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Teachers in Charter Schools and Traditional Schools: A Comparative Study

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Abstract

Teachers from charter and traditional schools in Colorado were queried about their perceptions of their level of empowerment, school climate, and working conditions. Using a cluster sampling design, approximately 100 teachers from 16 charter schools and 100 teachers from seven traditional schools were surveyed by combining several well-established instruments to measure empowerment, school climate, and working conditions. Factor analyses yielded three composite variables each for the three constructs. One-way analyses of variance were used to explore these teachers' differences in perceptions. Results yielded consistent and practically significant differences in these charter and traditional school perceptions of empowerment, school climate, and working conditions. Not all of these differences, however, were consistent with expectations given the educational and legislative contexts driving Colorado's charter school movement. Implications and recommendations for future research are given.

Introduction and Background to the Study

Charter schools are one of the fastest-spreading, dynamic, and controversial educational reform movements to emerge in response to widespread demands for better public schools and more school choice. A majority of states have now passed legislation allowing parents, teachers, and community members to start these more autonomous schools, which receive public funds but operate unfettered by most state and local school district regulations governing other public schools. Charter schools attract a diverse array of people who advocate reform of the current public school system for a variety of reasons. But at the heart of the charter school concept is a shared set of assumptions about how and why such schools will improve public education (Corwin & Flaherty, 1995; Garcia & Garcia, 1996; RPP International, 1998; Wells and Associates, 1998;). Supporters claim that, in exchange for freedom from burdensome rules and regulations, charter schools will be more accountable for student learning. In addition, charter schools will infuse a healthy competition into a bureaucratic and unresponsive public system by providing more educational choices to parents and students. Because of their enhanced autonomy, they will encourage educational innovation, provide more professional opportunities for teachers, and operate more efficiently than regular public schools. For these reasons, charter schools are also expected to serve as educational research and development laboratories and a spur to reform of the public education system as a whole. The appeal of these ideas is apparent in the speedy rate at which new charter schools are opening. Although counts vary, it is conservatively estimated that, during the 1997-1998 school year, about 781 charter schools were in operation in 23 states and the District of Columbia, serving more than 100,000 students (RPP International, 1998). President Clinton has called for quadrupling the number of charter schools by the year 2002.

This study was designed to examine the claim that charter schools offer teachers opportunities to enhance their professional lives. Charter school laws passed in many states explicitly intend to empower teachers to become more self-directed professionals by providing them with the autonomy, flexibility and authority they need to design new and innovative approaches to teaching and learning. (Contreras, 1995; Mulholland & Bierlein, 1993; Wells and Associates, 1998). Advocates suggest that such empowerment means that teachers in charter schools will be encouraged to take on aspects of a more "professional" role outside the classroom. Examples of this more professional role could include exerting greater influence over school-wide decisions, and having more say in how they organize their day and how they structure relationships with colleagues (Corwin & Flaherty, 1995). Ultimately, according to this theoretical perspective, these more empowered teachers would be better able to serve their students by creating educational environments that will lead to improved student outcomes (Marks & Louis, 1997).

Research Questions

This study examines whether charter schools provide more professional opportunities for teachers by comparing the perceptions of teachers in charter schools and traditional public schools about aspects of teaching and their work environment. There were three central questions:

1. How do charter school teachers perceive issues of empowerment compared to teachers in traditional public schools?
2. How do charter school teachers perceive aspects of school climate compared to teachers in traditional public schools?

3. How do charter school teachers perceive aspects of working conditions compared to traditional public school teachers?

The Colorado Charter Schools Act

When Colorado legislators passed one of the nation's earliest and strongest charter school laws in 1993, they explicitly adopted the perspective that local control of schools and "teacher professionalism" must increase if public education is to improve. The Colorado charter school law is considered "strong" because it includes a mechanism for appealing disputed charter school applications to the Colorado State Board of Education. That is, local boards of education and/or school districts do not alone have final say over whether a charter school will or will not be approved for their district.

According to the state's Charter Schools Act, a charter school in Colorado is a public school operated by a group of parents, teachers, and/or community members as a semi-autonomous school of choice within a school district, operating under a contract between the members of the charter school community and the local board of education. Such schools were purposefully created to provide an avenue for educators and others "to take responsible risks and create new, innovative, more flexible ways of educating all children within the public school system." Essential characteristics of charter schools were to be school-centered governance, autonomy, and a clear design for how and what students learn. Another clearly stated objective was "to create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site." During the 1998 legislative session, the Colorado General Assembly re-authorized the Charter Schools Act without a future sunset, signaling the evolution of charter schools from a reform experiment to a permanent part of the public education infrastructure in Colorado. Another bill, passed in 1999, increased the required amount of state per-pupil allotment going to charter schools from 80% to 95% of the public school average, as well as the base upon which that percentage was calculated. Although charter schools still served only a small percentage of the state's public school students in 1999, the charter schools movement found a receptive audience in Colorado. During the 1998-1999 school year, for example, approximately 60 charter schools were in operation statewide, serving approximately 14,000 students, and it was anticipated that another ten to twelve schools would open in the 1999-2000 school year (Colorado Department of Education, 1999).

What We Know About Teachers in Charter Schools

Charter schools are still a relatively new phenomenon, and their sheer diversity has made them a difficult subject to study in any systematic way. Significant research on charter schools is just beginning to emerge. Like map-makers in a foreign land, the early charter school researchers have been largely concerned with describing the broad contours of the movement and the new schools it has produced through the collection of descriptive statistics and case studies that provide portraits of different charter schools in various states. Questions have focused on areas such as the variations in charter school laws; the reasons charter schools are started; their educational programs; their start-up problems; school, parent, teacher and student characteristics and satisfaction levels; charter school relations with school districts; and questions about how to measure student achievement and hold charter schools accountable for improved student learning. Although questions about the experiences of teachers are included in most questionnaires and evaluations of charter schools, only a couple of relatively small studies to date have

teachers as their primary focus.

Early studies of charter schools have, however, provided preliminary evidence about who teaches in charter schools. Charter school teachers are often younger than their counterparts in traditional schools, have less teaching experience, hold fewer advanced degrees, and are mostly--but not always--certified, although charter school legislation generally does not require certification (Center for Applied Research and Educational Improvement [CAREI], 1997; Colorado Department of Education, 1996; 1998; Finn, Manno, Beirlein, & Vanourek, 1997). Teachers report going to work in charter schools for a variety of reasons, including more freedom and flexibility, family teaching and learning atmosphere, increased decision-making, dedicated staff, and enhanced accountability (Beirlein, 1996). The research suggests that charter school teachers are generally quite satisfied so far with their experiences despite what appear to be some fairly common concerns, such as heavy workloads, inadequate facilities, relatively low salaries and tenuous job security (Beirlein, 1996; Corwin & Flaherty, 1995; Finn, Manno, Beirlein, & Vanourek, 1997; Wells and Associates, 1998). In Colorado, for example, the average teacher salary in 32 charter schools included in the state's most recent evaluation study was \$26,802, significantly lower than the \$37,240 state-wide average teacher salary (though this may be a by-product of the years of experience of teachers in the different types of schools). Of the teachers who responded to the evaluation questionnaire, 5% were current members of their local teachers association, compared to about 80% statewide. Teachers reported a high levels of satisfaction with most key aspects of their schools, but listed as their top concerns inadequate facilities/resources, heavy workload, parents, leadership/board, staff/teachers, and salary/benefits (Colorado Department of Education, 1999).

