metric.

Creating a National Charter School Sample

We enlisted the help of the National Association of Charter School Authorizers (NACSA) to help gather our sample of charter contracts. NACSA provided us with a list of the nation’s most active authorizers—sixty-six of them who have each authorized more than ten charter schools. We contacted these sixty-six authorizers and asked them to share two charter contracts that reflected “common”

agreements the authorizer developed with its charter schools. If the authorizer chartered multiple types of schools, we requested that they share two contracts that reflected a sample of the diversity of schools they had approved. Fifty authorizers from twenty-six states (including the District of Columbia) participated in the study and, as a group, provided us with the 100 charter school contracts reviewed in this study. The schools spanned the range of charter types and authorizers in the country. Twelve percent were charter conversions; nationally, that figure dips to 10.5 percent.²⁶ We also included virtual schools and both independent start-ups and those affiliated with a management organization. Every authorizer type—higher education institution, state board of education, state charter commission, district, nonprofit, and mayor—was represented.

While our sample is not random, the fifty authorizers included have chartered over 2,026 schools, nearly half of the charter schools in the country. Further, the twenty-six state charter laws cover 92 percent of charter schools operating in the country.

Gathering Data

We reviewed state charter laws and other relevant laws and graded each state against our metric. To the extent that the charter laws referenced other articles or statutes, we reviewed them; however, our primary focus was on restrictions contained within each state’s charter law. We used the 2008-09 *Charter School Law Desk Book*²⁷ as our source for state charter-law text. We used the Education Commission of the States “State Charter Law Reports” to access information on state retirement systems.

In some cases, state laws granted different levels of autonomy to different charter schools. For example, in Wisconsin, state law allows for two distinct degrees of freedom to be granted to charter schools; these two classifications, “instrumentalities” and “non-instrumentalities,” each encompass varying types of charters (start-up, conversion, etc.), but differ in the amount of freedom that each enjoys at the state level. Although both of these charter types are authorized by and remain part of a district, Wisconsin extends greater autonomy to non-instrumentalities, particularly in the areas of teacher work rules, dismissal policies, and compensation. We reviewed and scored laws governing each charter school classifica-

tion separately. For Wisconsin as well as for Georgia and Louisiana, we produced two state law grades to reflect the various autonomies granted to different charter types.

After grading each state law, we reviewed the charter contracts from each state and generated a school autonomy grade for each school. Within each of the twenty-six states for which we reviewed the charter law, we did not review contracts for every charter school type available. Where relevant, we noted if the final autonomy score would differ for other charter types in the state.

We also reviewed—when they were provided by authorizers—charter applications, memoranda of understanding, application revision requests, and other materials.

Grading Procedures

Our grading metric allowed for nuance, but also reflected the scope of our work. We measured each of the fourteen areas of autonomy and assigned one of three scores: high (ten points), moderate (five points), and low autonomy (zero points). In general, a high-autonomy score of ten corresponded with broad freedom for a school (within the necessary boundaries discussed earlier). A low-autonomy score of zero corresponded with very little or no freedom for a school—meaning the school’s choices were severely restricted or a particular “choice” was imposed in that area. A moderate autonomy score of five was assigned when schools received complete autonomy in one way, but not another (e.g., for the “compensation” metric, a school with a five score may have freedom over developing a salary schedule but not over participation in the state retirement plan). Moderate autonomy scores also included instances when full autonomy was possible but not guaranteed (e.g., a charter school could not institute its own school calendar without approval by the surrounding district, or a school could hire uncertified teachers after receiving a waiver—but that waiver was not guaranteed by law).

If the state law was silent on an issue addressed in our metric, we assigned a score of ten; if a charter contract was silent on an issue, we carried over its state law score. We tallied scores for each state and contract and divided by the maximum number of points (140). We assigned grades on a standard A through F scale, as outlined in Table C-1.

