

REFLECTIONS FROM NEW YORK CITY'S
CHARTER SCHOOLS AND CHARTER AUTHORIZERS

GOING CHARTER
Lessons from Two First-Year Studies

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Going Charter: Reflections from New York City's Charter Schools and Chartering Authorizers

Executive Summary

I. OVERVIEW

In September 1999, the Institute for Education and Social Policy launched two three-year studies. The first, *Going Charter* examines newly formed charter schools, public alternative schools, and public schools converting to charter status. The second, *Going Charter: Systemic Effects*, examines the impact of charter legislation and implementation on the charter school authorizers and other agencies in New York City and State. The studies are inter-related and inform each other; perceptions of school staff often raised issues that we pursued with local and state administrative agencies. Similarly, interviews conducted with agency representatives brought up problems and prospects that we then tested at the school level.

II. METHODOLOGY

Going Charter is based on monthly interviews with staff in seven schools about their views on four areas critical to charter school implementation and operations:

- Autonomy—the freedom granted by the implementation of charter legislation
- Accountability—the objectives for student and staff performance that schools develop for themselves, and how these measures, as well as state requirements, influence instruction;
- Finance—money schools receive and how they spend it;
- Supports—the technical assistance and professional development available to, and developed by, schools.

Systemic Effects is based on interviews with representatives of charter authorizers and their administrative arms, the United Federation of Teachers, community agencies, foundations, nonprofit and for-profit companies and technical assistance agencies involved in New York State's charter movement. Our interviews probe critical changes in:

- Educational policy at the city and state levels
- Internal operations as part of implementing the state's charter legislation.
- The methodology is further described in the two reports that follow this Executive Summary.

III. FINDINGS—THE SCHOOLS

While autonomy promised by charter status has generated enthusiasm among a variety of public school constituencies, with a number of small alternative schools seriously considering going charter, the first year of charter reform in New York State suggests a more complex reality.

- New schools, whether they were start-up charter schools or new alternative schools, experienced the excitement of shaping their schools from the ground up. But though autonomy was important in these schools, it was insufficient. Teachers and principals often felt stranded and uncertain, in need of outside support.
- First-year conversion charter schools in New York City experienced the frustrations of extricating a variety of key operations from the public school system. As important, many teachers and principals saw charter school accountability as curtailing the autonomy they had experienced as alternative schools.

IV. FINDINGS—THE AGENCIES

The first year of charter school implementation in New York State has been a complicated process involving a variety of agencies in solving new problems.

- The three authorizers operating during 1999-2000—the Board of Regents, the State University of New York, and the New York City Chancellor of Schools—struggled to build capacity and operations appropriate to charter reform.
- In the absence of a new kind of monitoring appropriate to the outcomes-based accountability of charter schools, the New York State Education Department, which assumed oversight for all charter schools, tended to rely on traditional compliance-oriented monitoring.
- Charter reform opened up the operations and servicing of schools to for-profit and non-profit companies and organizations. This, in turn, put new pressure on the New York City Board of Education to untangle the costs of its own operations and services, and on the United Federation of Teachers to tailor contracts to the specific needs of emerging charter schools. Although these internal transformations have yet to occur, they promise still greater changes in the public education landscape.
- Other state school reform initiatives, especially standards-based reform have the power to enrich or hinder the promises of charter reform.
- New York State's charter legislation does not clearly define charter schools as separate Local Education Agencies (LEA). Nor does it stipulate that charter schools remain within the jurisdiction of their geographic LEA. The resolution of this issue will impact the distribution of funds to schools from governmental agencies, as well as the administrative authority of individual charter schools.

Going Charter: Perspectives of School Staff on Autonomy, Accountability, Finance, and Supports

I. OVERVIEW

In September 1999, the Institute for Education and Social Policy, with support from the Annie E. Casey and Rockefeller Foundations, launched an investigation of the process of charter school start-up, and the conversion from regular public schools to charter status, in New York City. Over three years, from fall 1999 through spring 2002, we are following:

- Small alternative public schools, some of them relatively new, operating under the umbrella of the New York Networks for School Renewal (NYNSR, the Annenberg Challenge grant organization in New York City);
- Small alternative (NYNSR) schools that are converting to charter status;
- New (start-up) charter schools; and
- New conversion charter schools that were originally alternative public schools.