In one of the earliest and most extensive studies on charter schools nationwide, researchers at the Hudson Institute (Finn, Manno, & Bierlein, 1996) collected survey data from 521 teachers working in 36 charter schools in 10 states. The researchers found that charter school teachers are a diverse lot who prize what the school is doing, like working in it, and believe it is succeeding. Satisfaction was highest when it came to educational matters (curriculum, teaching, class size, etc.) and lowest when it came to non-educational matters (food, facilities, sports, etc.). Similarly, the Minnesota Charter Schools Evaluation (CAREI, 1997) also found that teachers reported high levels of satisfaction with their charter school experience (81 percent satisfied or very satisfied versus 6 percent dissatisfied or very dissatisfied). About one in four expressed dissatisfaction with the condition of their school building or salaries. However, this evaluation report also noted that compared to teachers nationwide who have completed the same survey, charter school staff members' level of satisfaction is fairly typical for all categories surveyed.

Theory to Practice: Charter Schools and the Empowerment of Teachers

Although appearing new to many observers, the charter school concept is actually based on ideas that have been evolving among educational policy-makers, practitioners, and researchers for the past 25 years (Anderson & Marsh, 1998). Most of these ideas revolve around the educational benefits to be derived from the de-centralization of school decision-making and include such related goals as the re-organization of schools around the task of improving teaching and learning, and the need to enhance the professionalism of teachers. Teacher professionalism, in particular, emerged as an educational reform initiative in the mid-1980s and often accompanied policies to increase decision-making authority and accountability at the school level. Recognizing teachers as a source of technical expertise for the improvement of schools, advocates of enhanced

professionalism or "empowerment" argued for increasing the authority of teachers over both school and classroom working conditions (Marks & Louis, 1997; Sykes, 1990). A "professional" conception of teaching, as opposed to a more centralized, bureaucratic conception of teaching, came to include such attributes as: (a) school-level decentralized decision-making in democratically governed schools; (b) extensive professional control with collective autonomy and decision-making authority over curricula, school policies, assessment, budget, hiring, and evaluation of peers; (c) collegiality among staff; (d) flexible work schedules; (e) collaborative, on-going professional development of teachers; and (f) accountability as measured by the effectiveness of instruction (Boettiger, 1998; Dusewicz & Beyer, 1988;). In short, enhanced teacher professionalism, or empowerment, is generally viewed as teacher participation in all decision-making directed toward carrying out the school's instructional mission, both in the classroom and throughout the school.

Several studies have addressed the issue of teacher professionalism, or empowerment, in charter schools, although there is little agreement as to the definition of the term as it applies to charter schools, or on how to measure it. For example, it is not always clear whether questions about teacher empowerment refer to an enhancement of teachers' long-standing classroom autonomy or increased teacher decision-making in a wider, school-wide arena. Most of the data are based on teacher self-reports with very little use of comparisons from traditional schools. Nevertheless, there is some preliminary evidence that charter school teachers do tend to feel more "professional"--however the term is defined. For example, Shore (1997) explored newly created opportunities for teachers in California charter schools. Based on textual analysis of 86 charter proposal documents and interviews with selected directors and teachers, she concluded that most charter school teachers have primary responsibility for governance, participate in hiring and peer evaluation, experience fewer bureaucratic constraints, and have considerable control over their working environments. Corwin and Flaherty (1995) also asked questions about what roles charter school teachers perform. In an analysis of 230 questionnaires returned by teachers in 66 charter schools operating in California, they found that teachers reported more influence over the curriculum and discipline policy than over grouping students and in-service instruction. Teachers in new (not converted) charter schools, elementary schools, and "high-autonomy" charter schools, in particular, reported having more influence and being less constrained by rules. A high percentage of teachers said they experimented more in the classroom, were freer to teach as they wished, and had more influence over the content and subjects that they teach. Most of these teachers considered the charter structure essential or valuable to changed practice. Finn, Manno, Beirlein, and Vanourek (1997) reported that most of the charter school teachers they surveyed were finding "personal fulfillment and professional reward" (Part I, p. 1) and had more chances to be involved with school policy making and planning. More than 90% of the teachers said they were "very" or "somewhat" satisfied with charter schools' educational philosophy, size, fellow teachers and students; more than three-quarters of the teachers said they were satisfied with school administrators, the level of teacher decision-making, and the challenge of starting a new school. More than 70% of Colorado charter school teachers recently surveyed reported that they were satisfied with "teacher participation in school decisions" (Colorado Department of Education, 1999).

Other researchers point out that the experience of teachers in charter schools is likely to vary, based on school culture and context (Datnow et al., 1994). That was the conclusion of the Minnesota Charter Schools Evaluation (CAREI, 1997) which was based in part on site visits at 16 different charter schools. The evaluation found that the

professional roles of teachers vary dramatically: some schools have a designated principal who serves as the authority figure; while others have expanded or significantly modified the teacher role to include additional responsibilities.

One of the most extensive studies of charter schools to date--the UCLA Charter School Study (Wells and Associates, 1998)--suggested that the enhanced teacher empowerment found in some charter schools can be a mixed blessing, bringing more freedom but little support. In their case studies of 17 charter schools and 10 school districts in the state of California, these researchers found that teachers in charter schools value their freedom, relatively small classes, and esprit de corps, but heavy workloads are an issue. They continue: "On the issue of empowerment, our primary findings are mixed. First, the teachers in our study found great satisfaction in the intimate, personal settings that small charter schools offered and took professional pride in being among a select group of school reform pioneers. Yet, many of these teachers, inundated by non-classroom responsibilities, struggled with weariness and exhaustion, and openly speculated about their ability to sustain their level of commitment over the long haul" (p. 49).

Feelings or Fact?

From the beginning of the charter school movement a few studies have reported that teachers said they "felt like professionals" in charter schools (Bierlein, 1996), but didn't offer much, if any, data on how those feelings were directly tied to practice. Interestingly, two recent reports have raised the possibility that such feelings of enhanced professionalism--or what Wells and Associates (1998) call the "esprit de corps effect"--may be more feeling than reality. The UCLA study noted that teachers in charter schools often differentiated themselves from teachers in regular public schools, and that those differences included being "more professional" than their public school counterparts, and feeling great pride in their charter school setting. Yet, despite this "esprit de corps" in these schools, they found little differences in how teachers actually taught. They concluded, "most teachers could not say what it was that they do in a charter school that they could not have done in a regular public school, indicating that their new professional identity may be based on factors other than their teaching practice" (p 51).

A second study, conducted by SRI International for the California state legislature (Anderson & Marsh, 1998), mentioned the same uncertainty as to what teachers mean when they say they feel more powerful in charter schools. After conducting case studies of 12 charter schools and collecting descriptive data from telephone interviews with members of 124 charter schools, researchers reported that charter school status gave staff members a sense of empowerment and of being part of a significant reform process. One teacher explained: "The fact that we are a charter, that we are in charge of our destiny, has forced an attitude change. We have a sense of power we never had before, whether it is true or an illusion" (p. 19).

Method

Sample and Data Collection

This study employed a comparative survey design to compare perceptions of teachers in charter schools and traditional public schools (TPS) about aspects of their work and work environment. A matched cluster sampling procedure was used to access comparable samples of teachers in the two types of schools. First, the cooperation of

administrators and teachers in about two dozen Colorado charter schools that had been operating for at least two years in 1997-1998 was solicited, resulting in a sample of 16 charter schools from across the state. Those schools were then matched, to the degree possible, with existing traditional public schools, based on school location and grades taught. Given the special nature of charter schools, close matches were usually not possible: in Colorado, charter schools on average are significantly smaller than TPSs and generally do not fit the traditional grade level configuration of elementary, middle, or high school. Many serve a combination of elementary and middle school students, and some include all grades. Because charter schools are small, two or three charter schools were matched to each cooperating TPS, with seven TPSs used as matches. Thus, the schools represented the "clusters" in the cluster sampling design. The final sample of teachers was then drawn from the two cluster types of schools, and included 99 charter school teachers and 103 traditional public school teachers. A total of 217 surveys were administered to charter school teachers and 219 to TPS teachers. Response rate was 46% for charter school teachers and 47% for TPS teachers.

