

CRS Report for Congress

Public Charter School Accountability

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Summary

A public charter school is a publicly funded elementary or secondary school that is operated according to the terms of a charter or contract granted by a public chartering agency. Charter schools are granted charters for a fixed number of years, and the terms of a school charter typically include provisions granting autonomy in the operation of the school in exchange for adherence to specific accountability requirements. To retain or renew its charter, a school must adhere to the accountability requirements in its charter, while continuing to attract enough students to function as a viable school.

A public charter school may be accountable for a variety of actions or outcomes to a number of concerned entities, both internal and external to the school. This report focuses on accountability relationships external to the school, such as those involving students' families, communities, and the broader society. Particular attention is given to federal accountability requirements.

Currently, 40 states and the District of Columbia have charter school laws, and charter schools operate in all of those states. Charter schools are held accountable for results, as outlined in charter agreements and as required by federal and state law, chartering agencies, and state educational agencies. Charter schools also are held accountable through market mechanisms, such as parental satisfaction, with the result that many have waiting lists while others have been forced to close because of insufficient enrollment.

The Elementary and Secondary Education Act (ESEA) contains numerous accountability provisions, and these apply to public charter schools as well as to traditional public schools. The ESEA is expected to be considered for reauthorization during the 110th Congress, and existing accountability requirements will likely be closely examined as part of the process. With respect to charter schools, accountability issues that will likely be examined as part of reauthorization include how federal accountability requirements are being applied to charter schools, and whether charter schools are any more effective or efficient in educating students than traditional public schools.

This report will be updated as warranted.

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Public Charter School Accountability

Introduction

A public charter school is a publicly funded elementary or secondary school that is operated according to the terms of a charter or contract granted by a public chartering agency. The terms of a charter typically provide the charter school operator with increased autonomy in how to operate the school, often including exemption from, or flexibility in the application of, many of the state or local regulations otherwise applicable to public schools in exchange for greater accountability for results or outcomes. Charters usually are granted for a limited time period, typically ranging from less than five years to as many as 15. In order to retain or renew its charter, a school must adhere to the accountability requirements written into its charter and also must continue to attract enough students to continue functioning as a viable school.

This report examines public charter school accountability, with a focus on the federal role. In examining charter school accountability, however, we first consider *to whom, for what, and how* charter schools are held accountable and then examine how charter school accountability is being carried out in the states. We then provide an overview of the federal role in charter school accountability and describe how accountability provisions in the Elementary and Secondary Education Act (ESEA) apply to public charter schools.

Aspects of Charter School Accountability

To Whom?

To whom charter schools are accountable is a complicated question, concerning multiple types of accountability and involving relationships between a variety of actors. First, accountability may be internal or external to a charter school.¹ Internal accountability concerns relationships operating within the school, such as between a school governing board and teachers, and might involve the adherence to school guidelines and procedures or to a specified curriculum. External accountability concerns relationships between the school and outside actors. In regard to external

¹ For further discussion of internal and external accountability, see U.S. Department of Education, Office of Educational Research and Improvement, *A Study of Charter School Accountability*, by Paul Hill et al., Center on Reinventing Public Education, June 2001 (hereafter cited as ED, *Charter School Accountability*), and Sandra Vergari, "The Regulatory Styles of Statewide Charter School Authorizers: Arizona, Massachusetts, and Michigan," *Educational Administration Quarterly*, v. 36, no. 5, Dec. 2000, pp. 730-757, where bureaucratic and market accountability are described.

accountability, charter schools are accountable both to the broader society, through relationships between the school operator, the governing board, public chartering agencies, and other government entities; and to individuals, through relationships with students and parents. In this report, we focus on external accountability.

A key entity involved in holding charter schools accountable is the authorized public chartering agency. Forty states and the District of Columbia have charter school laws and each allows different agencies to grant school charters. Agencies authorized under state laws to grant school charters include

- local boards of education or school districts,
- state boards of education,
- state boards for charter schools,
- chief state school officers,
- independent school boards,
- intermediate school districts,
- county and municipal governments,
- vocational-technical school districts,
- public colleges and universities,
- community colleges, and
- private colleges and universities.