Our focus is on the perceptions and views of school staff in four areas critical to school implementation and operations:

- **Autonomy**—areas of autonomy granted schools by different chartering agencies, and how schools define the autonomy they want and need; **Accountability**—the objectives for student and staff performance that schools develop for themselves, and how these measures, as well as state requirements, influence instruction;
- **Finance**—the money schools receive and how they spend it; and
- **Support**—the technical assistance and professional development available to, and developed by, schools and the support these schools choose to access.

In September 1999, we also initiated *Going Charter: the Systemic Effects*, a companion study designed to investigate how implementing charter school legislation is impacting educational administrative agencies at the local and state levels. Although this research is reported separately, the two studies complement

each other: perceptions of school staff often raised issues that we pursued through interviews with local and state officials in our Systemic Effects study. Similarly, interviews conducted with officials brought up problems and prospects that we then investigated in our sample schools.

II. METHODOLOGY

Sampling

We used a purposeful sample to obtain “information-rich cases” from which we might best learn about those issues of central importance to the research.¹ In selecting alternative public schools, we sought variation in:

- Location (representation across districts and boroughs); and
- Age of the school (new or established).

Our sample of alternative schools was drawn from a group of nine alternative schools in NYNSR that were considering going charter.

In selecting charter schools, we sought variation in:

- School status (new charter school or conversion charter school);
- Connection to outside entities, such as educational service providers or community based organizations; and
- Chartering agencies under which the schools operated.

Because the first year of our study coincided with the first year of charter school implementation in New York State, the number of schools chartered limited our sample of charter schools. There were five charter schools operating in the state: one start-up charter school in Albany and four charter schools in New York City (two conversions and two start-ups).

¹ Patton, M.Q. (1990). *Qualitative Evaluation Methods*. (2nd ed.). Thousand Oaks, California: Sage.

Nine schools were initially selected, of which seven schools agreed to participate in the research: two schools—a new charter school managed by a for-profit company, and a new alternative school—declined our invitation to participate. Nevertheless, for both groups—charter schools and alternative schools—we were able to achieve variation in key variables for the following schools that ultimately comprised our first-year Going Charter sample:

- Beginning with Children, an elementary alternative (NYNSR) school interested in going charter;
- Bronx Little School, an elementary alternative school starting up as a NYNSR school;
- Cypress Hills Community School, an elementary and middle school interested in going charter;
- International Charter High School, a conversion charter school;
- Middle College Charter High School, a conversion charter school;
- John A. Reisenbach Charter School, an elementary charter school starting up; and
- The Renaissance School, a K-12 alternative (NYNSR) school interested in going charter.

Fieldwork October 1999—June 2000

Since Going Charter examines the perceptions and views of school staff about issues of implementation and operations, it was important that we regularly sample those perceptions and views over time. Each month, two members of our charter school research staff visited each of our study schools. During these visits, we spoke with the principal as well as a rotating group of two to four teachers or other staff members.² Because these interviews took place in the schools, we often observed aspects of the school’s daily functioning and operations.

Introductory Interview. After sending letters of invitation in October of 1999, several members of our team paid each participating school an initial visit. This first

² Some schools in our study had small teaching staffs. In those cases, we were very respectful of teacher’s time and were occasionally not able to speak with them on the day of our visit.

visit gave us the opportunity to introduce ourselves to the principal, teachers and other staff, and to explain the purpose and method of our study. School staff was assured that we were interested in issues of implementation and operations, not in classroom observations or student outcome data. The introductory visit was also used to gain background information on the school and set a date for a second visit.

Protocol Development. To understand the start-up and conversion process, particularly in our four focus areas—autonomy, accountability, finance and support—we developed protocols tailored to each area and the school’s status prior to each visit. In addition a hypothesis protocol was generated from our first semester of research for interviewees’ consideration. A final protocol focused on the challenges and the opportunities interviewees had encountered during the year, as well as their hopes and expectations for the year to come.

Site Visits. Two researchers were assigned to each school. Each month we interviewed three staff members (a principal and two teachers). The interviews lasted thirty to forty-five minutes. Interviewees had the opportunity to offer insights indirectly related to our focus issues—autonomy, accountability, finance, or support—or lead the conversation into unanticipated terrain. During the first year of research, we interviewed a total of fifty-one school staffers; eight principals (one school has co-directors), thirty-three teachers, two assistant principals, one staff developer, one school guidance counselor, and one dean. In addition, because two schools have educational service providers (ESPs), we interviewed three representatives of the ESPs³.