Instrumentation

The survey instrument included forty forced-choice, five open-ended, and eight demographic questions. The forced-choice items measured dimensions of teacher "empowerment," school climate, and working conditions. The "empowerment index" was derived from Marks and Louis (1997) which included fourteen questions the authors divided into four dimensions. We ran a factor analysis with our data and derived three composite variables we labeled as "empowerment in the school wide arena" (dealt with issues like involvement of teachers in hiring, budgeting, determining professional assignments, determining content of in-service programs), "empowerment in the classroom with students" (dealt with issues like how much control teachers felt over disciplining students, determining the behavior code, setting policy on grouping of students, involvement and influence in decisions that affect them), and "empowerment in the classroom with curriculum content" (included control over selecting content, teaching techniques, instructional materials, and establishing the curriculum).

The "school climate" scale was adopted from Dusewicz and Beyer (1988) which included twelve questions presented in three dimensions. Again, we factor analyzed the scale with our data and derived three new composite variables. These included "collective responsibility for teaching and learning" (items like shared responsibility for achieving school goals, all being involved in goal establishment, articulation, and review, participatory techniques being employed, teachers working amicably on common problems, the school having a consistent and shared value system), "emphasis on academic learning" (dealt with the school having high expectations for academic achievement, there being an academic emphasis and belief that all can learn, staff believing that they can help all students to learn, the school motivating students to learn), and "school rewards students for high achievement" (included items like the school giving honors and awards for academic achievement, the school providing opportunities for children to excel and recognizing such efforts).

The working conditions component of the instrument included a "job satisfaction scale" from Bacharach (1986) and additional questions about working conditions derived from Ginsberg and Berry (1990). A factor analysis of these fourteen questions yielded three composite variables. They were labeled as "job contentment" (included authority to carry out work, sense of present job in light of career expectations, the chance the job provides to be successful, current satisfaction with school discipline, and the extent to

which working conditions enable effectiveness), "teaching and learning conditions" (dealt with satisfaction with workload, class size, preparation and planning time), and "physical plant and support conditions" (included satisfaction with issues like the school's physical condition, the classroom's physical condition, instructional resources available, opportunities for professional growth, job security, and salary).

We conducted reliability analyses of each sub-scale we derived from the instrument. The Alpha coefficients were all acceptable, ranging from .59 to .87, with all scales but one at the .7 level or above. The five open-ended questions asked teachers to describe the most positive and negative things about being a teacher at their schools, if their students regularly worked with computers, and (for charter school teachers who have taught in a regular public school) how teaching in a charter school differed from teaching in a TPS. Teachers were also asked to volunteer any other comments they might have. Demographic questions addressed gender, age, race/ethnicity, the highest degree earned, years of teaching experience, certification status, and grade(s) taught.

The higher proportion of females in the charter school sample is related to the fact that many charter schools in Colorado serve elementary or elementary and middle school students and a higher proportion of females teach at those levels. An analysis of gender and grade level taught by respondents broken out by type of school shows that the male teachers in the sample tend to cluster at the high school level in traditional public schools. Moreover, only a small minority of Colorado charter schools fit the traditional grade level configuration of elementary, middle, or high school, making true matched comparisons to traditional public schools difficult.

Data Analysis

We began our analyses of the research questions by conducting one-way analyses of variance for each of the three sets of dependent variables and type of school as the two-level factor. Given the wide discrepancies between the two groups of teachers on the "years of experience" and "school size" variables noted in Table 1 however, we followed up these initial ANOVAs with one-way analyses of covariance using the "years of experience" and "school size" variables as covariates. None of the ANCOVA analyses produced probability values that deviated from the findings of statistical significance obtained from the ANOVA analyses. Thus, the ANOVAs are reported for ease of understanding. In addition, a series of tables are given which present descriptive statistics and corresponding effect sizes. Finally, the open-ended questions were individually analyzed for themes and patterns.

Results

Demographic Characteristics of Teachers

Survey respondents were asked a number of demographic questions, including their gender, age, race/ethnicity, years of teaching experience, highest degree earned, certification status, and grade(s) taught. Table 1 provides a comparison of the final sample of charter school teachers and traditional public school teachers revealing some differences between the two groups: in general, more charter school teachers are female, are slightly younger, have earned fewer post-baccalaureate degrees, and have fewer years of teaching experience than their TPS counterparts. The basic differences between the two groups are very similar to those reported in two Colorado charter school evaluations (Colorado Department of Education, 1998; 1999). One result of that difficulty is an imbalance in response from the two groups in regards to grade level taught, with respondents from charter schools including more

elementary teachers and respondents from traditional public schools including more high school teachers.

Table 1

Descriptive Information of Charter and Traditional School Teachers

Characteristic	Charter Schools	Traditional Schools
Gender		
Female	89.9%	63.7%
Male	10.1%	36.3%
Age (mean)	39.1	42.1
Race/ethnicity		
White	96.9%	94%
Black	0%	1%
Hispanic	0%	3%
Native American	2%	0%
Asian	1%	2%
Highest degree earned		
Bachelor's	59.6%	38.2%
Master's	40.4%	60.8%
Doctorate	0%	1%
Years of teaching experience (mean)	9.1	15
Grade(s) taught		
Elementary	63.5%	30.4%
Middle school	24%	7.8%
High School	7.8%	61.8%
Size of School (mean)	327	998
Certification status		
Certified in area teaching	82.5%	97%
Not certified in area teaching	7.2%	3.0%
Not certified	10.3%	0%

Analyses of Research Questions

The first research question asked: "How do charter school teachers perceive issues of empowerment compared to teachers in traditional public schools?" The ANOVA comparisons for each of the empowerment composite variables are presented in Table 2, and corresponding descriptive and effect size information in Table 3. As can be seen in Table 2, analyses of two of the three empowerment variables, "empowerment in the school wide arena," and "empowerment in the classroom with students", yielded statistically significant differences between the teachers from the charter schools and the teachers from the traditional schools ($F[1,191] = 8.60, p = 0.004$), and ($F[1,196] = 11.00, p = 0.001$) respectively. Looking at the means in Table 3, teachers in the traditional schools perceived themselves to be more empowered in the school-wide arena (3.00 and 2.60 respectively), but less so in the classroom with students (3.64 and 4.03 respectively). Effect sizes associated with those mean differences (-0.48 and +0.46 respectively) suggest moderately strong practical significance to those mean differences.

Table 2

One-Way ANOVAs for Empowerment Variables

Empowerment Variables	df	F Value	<i>p</i>
In the school-wide arena	1, 191	8.60	0.004
In the classroom with students	1, 196	11.00	0.001
In the classroom with curriculum content	1, 199	1.31	0.254

Table 3

Descriptive Statistics and Effect Sizes for Empowerment Variables

Empowerment Variables	n	Mean	SD	ES
In the school-wide arena				
Charter schools	92	2.60	1.07	- 0.48
Traditional schools	101	3.00	0.85	
In the classroom with students				
Charter schools	99	4.03	0.81	+ 0.46
Traditional schools	99	3.64	0.86	
In the classroom with curriculum content				
Charter schools	98	3.50	1.27	- 0.18
Traditional schools	103	3.68	1.01	

Finally, the mean scores for the third empowerment dimension, "empowerment in the classroom with curriculum content," were similar for teachers in traditional and charter schools, with no statistically significant difference.