In some states, only local boards of education or school districts may charter schools, while in others, only the state board of education or chief state school officer may grant charters. In other states, the state board of education can approve a charter on appeal of a decision by a local board or district. In about a quarter of states, multiple agencies may grant school charters, while in some others, interdependent approval is required, usually by both the local and state boards of education.²

Characteristics such as the number and type of public chartering agencies in a particular state are significant in the application of school accountability. According to the U.S. Department of Education's (ED) *Evaluation of the Public Charter Schools Program*, the administration of accountability requirements appears to depend partially on the size of the chartering agency. The study reports that, in general, where the chartering agency is a larger, non-local agency responsible for all or multiple charter schools — particularly state agencies — there is evidence of a sound capacity to monitor accountability.³ In Massachusetts, for example, the state Board of Education is the sole chartering agency and also is the agency responsible for enforcing accountability requirements.⁴ This is held to simplify the accountability

² U.S. Department of Education, Office of the Under Secretary, *Evaluation of the Public Charter Schools Program: Year One Evaluation Report*, by Lee Anderson et al., SRI International, Dec. 2000, Exhibit L-1, p. 111. (Hereafter cited as ED, *Evaluation of the Public Charter Schools Program*.)

³ *Ibid.*, pp. 52-54.

⁴ Massachusetts has two types of charter schools — Commonwealth charter schools and Horace Mann charter schools. Horace Mann charter schools first must be approved by a local school committee, but both types of schools receive their charter from the state Board
(continued...)

process, because there is a clear line of accountability between the school and a single, well-resourced accountability agency. In states with multiple independent chartering agencies, the study reports, it can become more difficult to monitor accountability throughout the state. Local boards or agencies that charter only a few schools generally are less well equipped to adequately monitor performance. As chartering agencies have matured, however, they have shown improvement. For example, in Michigan, a state with multiple chartering agencies, Central Michigan University has undertaken efforts to improve its processes for approving and reviewing charter schools after having been criticized for being too lenient.⁵

As the number and type of entities authorized to charter schools vary across states, so do the accountability relationships between charter schools and their chartering agencies. While in some instances charter schools are directly accountable only to the chartering agency, charter schools are accountable to more than one agency in most states.⁶ In the majority of the states where only local educational agencies (LEAs) are authorized to charter schools, ED has found that both the chartering agency and the state educational agency (SEA) were identified as being responsible for charter school accountability.⁷ In states with multiple chartering agencies and which allow for the treatment of charter schools as independent LEAs, accountability relationships may involve a charter school being accountable both to its chartering agency under the terms of its charter, and also to the SEA for certain statewide requirements. In addition to the charter schools themselves, most states also require chartering agencies to prepare and submit reports on charter school accountability.

Charter schools are considered by some as having a direct accountability relationship with parents and the community that typically is not present in conventional public schools, by the necessity of their direct support in order to continue to operate.⁸ This is in part because in contrast to students being assigned to particular schools on the basis of their place of residence, as is normally the case with traditional public schools, parents of charter school students have actively decided to enroll their students in a school of choice and thus may have a greater investment in that school. Others, however, might suggest that with respect to accountability to the community, when schools are chartered by appointed boards or other unelected bodies, such as colleges and universities, the accountability relationship to the community may be rather limited.

According to some, the existence of charter schools as a choice for parents may have the effect of making both charter and conventional public schools more directly accountable to parents by providing them with more school choices, creating competition between schools and resulting in only the best performing schools being

⁴ (...continued)
of Education.

⁵ ED, *Charter School Accountability*, p. 57.

⁶ ED, *Evaluation of the Public Charter Schools Program*, p. 44.

⁷ *Ibid.*, p. 45.

⁸ ED, *Charter School Accountability*, pp. 6-7.

able to attract and retain students. Others remain skeptical that sufficient objective information is available to allow parents to make informed decisions.⁹ In addition to the accountability relationships described above, charter schools also are accountable to a variety of other actors such as teachers, unions, financial donors, and community interests, but whose roles are not central to this discussion.

For What?

Charter schools may be held accountable for activities specific to the terms of their charter. This may include the provision of a high quality education to students, often measured in terms of meeting or exceeding state standards as measured according to state assessments, or in terms of performing better than other public schools at educating similar students. It may include developing and adhering to a high quality and innovative educational curriculum that might not otherwise be available in conventional public schools. It also may include providing educational opportunities that meet the needs of students being ill-served in their current environment, such as disadvantaged or at-risk youth. Charter schools also may be held accountable for adhering to generally accepted financial and management practices. In addition to the terms of a charter, a school may be held accountable for satisfying parents or attracting and retaining enough students to justify the continued operation of a school.