In June 2000, two charter schools invited us to observe the New York State Education Department’s monitoring visits. Both were daylong occasions during which we observed the monitors as they toured the schools and interacted with the school staff. These monitoring visits provided critical insight into the State Education Department’s understanding of its oversight responsibilities to charter

³ We use the term educational service provider (ESP) to designate both non-profit and for-profit organizations that establish and/or contract with schools to manage all or some aspects of school operations.

schools, as well as the schools' expectations of their relationship to the State Education Department.

Data Management and Analysis

After each school visit, the visiting team members typed the field notes into a secure database. All the team members reviewed the field notes, posted questions and made comments. During weekly team meetings, we discussed common themes emerging from the interviews. In February 2000, we conducted a preliminary analysis of the data collected, which led us to add the hypothesis protocol to the interview schedule. In July 2000, each team member read and coded field notes for the entire year, and we began the process of analyzing the first year's findings. As commonalties and differences among the schools became apparent, we verified them through a re-examination of the data. We also problematized themes and searched for alternative explanations and negative instances of patterns. What follows are our findings for the first year. We divide these findings into two sections: 1) Three first-year stories and 2) the autonomy-accountability exchange.

III. THREE FIRST-YEAR STORIES

Although each of the seven schools in our first-year sample had a unique story, our focus on autonomy, accountability, finance and support elicited three general narratives. The first, situated in three small alternative schools, was about the dreams and fears of the autonomy that going charter might bring. The second, situated in both a start-up charter school and a small new alternative public school, was about the difficulty of starting a new school and the need for outside support. The third, situated in two conversion charter schools, concerned the difficulties of extricating their finances and operations from the public school system, and their frustrations with the ambiguous gains in autonomy and the complications of accountability resulting from charter status.

The Dream and Fear of Charter School Autonomy

In the fall of 1999, three of the small alternative schools in our sample were interested in going charter. Two schools submitted successful charter applications in

1999-2000. However, only one converted to charter status in the fall of 2000; the other asked to defer its conversion for one year. This school decided against going charter—at least for the moment.

The desire for enhanced autonomy was the over-arching motive for going charter among the school staff we interviewed. Staff in the three alternative schools wanted freedom from the oversight and regulation of both their community school districts and the Board of Education.⁴ They wanted control over the management and allocation of their finances and the hiring and dismissal of their staff. In a city school system suffering from extreme overcrowding, the possibility of securing and designing their respective physical spaces was also an important motive.

Staff in a school housed inside another school viewed going charter as a potential strategy for obtaining new and better facilities. That is, the increased autonomy in spending that would result from charter status might allow the school to fund a new building. However, as the school contemplated the possibility of going charter, it simultaneously increased its effort to raise public construction funds. When such funds appeared to be available through new channels at the Board of Education, interest in going charter among school staff substantially decreased.

Legally, parents and staff must support any conversion to charter status. Nevertheless, principals played key leadership roles in steering their schools toward going charter. As the liaison between the school and the larger bureaucratic world, principals were most likely to experience the multiple burdens of district and BOE initiatives and meetings, regulatory procedures and the ongoing paperwork of reporting requirements. They also saw how these procedures and requirements influenced the school's instruction. Thus principals were generally the strongest advocates for going charter. A principal, who likened going charter to the United States gaining freedom from England, argued: "We are in good standing with the

⁴ New York City's public schools are divided into thirty-two community school districts that administer elementary and middle schools, the Chancellors district for low performing schools, and district 75 serving special needs students. In addition, there are five borough-wide high school superintendencies and a citywide alternative superintendency.

district. But we also have become victims of the politics of the district.” This principal and his staff were in an ongoing battle with the district over whether the school needed an assistant principal (the district's view), or whether the school could use that position allocation to fund other more useful staff (the school’s perspective). The principal believed that converting to charter status would quickly resolve this problem, allowing the school to staff itself as it saw fit.

Another principal described a series of changes in district leadership, which had left the school exposed to the political whims of the district and the Board of Education, as a reason for considering conversion. This principal worried that new district initiatives would distract the small school from its mission. A third principal described the school as having been moved administratively from one district to another; it was currently under the direct supervision of the Board of Education. Although the principal was good at working within the system, this individual was aware that a new Chancellor could create a new set of uncertainties for the school. “We are at the whim of whoever is in charge [at the Board].” The principal hoped that going charter would prevent future administrative relocations. At the same time, a principal who strongly advocated going charter for the autonomy it offered also acknowledged the ensuing loss of support. “Yes! We lose a level of expertise at the district level.” This principal was not alone in recognizing the loss of support that going charter entailed.