The second research question asked: "How do charter school teachers perceive aspects of school climate compared to teachers in traditional public schools?" Analysis of variance (ANOVA) comparisons for each of the school climate composite variables are presented in Table 4, and corresponding descriptive and effect size information in Table 5. As can be seen in Table 4, the pattern of findings was very similar to the findings with the empowerment variables reported above, with two of the three contrasts ("school rewards students for high achievement" and "emphasis on academic learning") achieving statistical significance ($F[1,200] = 11.47$, $p = 0.001$, and $F[1,200] = 18.81$, $p < 0.000$), and the third not. Also similar to the empowerment variables, the directions of those findings differed for each of the two contrasts achieving statistical significance.

Table 4

One-Way ANOVAs for School Climate Variables

School Climate Variables	df	F Value	p
School rewards students for high achievement	1, 200	11.47	0.001
Emphasis on academic learning	1, 200	18.81	0.000
Collective responsibility for teaching and learning	1, 197	3.36	0.068

Looking at Table 5, teachers in traditional schools perceived their respective schools to have a climate that rewarded their students for high achievement at a significantly greater level than teachers in charter schools (4.32 and 3.92, respectively). Conversely, charter school teachers perceived the schools in which they worked to have significantly greater emphasis on academic learning than did their traditional school teacher counterparts (4.52 and 4.11 respectively). Effect sizes associated with those mean differences (- 0.56 and + 0.54 respectively), again similar to the empowerment variables, suggest moderately strong practical significance to those mean differences.

Table 5

Descriptive Statistics and Effect Sizes for School Climate Variables

School Climate Variables	n	Mean	SD	ES
School rewards students for high achievement				
Charter schools	99	3.92	0.94	
Traditional schools	103	4.32	0.71	- 0.56
Emphasis on academic learning				
Charter schools	99	4.52	0.56	
Traditional schools	103	4.11	0.74	+ 0.54
Collective responsibility for teaching and learning				
Charter schools	99	3.65	0.97	
Traditional schools	100	3.88	0.84	+ 0.28

The final research question asked: "How do charter school teachers perceive aspects of working conditions compared to traditional public school teachers?" Tables 6 and 7 present the results of the analyses in a manner similar to the empowerment and school climate variables.

For the composite variable we labeled as "job contentment," the charter school teachers had a slightly higher mean score than the traditional public school teachers, but this difference was not statistically significant, using a criterion alpha level of $p < 0.0167$. In terms of "teaching and learning conditions," the charter school teachers had a statistically significant ($F[1,197] = 12.41, p = 0.001$) higher mean score (3.44) than did the traditional public school teachers (2.94). The effect size for this comparison (+0.49) was also indicative of a legitimate practical difference between the perceptions of these two groups of teachers. For the third composite working conditions variable, "physical plant and support conditions," the traditional public school teachers had a higher mean score (3.72) than the charter school teachers (2.65). This difference was statistically significant ($F[1,198] = 40.82, p < 0.000$), and the effect size of -0.93 reflected the strongest magnitude of differences between these two groups of teachers.

Table 6

One-Way ANOVAs for Job Satisfaction Variables

Job Satisfaction Variables	df	F Value	p
Job contentment	1, 196	4.04	0.046
Teaching and learning conditions	1, 197	12.41	0.001
Physical plant and support conditions	1, 198	40.82	0.000

Table 7

Descriptive Statistics and Effect Sizes for Job Satisfaction Variables

Job Satisfaction Variables	n	Mean	SD	ES
Job contentment				
Charter schools	98	4.11	0.86	
Traditional schools	100	3.87	0.82	+0.29
Teaching and learning conditions				
Charter schools	98	3.44	0.95	
Traditional schools	101	2.94	1.01	+ 0.49
Physical plant and support conditions				
Charter schools	98	2.65	1.21	
Traditional schools	102	3.72	1.15	-0.93

Discussion

The findings related to empowerment issues reveal some expected and some surprising results. That traditional school teachers have a statistically significant higher mean score than the charter school teachers on the empowerment variable, "empowerment in the school wide arena," contradicts much of the rhetoric and early literature suggesting that teachers in charter schools will be able to take on a more "professional" role outside the classroom, such as participation in hiring decisions, budgeting, determining professional assignments, the content of in-service programs, or any other school-wide issue that may ultimately impact the delivery of the instructional program. Clearly, the literature on teacher empowerment included such school-wide issues as part of their conception of what empowerment should mean (Marks & Louis, 1997; Sykes, 1990), yet our comparative data show that such hopes for teachers in

charter schools may not be as predicted. This finding may reflect the emphasis in many school districts on site-based management practices. In addition, those who suggested greater authority and increased decision-making for charter school teachers (e.g. Bierlein, 1996; Finn et al., 1997; Mulholland & Bierlein, 1993; Shore, 1997) based their findings on analyses of laws and/or reports of charter teachers alone, without the use of comparative data. The nature of governance and parent involvement at many Colorado charter schools may also be a factor: although the state's Charter Schools Act provides for the founding of charter schools by teachers, almost all of them are parent-founded schools in which parents hold a majority on governing boards. Some of the responses to our open-ended questions may help explain this reality for charter school teachers, as many complained about poor administration or overly intrusive charter school boards. Other than their concern about inadequate facilities, such school wide management-related issues were the most common negative comments reported to us. For example, charter teachers reported: "The board is made up of parents and many are not educators and lack knowledge and experience which causes many problems;" - "there is a lack of trust by the administration and the board;" - "the most negative thing about this school is the politics occurring between the board, the administration and the staff;" - "parent control of the school is excessive...many want to pick the textbooks and don't know how to do it.;" - "Our governing board has too much power! They are micro-managing and do not value teachers;" - "Our board is inflexible and only listen to a small parent component;" - "The most negative thing is a parent board, who are not educators, making academic decisions."

On the other hand, the finding that charter school teachers had a statistically significant higher mean score than traditional public school teachers for classroom-related empowerment supports the researchers and charter school advocates who predicted greater autonomy, influence, freedom and flexibility in these schools (e.g., Bierlein, 1996; Corwin & Flaherty, 1995; Shore, 1997). And the charter school teachers' responses to our open-ended question about what they liked most about teaching in this setting underscored this sense of classroom empowerment with students. Teachers consistently reported that they enjoyed a great deal of flexibility, that the small class size allowed them to do a variety of different things, and that they enjoyed working with students who clearly wanted to be there. Some typical comments included: "I get to teach here..there is less disciplining;" - "I have the freedom to try new techniques;" - "I actually get to teach..I am not pulled out of the classroom for the multitude of district pull-outs;" - "I have the freedom to be creative and innovative while expanding and elaborating on the global core curriculum;" - "the teaching situation allows great freedom and flexibility;" - "I have the freedom to develop my program as I see appropriate;" - "we have enthusiastic students who want to be here;" - "There are few discipline problems and students come prepared to learn;" - "the small class size allows for close relationships with students--none can be ignored or fall into the woodwork."

Interestingly, there was no difference in the responses of charter or traditional public school teachers in the area of "empowerment with the curriculum content." This finding is intriguing because the potential ability of smaller, more autonomous charter schools to serve as laboratories for teacher-driven educational innovation has always been a strong argument for such schools. Our comparison revealed that teachers in both types of schools felt pretty good about their degree of control over curriculum (mean of 3.5 for charter school teachers, 3.6845 for traditional school teachers). In the open-ended comments by both sets of teachers there were consistently positive comments regarding the flexibility they felt they had over curriculum decisions. While the charter school teachers were more adamant in their remarks in our open-ended questions, the statistical comparison suggests that this feeling may be driven more by the hype surrounding the charter school movement than any real difference in curriculum-related empowerment. To some degree, this finding is probably related to what we

label as the "back-to-the-future" nature of the educational programs in many Colorado charter schools: that is, a significant number of the state's charter schools (17 out of 49 schools existing in 1997) are back-to-basics schools that use the largely pre-determined, highly structured Core Knowledge curriculum. Thus, this version of educational reform we characterize as being "back-to-the-future." Interestingly, representatives from a number of professional educational organizations in the state (Colorado Parent Teacher Association, Colorado Education Association, Colorado Association of School Executives, Colorado Association of School Boards, and the Colorado Federation of Teachers) recently expressed concern that charter schools have not, as yet, established themselves as labs of innovation or experimentation (Colorado Department of Education, 1999).