Charter schools also may be held accountable for activities of a general nature and not specific to any school's charter, such as adherence to federal, state, and local statutes and regulations that are not subject to waiver, as well as statewide standards and assessment goals. Such activities represent types of accountability that apply to all public schools — conventional and charter alike. Activities for which all schools are to be held accountable are likely to be those that are deemed by society as essential to the successful operation of public schools. Some would argue that the accountability requirements written into schools' charters should specify results or outcomes that are more demanding than those required of conventional public schools. Others would argue that satisfying the terms of a school's charter and attracting a sufficient student body are the sole criteria by which charter schools should be measured.

How?

The method by which a charter school is held accountable depends on state law, and in general begins even before the school commences operations through the charter review and approval process. This consists of reviewing and basing the granting of a school charter on items such as a school's proposed mission, education plan, and curriculum; how the school will be innovative; how the school will be

⁹ However, under ESEA Title I-A, states and LEAs are required to make publicly available "report cards" depicting the success of LEAs and public schools (to include charter schools) at meeting ESEA accountability requirements. A discussion of requirements for school report cards may be found in CRS Report RL31487, *Education for the Disadvantaged: Overview of ESEA Title I-A Amendments Under the No Child Left Behind Act*, by Wayne C. Riddle.

financed; its facilities plan; and specific accountability requirements. In a few states, chartering agencies have adopted rigorous charter approval processes to help ensure that those schools granted charters are ready to succeed.

As charter schools operate, they can be held accountable through a variety of means, to include

- requiring charter schools to prepare and update accountability plans and submit annual reports;
- requiring chartering agencies or other public entities to conduct periodic site visits and to review reports and other information provided by charter school operators; and
- publishing information about charter schools, such as gains or declines in students' academic achievement, whether there is a waiting list or open seats in the school, and whether the school obtains accreditation.

As schools' charters come up for renewal, chartering agencies are responsible for conducting some degree of review, depending upon the terms of state law. Subject to the outcome of this review, the chartering agency can renew or revoke a schools' charter. Typically the review process informs the decision of whether to renew or revoke a school's charter. In some states, agencies other than those granting school charters also have a role in accountability, such as by setting and enforcing state academic content standards and accountability requirements. Chartering agencies can use a variety of methods and processes to review the schools they charter. In some instances, chartering agencies have created, or contracted with school inspection organizations such as in Chicago, Colorado, and Massachusetts. The latter patterns its review process on the British school inspection model.¹⁰

Charter School Accountability in the States

The manner and degree to which charter schools are held accountable vary from one state to another and are influenced, in part, by federal requirements. In general, charter schools must be held to accountability requirements that are the same or more demanding than those for conventional public schools. Like all public schools, charter schools must participate in statewide assessments that measure the progress of students toward meeting the state's academic proficiency standards. Some state charter school laws specify that school district accountability requirements also apply to public charter schools located within certain districts.

However, the authority through which public charter schools are held accountable under state accountability provisions and the administration of corrective action differs in each state. Some analysts note that the accountability requirements written into school charters can be vague or not substantive, despite accountability being one of the central tenets of the charter school concept. This critique is widely

¹⁰ Massachusetts Department of Education, *The Massachusetts Charter School Initiative*, 2001, p. 33.

recognized and has resulted in calls for improvements in charter school accountability processes. For example, the Center on Reinventing Public Education, notes that many government agencies do not have clear accountability processes in place for charter schools and that chartering agencies need to improve their methods of overseeing charter schools.¹¹ Some charter school advocates, concerned about current weaknesses in accountability systems, propose that charter schools adopt transparent charter school accountability principles, modeled after the Generally Accepted Accounting Principles (GAAP) employed by private-sector firms.¹²

While, in general, the chartering agency is responsible to some degree for ensuring that a charter school adheres to the accountability requirements of its charter, in the majority of states, multiple agencies have some role in charter school accountability, to include the SEA which is required under ESEA Title I-A to annually review the progress of each LEA receiving Title I-A funds in meeting the state's performance standards described in its state plan.¹³ ED's *Evaluation of the Public Charter Schools Program* found that only in six states is the chartering agency reported as the sole entity responsible for charter school accountability. In 10 states, responsibility for charter school accountability resides at the state level, while in 22 states, agencies at multiple levels of government are responsible.¹⁴