Despite their enthusiasm for going charter, the administrators in small alternative schools were generally uninformed about the specifics of charter law and were unaware of the constraints under which even charter schools are required to operate. They also remained fairly isolated from the trials and tribulations of the first-year charter schools. On those few occasions when these alternative school administrators heard about some of the difficulties the conversion charter schools were experiencing, they seemed stunned, but hoped that the snarls would be worked out by those schools who were acting as the charter school “guinea pigs.”

In general, teachers appeared less enthusiastic about going charter. They were more concerned about the potential liabilities of converting to charter status and talked more often about “the unknown.” They knew the curriculum already existed in the school, but wondered who would repair the phone or where the children’s lunch would come from. Not surprisingly, they were also concerned with workplace issues and what might happen to their salaries and benefits. One teacher expressed typical ambivalence about going charter:

I really don’t know. I have mixed feelings about it. What does it mean for me as a teacher and my retirement...From what I know from other schools, it would give us more autonomy from the superintendency. But this could also be problematic. On the other hand, maybe it is something we can take advantage of, and it could help us grow.

In all three schools, principals played strong leadership roles both in getting their school to decide to go charter and in developing the charter applications. One principal, who saw charter status as the solution to staffing problems, was also aware of the skepticism of some faculty members. When school-wide consensus seemed problematic, this principal argued that: “As a leader, you have to know when it is time to be a general and push something through.”

Although both principals whose schools decided to go charter played strong roles in bringing their staff along, in one school the charter application was written by the ESP, and so the application process remained somewhat isolated from the daily life of the school. When the school was granted charter status in June 2000, the staff raised concerns about unresolved issues, including payroll and BOE approval of a much-needed facility. Although the state did not have an official procedure for deferring conversion once a charter was approved, after some confusion the school was allowed to move the start date for charter status ahead to September 2001, allowing for a year to plan and work out school concerns.

The Difficulties of Being a New School and the Need for Outside Support

Charter researchers have pointed to “the liability of newness” as a commonality among charter schools that start from scratch.⁵ To separate the difficulties of being a new school from any issues that might arise as a result of charter status, our study included both a new charter school and a new small alternative public school that was beginning as part of the New York Network of School Renewal (NYNSR). Both schools were extremely small—serving 125 and 40 students. Although the staff and the principals were generally young and inexperienced, they were enthusiastic about opening a new school in which they would be able to shape the school from the ground up.

A teacher explained the informality and enthusiasm the school was creating:

We work in a tight knit community and we are about the same age...We converse first as friends before colleagues. We spend hours on the phone. There are teachers who come here at nighttime and crash here...There is a constant dialogue day and night.

Yet, as the year progressed, it became clear that autonomy was an insufficient requisite for building a strong school.

In both the new alternative school and the new charter school, the principals were also new to their leadership roles, and so struggled to build administrative infrastructures. In the meantime, the start-up charter school depended on its educational service provider (ESP) for administrative and instructional expertise, and the new small public school struggled to obtain similar assistance from its district and its sponsoring agency in the New York Network for School Renewal.

Throughout their first year, both new schools were besieged by a variety of problems related to newness. Most critical was the need to create an effectual curriculum that

⁵ Loveless, T. & Jasin, C. (1998). “Starting from Scratch: Political and Organizational Challenges Facing Charter Schools.” *Educational Administration Quarterly*, 34 (1).

provided continuity from grade to grade. This was complicated by the fact that in both schools the young staff lacked experience in curriculum development and classroom management. A teacher said, quite heatedly, "We don't have a curriculum, I mean a workable curriculum. It is insane. Teachers burn out and this kind of thing causes attrition." Another said, "This is where I am frustrated. There is no writing curriculum. So I created a writing curriculum that I use in my class." In one school, the ESP sent a staff developer to help the teachers develop a curriculum. However, several teachers still complained that the hardest part of their job was figuring out what to teach. In the second new school, a teacher complained of having to implement a new math curriculum in the middle of the year because the original one was not working. Late in the year, the school principal sought professional development on issues of conflict resolution and classroom management. However, a stronger instructional program might have resolved some of these management issues.