Given the literature regarding charter schools, our findings regarding the three school climate composite variables also reveal some unexpected results. Since charter school teachers are hired to fit the specific mission of the charter, it was expected that the charter school teachers would score higher on the school climate variable "collective responsibility for teaching and learning." But just as Wells and Associates (1998) and Anderson and Marsh (1998) found that charter school teachers could not articulate why they felt their professional identity was different from traditional public school teachers, we found no statistically significant difference on the school climate variable dealing with shared responsibility, collective action and common mission/goals. Interestingly, the charter school teachers expressed a strong sense of a common mission and shared goals in the open-ended question about what was positive in their school, which the public school teachers only rarely asserted. Yet, the statistical comparison shows no difference in this school climate factor.

However, the charter school teachers did have a statistically significant higher mean score on the school climate factor we labeled as "emphasis on academic learning." Perhaps this is where the idea of a shared mission in the charter schools is being expressed. Clearly, the comments by charter school teachers highlighted their academic emphasis and the ability to focus on academics given small class size and few discipline problems. But it is almost counterintuitive that the traditional public school teachers would then have a statistically significant higher mean score on the school climate variable, "school rewards students for high achievement." This may be a result of the state's emphasis and pressure on improving test scores, and suggest that charter schools expect high achievement and therefore don't reward it as the traditional public schools do. But it seems inconsistent given the opposite difference reported regarding emphasis on academic learning.

The results regarding working conditions were most consistent with the current literature. Concerning what we labeled as "job contentment," we found no statistically significant difference between the charter and traditional public school teachers. While much of the charter school literature reports that teachers in these schools are very satisfied with their jobs (Colorado Department of Education, 1999; Finn et al., 1997; RPP International, 1997), our finding of no difference in job contentment underscores what the Minnesota evaluation reported, namely that the charter teachers' levels of satisfaction were typical for other teachers nationwide. Clearly, both the traditional public school teachers and charter school teachers had areas of distinct dissatisfaction. These are revealed in the differences in the working conditions composite variables of "teaching and learning conditions," and "physical plant and support conditions." The charter school teachers had a statistically significant higher mean score on the teaching and learning conditions factor, while the traditional public school teachers had a higher score on the physical plant and support conditions factor. These findings support the literature which reports that charter school teachers appreciate the smaller class sizes, lack of discipline problems, parents who are active and supportive, while they disdain poor facilities, classroom conditions, lack of support materials, and questionable job security (Bierlein, 1996; Finn et al., 1997; Colorado

Department of Education, 1999; Corwin & Flaherty, 1995; RPP International, 1997). Indeed, lack of financial support and poor facilities were the most common concerns expressed by charter school teachers to our open-ended query about the most negative aspect of teaching there. In terms of support in schools, the responses to our question about computer use revealed that traditional public school teachers had far greater access to computers than most charter school teachers, underscoring the lack of support these teachers cited. And as our statistical comparisons suggest, for the public school teachers it was issues like student apathy, discipline problems, and large class size that dominated their concerns expressed in the open-ended questions about the most negative aspects of teaching.

Conclusions and Recommendations

Our goal was to examine the claim that charter schools will empower teachers to become more self-directed professionals by providing them with the increased autonomy, flexibility, and authority necessary to assume responsibility for the development and delivery of new, innovative approaches to teaching and learning at their school sites. Although charter schools obviously employ a corps of dedicated teachers who feel energized by the role they play in founding these new schools, a review of our findings shows that, for the most part, the rhetoric and early research findings regarding enhanced teacher "empowerment" in charter schools outpaces the reality of actual teacher experience when compared to the experiences of teachers in traditional public schools. The data do indicate that charter school teachers enjoy more professional flexibility within the four walls of their classrooms. However, they are generally not taking on an expanded role in the larger school arena, and do not appear to have any deeper involvement in curricular decision-making or innovation than their TPS counterparts. Perhaps the most obvious conclusion that can be drawn from these results is that teachers in both charter schools and traditional public schools are relatively content with their work and have much in common, despite some fairly significant differences between the two groups when it comes to identifying primary sources of job-related satisfactions and dissatisfactions.

Regarding teachers' traditional classroom role, the data suggest that working in smaller, more independent charter schools does provide teachers with a sense of empowerment. This "freedom to teach" is, perhaps not surprisingly, related to smaller class size and better disciplined students. Charter school teachers generated higher mean scores on the composite variable called "empowerment in the classroom with students" (which deals largely with classroom management and student behavior), and on the working conditions variable called "teaching and learning conditions" (which deals largely with class size). Charter school teachers consistently reported in the open-ended responses that they enjoyed a great deal of flexibility in the classroom, that small class size allowed them to do a variety of different things, and that they enjoyed working with students who chose to be there with more involved parents. They also related their sense of classroom empowerment to the charter structure--although that perception appears to be more related to class size and student discipline than it is to any real difference in teacher participation in school governance or control over the curriculum. Interestingly, there was no statistically significant difference between charter school teachers and traditional public school teachers on the composite variable called "empowerment in the classroom with curriculum content." The fact that the processes surrounding the instructional core remain similar to other public school settings indicates that the charter school movement has not resulted in the degree of educational innovation and experimentation envisioned by its advocates, either in individual teacher's classrooms, or on the school-wide level. The additional fact that traditional school teachers

have a statistically significant higher mean score than charter school teachers on the variable "empowerment in the school wide arena" underscores the impression that charter schools, as practiced in Colorado, are not delivering on the significantly enhanced level of teacher professionalism hoped for by educational reformers.

Charter school teachers also scored significantly higher on the school climate factor we labeled as "emphasis on academic learning." Again, this finding is probably not surprising. Given that the central argument for charter schools is that they will be more accountable for the academic achievement of their students than regular public schools, it makes sense that charter school teachers would pay sharp attention to this critical mission. Smaller class size, fewer discipline problems, and more involved parents certainly help (when queried about the most negative aspects of teaching, traditional public school teachers were more likely than charter school teachers to complain about student apathy, discipline problems, and large class size). However, this picture is not without its complications - one of the most interesting findings of this study is the lack of statistically significant difference between charter school teachers and traditional public school teachers on the school climate variable dealing with collective responsibility for teaching and learning, which includes such critical measures as shared responsibility for achieving school goals, a shared value system, school-wide review of values and goals, participatory management, and teachers working together on common problems. Because charter schools are in a better position to hire teachers to fit their specific missions, it was expected that charter school teachers would score higher on this variable. The unexpected results are probably an indication of the dedication and commitment of both groups of teachers, and underscores again what they have in common rather than their differences.

One of the most encouraging findings of this study is the relatively high level of contentment both groups of teachers find when they go to work each day, despite distinct areas of dissatisfaction. Indeed, the two groups' areas of dissatisfaction are almost mirror images of each other. While charter school teachers value their smaller class sizes and greater freedom to focus on academics, they are considerably less pleased with their school facilities, the availability of instructional resources (including technology), their salaries, or their job security. Traditional public school teachers, on the other hand, are much more satisfied with almost all aspects of the support they receive, but tend to be somewhat less satisfied with the teaching and learning conditions they find in their classrooms. Aside from pointing out that being a teacher in any setting has its rewards and its frustrations, these findings raise an important issue of sustainability for charter school teachers: Given their relative lack of support, how long will they be willing or able to keep going?