Only in a few instances have charter schools been sanctioned for failure to adhere to academic accountability requirements (as previously stated, most accountability problems have been for financial or managerial reasons). ED's *Evaluation of the Public Charter Schools Program* reveals a small number of charter schools being sanctioned because of poor student academic assessment levels (one school closed, two not renewed, and one placed on probation, out of 837 schools chartered by 48 agencies that were included in the study).¹⁵ The report does note, however, that in states in which the authority to charter schools is limited to either a state or local entity, charter schools are more likely to be sanctioned for accountability purposes (for any reason, not just student performance) than are charter schools in states in which multiple entities are authorized to charter schools.¹⁶ Thus, ED's preliminary findings are that chartering agencies that are responsible for many schools are better equipped to monitor the accountability of charter schools than are chartering agencies responsible for few schools, and that charter schools in states with a single level of charter authority — state or local — are more likely to

¹¹ Center on Reinventing Public Education. *Expanding Charter School Accountability. The Education Digest*, October 2001.

¹² Manno, Bruno V., Chester E. Finn, Jr., and Gregg Vanourek. Charter School Accountability: Problems and Prospects. *Educational Policy*, v. 14, no. 4, September 2000. pp. 473-493. The authors propose that charter schools adopt Generally Accepted Accountability Principles for Education (GAAPE).

¹³ It is ED's policy to treat charter schools which are not part of conventional LEAs as separate LEAs. Such charter schools are thus subject to SEA oversight regarding their progress in meeting state performance standards and on statewide assessments.

¹⁴ ED, *Evaluation of the Public Charter Schools Program*, p. 44-47.

¹⁵ *Ibid.*, p. 57.

¹⁶ *Ibid.*, p. 58.

be sanctioned for accountability purposes than are charter schools in states with chartering entities at multiple levels of government.

Federal Policy on Charter School Accountability

The federal government provides support specifically for public charter schools under the ESEA through the Public Charter Schools Program (Title V-B), under which ED awards competitive grants to SEAs or to charter school developers (in instances where either the SEA declines to apply for a grant or the SEA's application is denied), and under which funding is made available to support the financing of charter school facilities.¹⁷ Charter schools also may be funded under the following ESEA Title V programs: Innovative Programs (Title V-A), through which funds may be used at the state or local level for the planning, design, and initial implementation of charter schools; and Voluntary Public School Choice Programs (Title V-B-3), through which the cost of transporting students to charter schools may be funded. Additionally, the federal government encourages public charter schools as an option for students to transfer to if their school is identified for school improvement under Title I-A. Charter schools also are eligible for grants under a wide range of ED programs, such as Title I-A and IDEA, that are not aimed specifically at charter schools. While the federal government actively supports public charter schools, it has not enacted accountability requirements for all charter schools that are different from the accountability provisions generally applicable to all schools under the ESEA. The ESEA specifies that charter school accountability is to be administered in accordance with state charter school law.

Charter School Accountability Under ESEA Title I-A: Legislative History

As the 107th Congress considered reauthorization of the ESEA, the Senate passed H.R. 1 after incorporating a provision into Title I-A that would have required a minimum amount of rigor in the accountability requirements that states applied to charter schools. It stated:

Each State plan shall provide an assurance that the State's accountability requirements for charter schools (as defined in Section 5120), such as requirements established under the State's charter school law and overseen by the State's authorized chartering agencies for such schools, are at least as rigorous as the accountability requirements established under this Act, such as the requirements regarding standards, assessments, adequate yearly progress, school identification, receipt of technical assistance, and corrective action, that are applicable to other schools in the State under this Act. [Section 1111(b)(2)(H) — Senate]

¹⁷ For additional information on federal funding for charter school facilities, see CRS Report RL31128, *Funding for Public Charter School Facilities: Federal Policy Under the ESEA*, by David P. Smole.