In addition to the rubric, we also developed six rules for measuring specific components of charter laws (the applicable metric appears in parentheses):

Table C-1: Letter Grade Ranges

Grade	Score Range
A+	100% – 97%
A	96% – 94%
A-	93% – 90%
B+	89% – 87%
B	86% – 84%
B-	83% – 80%
C+	79% – 77%
C	76% – 74%
C-	73% – 70%
D+	69% – 67%
D	66% – 64%
D-	63% – 60%
F	<60%

1. High school graduation requirements contained within state laws were not an infringement on autonomy, unless those restrictions specifically established sequence and instruction for schools—which would earn a zero (Instructional Program).
2. All course theme requirements, such as “teaching of the Constitution” or “informing students about the tenants of national socialism,” were a “moderate” infringement on autonomy and earned a five (Instructional Program).
3. The prescription of any member of a school’s governing board was an infringement on autonomy that earned a zero, unless the member or members prescribed were nonvoting (Governance). Requirement for a specific “type” of person—a teacher or a parent—was considered a moderate infringement and earned a five.
4. The ability of an authorizer to revise a school’s budget—either through a formal process or through comment-and-review procedures—was a moderate infringement on autonomy (earning a five), unless the scope of the revisions was explicitly restricted to due

diligence and the prevention of fraud (Budgeting).

5. Any language establishing authorizer decision-making control over a school's ability to contract with a management organization was a moderate infringement on autonomy, unless that control was explicitly restricted to due diligence and the prevention of fraud (Management Organizations).
6. Restrictions on large purchases were not considered restrictions on autonomy; however, restrictions on small purchases (earning a five) or blanket restrictions on purchasing (a zero) were considered infringements (Procurement).

Confirming Metric Scores for State Charter Laws

We received 100 percent response from the twenty-six state charter associations representing the states from which we drew the charter contracts reviewed in this analysis. Three associations accepted our initial scoring. Eight provided additional information about general practices that did not impact our scoring, and sixteen provided additional information or interpretation about statute language that allowed us to change the scores. In all, we increased eleven state scores by an average of nine points and decreased four state scores by an average of six points based on state charter association feedback.

We used the following decision-making rubric for accepting proposed changes to our state charter-law scores:

1. If the reviewer provided verifiable, specific examples of how the law provided limits or extensions of autonomy and our score was based on an absence of information in the main charter law (i.e., we didn't find the relevant law in other statutes), we chose to accept the reviewer's suggestion for scoring.
2. If the reviewer noted that a law functioned differently in practice than on paper, we chose to maintain our original score based on the law's language, because "practices" can change without changing the law.
3. In some cases, reviewers supplied us with relevant statutory language that helped us to remedy oversights or variant interpretations, and we altered our scores.

Weighted Averages

Rather than using simple averages of the 100 schools in our sample, we used a weighted average to reflect the

number of schools that authorizers chartered in the country. For example, the fifty authorizers in our sample, collectively, chartered 2,026 schools. If one authorizer chartered 10 percent of those schools, then the grades for that authorizer's schools would account for 10 percent of the total average.

Subsample Interviews

We conducted fifty-one phone interviews with key personnel (sixteen charter school leaders, twenty authorizers, and fifteen state charter association leaders) associated with a subsample of ten high-autonomy (B+ or higher) and ten low-autonomy (D+ or lower) schools. The average autonomy score for our "high-autonomy" subsample was 91 percent, or an A-. The average autonomy score for the "low-autonomy" schools was 57 percent, or an F.

Our interview selection process was not random since we sought maximum variation in the sub-sample. We initially contacted twenty schools with the highest scores and twenty schools with the lowest scores, recognizing that some would choose not to participate. Mindful not to oversample from one or two states, our final interview pool included individuals associated with:

- Three schools with different authorizers from one state,
- Two schools with different authorizers from a second state, and
- Fifteen schools from fifteen different states.

Respondents were guaranteed anonymity. All interviews were conducted over the phone following a standard protocol (see Appendix E).

Limitations

While we believe our study provides the most comprehensive picture to date of charter school-level autonomy, there are, nonetheless, several limitations:

- Our sampling method introduced some self-selection bias because authorizer participation was voluntary and authorizers chose the charter contracts reviewed in this study.
- Our contracts are products of the country's most active charter authorizers. We do not capture the policy or practice of less-experienced authorizers.

- Our review focuses on state charter laws and does not include administrative rulings, court cases, or other state statutes that may have infringed on autonomy.
- Our study focused on school-level autonomy as experienced by present-day charter schools. There are important system-level factors—such as limitations on which groups or individuals can petition for charters or which entities can act as authorizers—that might restrict charter autonomy by shutting out potential school leaders or severely restricting the scope of authorizer practice.²⁹
- Our review assumed autonomy if there was no evidence of an explicit limitation on it. When reviewing contracts, this bias might have obscured authorizer-imposed restrictions that were presented in the contract as applicant decisions. For example, we assumed autonomy if a charter school chose to operate on the local district schedule and was not required by law to do so. It is possible, however, the charter applicant capitulated to pressure by the authorizer to make this choice.
- We treated all restrictions of the same type (e.g., governance board membership or budgetary limitations) as equal across states and schools, though this may have obscured state-specific nuances in policy or practice.