Finally, this study raised some very interesting issues about the mixed blessings of high parental involvement in charter schools. There is no doubt that concerned and supportive parents are an invaluable resource for children and for schools. On the other hand, parents who want greater involvement in their children's schooling can apparently be a very formidable group with whom to work. For teachers who are scrambling to help set up new schools, get an educational program running, and meet high expectations, intrusive parental involvement can present another set of challenges-- particularly if parents insist on interjecting themselves into academic decision-making. At the very least, it is ironic that parents who create schools that are theoretically intended to enhance the professional roles of teachers can so often undermine their own good intentions.

In terms of future directions, we see a number of areas for potential research. Clearly, this study did not control for any measure of school effectiveness, and future studies should examine the impact of student performance in both types of schools on teacher empowerment issues. One of the most interesting and compelling directions for future research is drawn from

the widely divergent policy contexts that surround the charter school initiatives in each state. They differ so dramatically (Bulkley, 1999; Mauhs-Pugh, 1995) that it may be nearly impossible to conduct state-delimited research and expect to generalize to other states. If multiple states are included in future research studies, the states themselves should probably be included as a variable in the analyses, at least until their contribution in those analyses is found to be non-significant.

Another potential area for future research is suggested by the relatively large standard deviations on many of the composite variables reported in Tables 3, 5, and 7. Given that the charter school and TPS samples are fairly large, the large number of standard deviations exceeding .8 indicates potentially interesting within-group variations that could illuminate the between-group variations that were reported.

The highly charged political nature of charter schools also necessitates rigorous attention to important design features, particularly when multiple schools are involved and student performance is among the dependent variables. Such design features might include: (1) waiting until charter schools are at least two or three years old to give them a chance to mature and "become themselves"; (2) equating (either through sampling design or covariance measurement) students at entry into the schools; and (3) disaggregating analyses to accommodate important school-level variables such as mean enrollments of low SES students, special education students, language minority students, and mobility rates. The stakes are high as research continues on this important experiment in American schooling. It is essential that future research quality be meticulously high as well to inform the policy debate in a credible, even unassailable way for stakeholders from across the policy arena.

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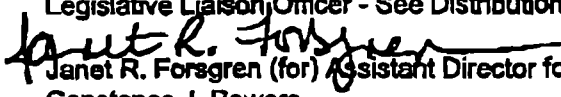
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OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Friday, October 8, 1999

LEGISLATIVE REFERRAL MEMORANDUM

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PHONE: (202)395-3803 FAX: (202)395-6148
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STATEMENT OF

ANITA HODGKISS

**DEPUTY ATTORNEY GENERAL
CIVIL RIGHTS DIVISION
UNITED STATES DEPARTMENT OF JUSTICE**

BEFORE THE

**SUBCOMMITTEE ON THE CONSTITUTION
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES**

CONCERNING

**CIVIL RIGHTS DIVISION ACTIONS
WITH RESPECT TO CHARTER SCHOOLS**

**PRESENTED ON
OCTOBER 14, 1999**

DRAFT 10/07/99 10:30 PM

Mr. Chairman and Members of the Committee:

Thank you for inviting me to appear before you today to discuss how the Civil Rights Division's responsibility to ensure that school districts comply with the federal civil rights laws and any court orders and consent decrees entered pursuant to those laws may affect charter schools. President Clinton and this Administration have long championed the development of high quality charter schools. These schools begin with a vision shared by educators, parents, or community leaders who want to create a new and different learning environment for their children. Charter schools are a promising model for providing quality education to students and generating improvements in public education generally. Through programs under the Charter Schools Amendment Act of 1997, 20 U.S.C. §§ 8061-8067, the Charter School Expansion Act of 1998, and [], the Department of Education has granted some [\$X] to over [y] charter schools since [199x]. Grants range from \$25,000 to \$5 million per year, (FY 99 Application for new grants at 3) and are available for start-up expenses, planning, design, and initial implementation costs. These [y] schools are part of the 1,129 charter schools that were operating as of September 1998 to educate some 160,000 students.¹

¹ U.S. Dept. of Education, Office of Educational Research and Improvement, "The State of Charter Schools: Third Year Report" at 1 (1999) ("Third Year Report")

While the Department of Education has the most direct role in developing and implementing federal programs to promote charter schools, the Department of Justice and the Civil Rights Division share the conviction that charter schools can provide an exciting and effective learning environment for students, teachers, and the men and women who step forward to bring them to life.

The Department believes just as firmly that it is possible to create and operate charter schools that are consistent with this nation's civil rights laws and with any outstanding court orders and consent decrees that govern a school district's operations. These orders, which are enforceable decrees of federal courts, were entered to ensure the elimination of any vestige of segregation or discrimination in a school district that had violated the constitutional guarantee of equal protection and the right to equal educational opportunity. Where the Civil Rights Division is a party to a desegregation case where such an order issued, it is our responsibility to ensure that any modifications to a student assignment plan, including the establishment of a new public school, that is covered by the court's order is consistent with that order.

Moreover, where the court has required that such changes be submitted to the court for approval, it is common practice for

the court to ask us for our views before issuing its ruling. We carry out this responsibility for any new public school and any modification of attendance zones in a covered district that is brought to our attention, whether the new school is a charter school or another, traditional school. Accordingly, when we are notified that of a charter school has been proposed in a covered district, and when the applicable order covers the opening of a new school or the resulting changes in attendance plans, we attempt to gather the information needed to determine whether the new school, and any changes flowing from the opening of the school on existing schools and attendance patterns, will not impede the achievement of the order. School districts share this obligation, and in addition have a duty to ensure that future construction does not resegregate their school system.

In the majority of such cases involving charter schools, the Division should be able to obtain the necessary information from the district and the charter school proponents, conclude that the school is consistent with the applicable decree, and accordingly raise no objection to the school. As of [], we expect there were [x] charter schools operating in [y] districts where the Division is a party to a court order. We made no objection to [z] of these [x] schools. This is comparable to our experience with other new schools, schools that are not charter schools; in

covered districts. Over the last several years, we have agreed to new school construction in a host of districts, including Luther, Texas, Vicksburg, Mississippi, Temple, Texas, Tuscaloosa, Alabama, [Critanger Arkansas], Auburn Arkansas, Gibson, Texas, and Baton Rouge, Louisiana.

In most cases, charter schools will not have a negative impact on compliance with a decree. Charter schools are relatively small, with a median enrollment of approximately 132 students.² Generally, this limited enrollment will not have significant impact on the attendance patterns and enrollment in the district's other schools, and will not affect compliance with the decree. In addition, charter schools generally serve students with demographic characteristics similar to those of the students in other public schools.³

The Department realizes the unique nature of charter schools and the challenges faced by those working to start these schools from scratch. The obstacles confronting proponents of a newly created school are akin to those facing a new small business. They need start-up funds, operating funds, facilities, and planning assistance. Unlike a new, district operated public

² Third Year Report at 1.

³ Third Year Report at 2.

school, a charter school is likely to be organized by individuals outside of the established school administration - parents, teachers, small business owners, concerned community members. They may be unfamiliar with the requirements of, and perhaps even the existence of, laws and regulations governing their operation, including court orders and decrees that cover the district. And differences between states as to what agencies and institutions have authority to grant charters may further confuse the question of whether a particular school is covered by a particular order.

To address these challenges, the Civil Rights Division has been working with the Department of Education to develop a process through which the state chartering authorities are made aware of potentially applicable decrees and are in a position to notify and direct affected charter school proponents to the appropriate information. We are committed to continuing these efforts, and are open to considering suggestions that will allow us and charter school proponents to expand the number of charter schools operating consistently with our federal civil rights laws.