This provision was dropped prior to enactment of the NCLBA. It would have explicitly required each state to adopt accountability requirements for charter schools that were at least as rigorous as those established under H.R. 1. While this provision specifically addressed accountability requirements for charter schools, it does not appear that absent it, accountability requirements for charter schools could have been any less rigorous than those otherwise applicable to public schools in the state. In lieu of the Senate proposal, the conference committee decided to add the following language to the Title I-A accountability requirements:

ACCOUNTABILITY FOR CHARTER SCHOOLS. — The accountability provisions under this Act shall be overseen for charter schools in accordance with State charter school law. [Section 1111(b)(2)(K)]

Additionally, the following language was incorporated into the conference report:

Charter schools are public schools and therefore subject to the same accountability requirements of this Act as they apply to other public schools, including Sections 1111 and 1116, as developed in each state. However, there is no intent to replace or duplicate the role of authorized chartering agencies, as established under each state’s charter school law, in overseeing the Act’s accountability requirements for the charter schools that they authorize. Authorized chartering agencies should be held accountable for carrying out their oversight responsibilities as determined by each state through its charter school law and other applicable state laws. This should be done in ways that do not inhibit or discourage the approval or oversight of innovative, high quality charter schools.

The provision at Section 1111(b)(2)(K) and the language in the conference report address concerns that absent the provision, there might have been some ambiguity as to the role of authorized chartering agencies vis-à-vis SEAs in overseeing ESEA accountability requirements for charter schools. During the ESEA reauthorization, neither the House nor the Senate proposed to amend substantively any of the accountability provisions of the Public Charter Schools program.

ESEA Accountability Requirements

Under the ESEA, as amended by the NCLBA, no distinction is made between conventional public schools and public charter schools in the application of the accountability requirements prescribed in ESEA Title I-A. All public schools remain subject to the same accountability requirements, with the exception that schools not accepting Title I-A funds are not subject to requirements for school improvement, corrective action, and restructuring. According to ESEA Title I-A, each state plan for which funds are awarded “shall demonstrate that the state has adopted challenging academic content standards and challenging student academic achievement standards that will be used by the State, its local educational agencies, and its schools.”¹⁸ In addition, each state agency must have assessments that will be used to measure the success of local educational agencies and schools in meeting its student academic standards for, at a minimum, reading and math, and no later than

¹⁸ ESEA Title I-A, Section 1111(b)(1).

the end of the 2007-2008 school year, science. Each school and LEA is required to make adequate yearly progress (AYP) toward all students attaining proficiency, as measured by state academic assessments, by the end of school year 2013-2014, with results reported according to required demographic subgroups.¹⁹ As previously mentioned, enforcement of ESEA accountability requirements, as applicable to public charter schools, is to be in accordance with state charter school law.

Charter School Programs

Federal law requires that charter schools funded under the Charter Schools program be subject to state accountability requirements in accordance with ESEA Title V-B-1, Section 5210, which defines the term “charter school” as a public school that, while exempted from certain significant state or local rules, is bound by certain federal requirements, including that it:

(C) operates in pursuit of a specific set of educational objectives determined by the school’s developer and agreed to by the authorized public chartering agency; and

* * *

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

Highly Qualified Teachers

Under the ESEA, states receiving funding under ESEA Title I-A must require teachers to meet certain highly qualified teacher requirements. In general, to be considered highly qualified, a teacher must meet a number of specific requirements, which include holding a bachelor’s degree; having obtained full state certification or having passed the state teacher licensing examination; holding a license to teach in the state; not having had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and having demonstrated subject matter competency in each subject taught.²⁰ However, with respect only to the certification and licensure aspects of the highly qualified teacher requirements, teachers teaching in charter schools must only meet the certification and licensure requirements applicable under their state’s charter school law. To be highly qualified, teachers still must meet all the other ESEA highly qualified teacher requirements.²¹

¹⁹ For further information on elementary and secondary education accountability provisions, see CRS Report RL31487, *Education for the Disadvantaged: Overview of ESEA Title I-A Amendments Under the No Child Left Behind Act*, by Wayne C. Riddle.

²⁰ ESEA, Section 9101(23).

²¹ U.S. Department of Education, *The Impact of the New Title I Requirements on Charter Schools: Non-Regulatory Guidance*, July 2004, pp. 14-15, at [<http://www.ed.gov/policy/elsec/guid/charterguidance03.pdf>], visited Jan. 27, 2006.