Our review of state laws and charter contracts was conducted during the fall of 2009 and confirmed by charter association representatives in January 2010. Given the recent flurry of charter legislation and policy activity in response to the federal “Race to the Top” competition and other United States Department of Education initiatives, states may have changed some portions of the laws we reviewed.

Appendix D: Charter School Types

This report does not explore the autonomy of all types of charter schools operating in the twenty-six states reviewed. Rather, it explores the autonomy of the types of charters for which we secured charter contracts (see Table D-1). In four of the states we examined as part of our sample (Pennsylvania, Louisiana, Georgia, and Wisconsin), state laws grant different levels of autonomy to different classifications of charter schools (such as start-ups versus conversion schools, or virtual versus brick-and-mortar schools). In these states, we provide a score for the unique classification of charter school included in our sample.

A few other things to note:

- The Pennsylvania grade reflects the autonomy of state-authorized virtual schools only. District-authorized schools, which make up the majority of charters in Pennsylvania, were not covered in our review.
- The Michigan grade reflects the autonomy experienced by University-authorized schools only which constitute over half of the charter schools in Michigan. The autonomy of district-authorized schools would likely differ, due to additional restrictions imposed by the state’s charter law on schools authorized by districts.
- The Wisconsin grades only reflect the autonomy of district-authorized charter schools, which include “instrumentality” and “non-instrumentality” schools. District-authorized schools make up the vast majority of Wisconsin’s charters.

APPENDICES

Table D-1: Charter School Types in State and in Study

State	Types of Charter Schools in State	Types of Charter Schools Examined
Arizona	Conversion, new start-up, and virtual schools	Conversion, new start-up
California	Countywide-schools – Conversion and new start-up schools Statewide-schools – Conversion and new start-up schools District-schools – Conversion and new start-up schools	Statewide new start-up, district conversion, district new start-up
Colorado	Conversion, new start-up, and virtual schools	New start-up
Connecticut	Conversion, new start-up, and virtual schools	Conversion, new start-up
D.C.	Conversion and new start-up schools	New start-up
Delaware	Conversion and new start-up schools	New start-up
Florida	Conversion and new start-up schools	Conversion, new start-up
Georgia	Conversion, new start-up, and virtual schools	Conversion, new start-up
Idaho	Conversion, new start-up, and virtual schools	New start-up
Illinois	Conversion, new start-up, and virtual schools	New start-up
Indiana	Conversion and new start-up schools	New start-up
Louisiana	Type 1 – District authorized start-ups Type 2 – State authorized start-ups or conversions Type 3 – District authorized conversions Type 4 – District authorized start-ups or conversions Type 5 – State authorized conversions under Recovery School District jurisdiction	Type 2 new start-up, Type 5
Maryland	Conversion and new start-up schools	Conversion
Massachusetts	Commonwealth charter – State authorized start-up Horace Mann charter – District authorized start-up or conversion	State-authorized start-up
Michigan	University Authorized - Start-ups enrolling students statewide District Authorized – Start-ups enrolling district students Community College Authorized – Start-ups enrolling students within its district	University- and community college-authorized start-ups
Minnesota	Conversion, new start-up, and virtual schools	New start-up
New Hampshire	Conversion, new start-up, and virtual schools	New start-up, virtual
New Mexico	Start-ups & conversions (moratorium on new conversions since 2006)	New start-up
New York	Conversion and new start-up schools	New start-up
North Carolina	Conversion and new start-up schools	New start-up
Ohio	Conversion, new start-up, and virtual schools	New start-up
Pennsylvania	Conversion, new start-up, and virtual schools	Virtual
Tennessee	Conversion, new start-up, and virtual schools	New start-up
Texas	Conversion and new start-up schools	New start-up
Utah	Conversion and new start-up schools	New start-up
Wisconsin	Instrumentality – Conversion, new start-up, and virtual schools closely affiliated with the authorizing district Non-instrumentality – Independent conversion, new start-up, and virtual schools	Instrumentality conversion, Instrumentality new start-up, Non-instrumentality conversion

Sources: Watson et al. Keeping Pace With K-12 Online Learning: An Annual Review of State-Level Policy and Practice 2009; O'Neill and Ziebarth. Charter School Law Deskbook.