I. Charter Schools

Charter schools are publicly funded schools that operate

pursuant to a contract or "charter" with a state or local agency that provides the school with public funds for a specific period of time. The charter generally allows the school to operate without a number of the restrictions and regulations that apply to public schools, for example with respect to hiring, curriculum, and budget approval.

Since 1991, charter schools have become an accepted part of the educational landscape in 33 states and the District of Columbia. As of 1998, 1,129 charter schools were operating in 29 of those jurisdictions.⁴ The majority of charter schools - 70% - are newly created schools. Nineteen percent of charter schools were traditional public schools that converted to charter status, often to gain increased autonomy. In nine states, private schools may convert to charter schools and receive public funds, thereby stabilizing their funding and attracting new students. In September of 1998, these formerly private schools made up 11 percent of all charter schools.⁵

While charter schools serve less than 1% of the students

⁴Third Year Report at 10.

⁵Third Year Report at 14. The nine states that allow private schools to become charter schools are Arizona, the District of Columbia, Michigan, Minnesota, North Carolina, Pennsylvania, South Carolina, Texas, and Wisconsin. Third Year Report at 12.

enrolled in public schools,⁶ they are a popular alternative for students and parents. Seventy percent of the charter schools in a recent survey reported having a waiting list for admission.⁷

State laws differ on the number and types of agencies that are allowed to grant charters. In 15 states, only local boards of education can grant charters, while in 6 states, only the state board of education has that authority. Other states allow multiple agencies to grant charters.⁸

II. The Educational Mission of the Civil Rights Division

The seminal case of Brown v. Board of Education and its progeny had two objectives: ending the legal structure of racial segregation, whose design and purpose were the creation and maintenance of a racial caste system that relegated African Americans to the lowest tier of society; and to enable African Americans to gain access to quality education, which is the key to overcoming the barriers and limitations of racial segregation and to attaining the full enjoyment of and participation in the

⁶ Third Year Report at 18.

⁷ Third Year Report at 10.

⁸ Third Year Report at 12.

benefits of full citizenship.⁹

When many southern states refused to comply with the Supreme Court's mandate to desegregate "with all deliberate speed," it became necessary to sue individual districts in the courts to obtain relief. When Congress enacted the Civil Rights Act of 1964, 98% of black children in the South were still attending segregated schools. By 1970, enforcement actions brought by the Department and private plaintiffs had made the South the nation's leader in integrated schools.

The Department's initial enforcement efforts led to federal court orders requiring desegregation remedies in over 500 school districts. Private litigants obtained court ordered remedies in many other districts where the United States was not a party.

The Civil Rights Division continues to work to eliminate the vestiges of discrimination and segregation that remain in our educational system, and to provide access to equal educational opportunities for all students. Today, we live in a society where the school age population is much more diverse than the older population. Latino and Asian students, who received relatively little attention in the 1950's and 1960's, make up an

⁹ LDF Post-Brown bulletins

increasingly significant proportion of our population and an even larger percentage of our school enrollment. By 1996, Hispanic students made up 14% of students in the south and the nation as a whole, while Asian students are nearly 4%, and on a path to becoming 10% of the enrollment.

Congress has recognized that socioeconomic isolation and racial isolation are harmful to students, particularly minority students.¹⁰ In [19], Congress enacted the Magnet Schools Assistance Program ("MSAP"), which in part authorized the Secretary of Education to award grants to assist districts under court or state ordered desegregation plans, and to fund magnet schools designed pursuant to a voluntary plan to reduce, eliminate or prevent minority isolation. The MSAP was reauthorized in 1980, and is a part of the current Elementary and Secondary Education Act Reauthorization introduced in the Congress. In the last two years, the Department of Education has provided [\$x] of awards to [y] schools in [z] districts.

The Civil Rights Division currently is a party to pending

¹⁰ LDF Post-Brown bulletins (most studies cited actually point to socio economic rather than racial isolation. MSAP findings? Michigan expert reports?) "When African American and Latino students are segregated into schools where the majority of students are non-white, they are very likely to find themselves in schools where poverty is concentrated. This is not the case with segregated white students, whose majority white schools almost always enroll high proportions of students from the middle class" Orfield Report at 2.

orders in 497 school districts in 20 states.¹¹ Since virtually all of these pending orders define the school district's student assignment plan, including the construction of new public schools, changes to the districts attendance plans require court approval. As a party to these orders, when we are notified of a new school, new construction, or other change in an attendance plan that is covered by the order, it is our responsibility to determine whether the proposed modification is consistent with the requirements of the order and to advise the court of our views. The court, of course, will make the final decision. This responsibility applies to all covered construction and modification of which we are notified, whether the modification involves a traditional public school under the direct supervisory authority of the district or whether it is a charter school. The local school district, which has an affirmative obligation not to take any action that would impede the process of disestablishing a segregated system and its effects,¹² shares this responsibility. Reviews of modifications to a court order and questions of compliance with desegregation orders are necessarily fact specific.

¹¹ States with number of covered districts: Alabama (100), Arkansas (16), Florida (16), Georgia (94), Louisiana (41), Mississippi (75), Missouri (25), North Carolina (9), South Carolina (24), Tennessee (17), Texas (42), Arizona (2), California (1), Connecticut (1), Illinois (4), Indiana (21), Louisiana (41), Kansas (1), New York (1), Utah (2), Virginia (4).

¹² See ED Memo on Charters at 2 quoting Dayton v. Brinkman, 443 U.S. 526, 538 (1979).

Of course, the fact that a school operates pursuant to a court desegregation order does not mean that the school system can not make changes in its operations or educational programs. To deny school districts the ability to modify the organization of their schools in the face of changing demographics or aging facilities, or to adopt new educational programs, would be counterproductive to sound educational practices.

Sixteen of the 20 states in which we have pending orders have authorized the creation of charter schools: Arkansas, Arizona, California, Connecticut, Florida, Georgia, Illinois, Kansas, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Texas, Utah, and Virginia. The chart below provides some details on the number of existing charter schools in covered districts, by state.

[Insert table]

III. The Establishment of Charter Schools is Not Inconsistent with Our Mission

Most charter schools, especially newly created schools, have relatively small enrollments and are thus unlikely to significantly affect the operation and balance of a school

district. 65% of all charter schools were small schools enrolling fewer than 200 students, and 74% of newly created charter schools were of this size.¹³

In addition, the majority of charter schools have enrollments with demographic characteristics similar to those of the surrounding district.¹⁴ On the whole, charter schools have enrolled a slightly larger percentage of students of color than all public schools. Depending upon which of two methods are used, the Department of Education found that white students made up 52 percent of charter school students versus 60 percent of all public school students, or 55 percent of charter school students versus 63 percent of all students.¹⁵

For example, in Georgetown County, South Carolina, the Harbor School for Arts and Science charter school is currently operating with an enrollment of 137 students. Half of the students are black, and half are white. Given the size and demographics of the student body, we concluded that the school would not have a detrimental impact on the districts compliance with the court's decree, and we have raised no objection to the

¹³ [Third Year Report at] of course a large number of small schools in a single district could have a significant impact.

¹⁴ Third Year Report at 2.

¹⁵ Third Year Report at 30.

schools operation. In contrast, when the district was asked to approve the opening of three charter schools in the very buildings that, as part of the decree, were to be closed and merged in to new consolidated schools, we opposed the charters because they would clearly impede desegregation under the decree. Ultimately, before the court ruled, the voters of Georgetown County rejected that proposal. [Bolick Response].

Similarly, in Monroe, Louisiana, the local school board asked the court to evaluate whether operation of a charter school would adversely impact the desegregation of the city system before it approved the charter. The court granted a continuance for the hearing on the charter, and allowed the school to open for the time being. The board, the State of Louisiana, the Civil Rights Division and the charter have reached a satisfactory agreement. There have been no new developments. [details from Franz].

IV. Louisiana

At the end of the 1998, there were 6 charter schools operating in Louisiana - [names and locations]. Four additional schools were slated to open/opened in the 1998-1999 school year. [names].

Oct 08 1999 10:55:10.220 A RICHIE
FROM: LINDSEY
In Louisiana, white students made up 32% of the enrollment for the six charter schools operating in the 1997-1998 school year, while whites make up 51% of all public school students.¹⁶

The Committee has expressed a particular interest in our involvement with four charter schools located in East Baton Rouge Parish Louisiana - United Charter, Children's Charter, J.K. Haynes Elementary, and The Community Center for Apprenticeship Learning - as well as the proposed SABIS International charter school in St. Helena Parish. Because the decree in East Baton Rouge Parish is somewhat unique, it will be helpful to describe in some detail what the decree requires and how the proposed United Charter School may affect that district's ability to comply with the decree.

East Baton Rouge Parish is a large school district which currently enrolls approximately 56,000 students, of whom approximately 67% are black. The system runs 97 schools of which at least 50 are considered "one race" schools. (AH Files, EBR CHARTER SCHOOLS, Civil Rights Division Involvement in Louisiana Charter School Matters at 1).

The case was initially filed in 1996 by private plaintiffs.

¹⁶ Third Year Report at 33.

The United States intervened in the suit in 1979. In 1980, the Court granted the United States' motion on liability, and thereafter entered remedial orders for the elementary, middle, and high schools. AH EBR at 1. Three system wide magnet schools were approved.

The order did not achieve full desegregation. However, when a court finds unlawful segregation, one permissible remedy to make up for the discrimination is for the court to order that money be spent on programs in segregated schools.¹⁷ In 1996, the parties entered into a consent decree which permitted the district to implement a new plan devised by the board to create at least 26 magnet program schools and to rezone all schools other than the magnet schools. The district also agreed to enhance many of the one-race schools. The 1996 Consent Decree also prohibits the board from opening new schools without prior Court approval. US response at 1.

The district has not complied with the decree, in part, it claims, because it does not have sufficient funds. {JG memo 5/3/99}. For instance, the district initially did not adequately wire two one-race schools to accommodate their computer magnet focus, or provided appropriate facility and program enhancements

¹⁷ Anita's notes on Orfield p.1

at 30 one race schools which were designed to attract opposite race students. Nor has the district eliminated a large number of temporary classrooms.

A. Existing Charter Schools in East Baton Rouge Parish

The three existing charter schools -- Children's Charter, J.K. Haynes Elementary, and the Community School for Apprenticeship Learning -- were approved and opened in 1997 by the school board without either informing the plaintiff parties or obtaining Court approval. US Response at 1. In July of 1999, the board sought approval for the proposed expansion of Children's Charter and Haynes Elementary to accommodate new fourth and fifth grade classes. Complaint at 1.

Louisiana's charter school provision specifies that a charter school shall "be subject to any court-ordered desegregation plan in effect for the city or public school system."¹⁸. The Department does not oppose the continued operation of these schools at their current size because they do not impede the desegregation process. We have, however, raised concerns and asked for assurances about the effect that proposed expansion of these schools would have on the implementation of

¹⁸ Letter to F. Marshall from J.K. Haynes Foundation at 1 (July 19, 1999).

the decree.

The existing charter schools enroll a predominantly black student body. Based on statistics from the [1998-1999?] school year, Children's Charter had 76 students in pre-Kindergarten through 2nd grade of whom 91% were black. J.K. Haynes Elementary was established in 1997. Complaint at 2. Ultimately, the J.K. Haynes Charter is projected to have 140 students enrolled in grades K-6.¹⁹ Haynes enrolled 77 students in K-3, 97% of whom were black. In July, the Foundation sought a declaratory judgment that its operations would not adversely affect implementation of the decree entered by the court in Davis. Complaint at 6. US Response fn.1 Subsequently, the Foundation withdrew its request. The Community School for Apprenticeship Learning served 111 students in grades 6 through 8, 57% of whom are black.

Under the standards of the decree, two schools — J.K. Haynes and Children's Charter — are racially identifiable. US Response at 2. We have asked the charter school administrators to agree not to enroll black students attending predominantly white schools or white students attending predominantly black schools so as not to negatively affect the fragile level of integration

¹⁹ J.K. Haynes Letter July 19 at 1

that has been achieved thus far.

"The Board has previously invoked a lack of funds as an impediment to fully implementing the consent decree, particularly with respect to the extensive magnet program that it agreed to undertake in 1996." US Response at 3-4. "Each student attending a charter school reduces the regular amount of operational funding available to the system approximately \$4,700." (US Response at 4.) Accordingly, operating the [3] charter schools at their full capacity under current caps - 370 students - would result in an annual loss to the system of approximately \$1.7 million. US Response at 5.

Given the Board's previous assertions regarding its financial constraints with respect to the implementation of the decree, we believe it was fair to question the Board's decision to approve the expansion of three schools that could result in a diversion of almost \$2 million from the system. US Response at 5. However, in light of the Board's assurances that the operation of the school would not impede its ability to satisfy its obligations under the decree, the US did not oppose the board's motion to approve the expansion. US Response at 6. The Court ruled in August of 1999 that the schools, as presently constituted, were small enough not to present a financial

impediment to the implementation of the consent decree. The Court declined, however, to approve additional expansion beyond one additional grade at each school for the 1999-2000 school year, and directed that any further requests for expansion be submitted for approval. Court order.

B. Proposed United Charter School

In February of 1998, we were informed that the district had received an application for the establishment of the United Charter School. The school would enroll 650 students in its first year, and ultimately serve 1200 students in grades K -12. It is thus several times larger than the existing schools and than most charter schools.

We reminded the board that court approval would be required. We also met with administrators of the proposed charter school and requested information, not all of which was provided. In February 1999, the board filed a motion with the court requesting approval of United Charter. However, at the same time, the board asked that the court not take any action on its motion. The charter school group sought to intervene, and we opposed that request on the grounds their interests were adequately

represented by the school board. On March 24, the Court denied the charter school's request.

C. St. Helena Parish

St. Helena is a small district with approximately 1200 students, of whom 91% are black. (Bolick response, Email from ED.) When the desegregation plan for the parish was implemented, a majority of the white students in the parish left the public schools to attend a private school in a nearby parish. Today, most of the white students residing in the parish continue to attend private schools.

We have been informed by St. Helena's Superintendent that the private school is experiencing financial difficulties and has notified parents of a tuition increase. The Superintendent believes that the white parents are seeking an alternative to the private school, but do not want to enroll their children in the predominantly African-American St. Helena Parish system. The proposed charter school is located in the neighborhood where the white students who left the district live. It is a rural area, and there is no plan to provide transportation for students attending the charter school. When the State Board over-ruled the local board and authorized the establishment of the school, we asked for additional information and that the State Board

reevaluate its position in light of the possible effects that the charter school would have on desegregation in the parish.

Conclusion

The Department of Justice, along with the Department of Education, strongly supports the creation of charter schools to meet increasing enrollment demands and to foster public school choice. There is no inherent tension between the creation of charter schools and desegregation obligations. Most charter schools opening in areas under court-ordered desegregation plans should be able to comply with those orders. We stand ready to aid states, chartering authorities, local educational agencies, and community members who are considering charter schools, as well as other new schools. Part of that assistance includes help with identifying applicable civil rights obligations and ensuring compliance. With early notice and cooperation, we believe many new schools will avoid costly delays, challenges, or litigation.