Appendix E: Interview Protocol

The protocol below was used for interviews with school leaders. We modified it as needed for authorizers and state charter association leaders.

INTRODUCTORY QUESTIONS:

Question 1a: What are the key areas where you feel autonomy is required in order to operate your charter school program successfully? In other words, what types of things do you (or your school) need control over in order to be effective?

Question 1b: In these areas, do you have the autonomy you need?

If yes: Can you give me an example of how you've used that autonomy to implement and/or improve your school's program?

If no: What are the barriers to obtaining autonomy in these key areas? (If an authorizer, what are the barriers to extending autonomy in these areas?)

Question 1c: Are there any areas where you believed, initially, that you would have autonomy, but in reality, you didn't?

NOTE TO INTERVIEWER:

Use the questions in the next section to confirm our understanding based on the school's score on the metric. If the answer confirms our analysis, then move to the next question. If an answer from the interviewee does not match our scoring sheet, probe with one of the following questions to find the reason:

- My understanding of the law/your contract was that you had greater autonomy or more flexibility in this area. What is restricting your autonomy in this area? Why?
- My understanding of the law/your contract was that you did not have autonomy or as much flexibility in this area. Is that not the case? Why?

AUTONOMY METRIC QUESTIONS:

SCHOOL VISION AND CULTURE

Question 2: Has your school received any waivers exempting it from specific state or district laws or policies that typically apply to public schools? If yes, were those waivers all automatic, or did you have to petition for them individually? If no, is your charter school eligible to petition for waivers?

Question 3: Are you required to follow the district discipline policy or were you able to design your own?

Question 4: If you wish to make a revision to your charter contract, what is the process for that? Have you made any substantive revisions of your charter contract?

SCHOOL PROGRAM, CURRICULUM, AND CALENDAR

Question 5: Are you required to follow state- or district-established curriculum sequencing and pacing, or to use state- or district-established curriculum materials or textbooks, in some or all subjects? Or are you free to design your own curriculum and select your own curriculum materials?

Question 6: Who decides how special education services are provided to your students with disabilities? (If they're unsure, clarify if the school is solely responsible, if the school contracts with an outside provider, or if the school must access/use district special education and related services.)

Question 7: Are you required to follow a state- or district-established school calendar or daily schedule, or are you free to establish your own?

SCHOOL STAFFING, COMPENSATION, AND DISMISSAL

Question 8: Are your employees covered by existing district collective bargaining agreements or established work rules, or do you set your own work rules and policies?

Question 9: Is your school required to follow state or district staff dismissal procedures, or did you establish your own?

Question 10: Are your instructional personnel required to be certified according to state regulations or are such requirements waived for your school?

Question 11: Is your school required to abide by the state or district salary schedule?

Question 12: Is your school required to use the state retirement system?

SCHOOL FINANCE AND GOVERNANCE

Question 13: Does your school have control over the composition of its board or does your authorizer have some degree of control over who sits on the board?

Question 14: Is your school required to follow established state guidelines for the allocation of funding? What is the role of authorizers, if any, in your budgetary and spending decisions? In what ways do you have budgetary and spending discretion?

Question 15: Does your school have a contract with a charter/education management organization? If not, does your state law allow you to hire a charter or education management organization?

Question 16: Is your school required to abide by standard state or district procurement procedures, or are you allowed to develop your own procurement procedures?

FINAL QUESTION:

Question 17: Are there any aspects of school governance, operations, or instruction we have not covered in which you wish you had more autonomy?

Errata

After the initial publication of this report in April 2010, we found that, due to a sampling error, the authorizers of three schools were misnamed. Girls Preparatory Charter is authorized by the State University of New York, Hellenic Classic Charter is authorized by the New York City Department of Education, and The Charter School of Wilmington is authorized by Red Clay Consolidated School District. Additionally, the two schools attributed to Albuquerque Public Schools were misnamed.

This edition of the report corrects these errors. The total number of schools chartered by the fifty authorizers in this report is now 2,026 schools (down from 2,044 as originally reported in April). This number still represents nearly half of the charter schools in the country. A change to the weight associated with each school grade has a small impact on Figure 7. The average grade associated with the staffing area is now a C (from a C+). In addition, our sample now includes one fewer Department of Education authorizer and one additional District authorizer. The results in Tables 2 and 4 have been updated to reflect this.

While these changes affect the names of three authorizers and two schools, they have no impact on our analysis of the autonomy experienced in the schools or in the states where the schools are located. The conclusions drawn from these findings remain unchanged.