Both schools also shared space with other institutions: one with a community-based organization and the other with several schools housed in the same building. Both schools had good working relationships with their "landlords." But in one, getting the heat or air-conditioning working, or fixing broken plumbing was difficult. (This school was able to find temporary locations in three new buildings for the 2000-2001 academic year.) The building in which the second school was located contained several schools under the jurisdiction of two superintendencies. This made it difficult to get expeditious decisions, and the school faced multiple delays in the construction of classrooms necessary for future expansion. The limited experience of both the directors and staff contributed to the problems encountered by these schools in their first year. By the end of the year, the directors as well as the staff understood the liability of newness. A principal said,

I really need support for being a first-year principal. This is a definite hole. I need help to learn the system—where to go when I need certain things. But I

also need help in supporting my staff: how to deal with new teachers, how to deal with teachers who can't manage their classrooms.

A teacher expressed a similar view, "We have to come up with a better way. We made this school quickly. We had to find teachers quickly. For the next teachers we hire, they should make it clear that they need at least three years of teaching experience."

The Difficulty of Extrication from the Public School System and the Ambiguous Gains in Autonomy as Conversion Charter Schools

In 1998, the New York City Chancellor Rudolph Crew invited two alternative schools led by strong and innovative principals to become charter schools. Both schools had excellent reputations for serving students, as well as highly developed forms of self-governance. All observers assumed that both would quickly succeed as charter schools and enhance the reputation of New York City's burgeoning charter movement.

Both schools accepted the invitation to go charter: they believed that their autonomy had been stripped away as the alternative school movement had become increasingly bureaucratized, and they hoped that their schools would retrieve some of their lost freedom once they became charter schools. In neither school did "going charter" suggest a change in mission or operations: "We don't want things to look different. What we want is the autonomy to keep things the way they are or strengthen the programs as they are evolving," said one principal. Central to this freedom was both maintaining the in-house criteria they had developed for admitting those students most likely to benefit from their programs, and continuing to develop portfolio assessments in place of standardized testing. In addition, both principals wanted the autonomy to spend money as they saw fit, to hire staff with fewer constraints, and to schedule their school days in ways that best suited their instructional programs. One principal explained the multiple reasons to convert to charter status:

We wanted to be able to control our budget, do our own hiring, including non-certified teachers, recruit people from other schools, work on leave of absence, have the ability to plan ahead. I want to go charter because of the bureaucratic inflexibility of people I work with [at the district and the BOE]. We can organize the schools differently. Additional funds will help us.

In the fall of 1999, both schools officially became conversion charter schools. Nevertheless both spent the year operating without their own budgets. Inside the Board of Education, a variety of administrative offices needed to work together and separately to extricate the schools fiscally and organizationally from the central system. Indeed, this need to “fix the 747 while the plane was in flight,” as several officials expressed it, caused misunderstandings on both sides. The conversion schools had had high expectations that the Board of Education’s chartering office would be their ally—facilitating and easing their move towards autonomy. But BOE officials operated in a more cautious manner, their allegiance remaining with the New York City public schools to which the charter schools were becoming outsiders.

A central issue was whether conversion charter schools would maintain their own pension systems, or whether teachers in these schools would remain in the BOE system. If the charter schools had an autonomous pension system, their teachers’ individual contributions would probably have to increase dramatically. In any case, the pension question had to be resolved before the schools’ payrolls could be separated from the system serving all New York City public school teachers.

Because both schools were strong union schools, the United Federation of Teachers actively sought to help retain the schools in the general Teacher Retirement System (TRS) system. While the principal in one school saw the union as an ally, the other principal was very cautious about the UFT’s involvement:

The union and the Board of Education have a symbiotic relationship and a parallel structure. I remain positive about the union, but I am not blinded—

they are supportive, but still, their interests are not about letting us make our own decisions.

In addition to teachers' salaries, a major financial concern was the per pupil allotment these schools would receive as charter schools. Both conversion schools had been promised that they would not lose funding by going charter; because they had senior staff, they were ultimately given significantly more generous per pupil allotments than the start-up charter schools, which received the legislated 90% of the district average per pupil allotment.

The new regulations imposed by the New York State Education Department and the New York City Board of Education were additional sources of worry for the conversion charter schools. The schools' decrease in autonomy occurred in several critical areas, among which were student admissions. New York State's charter law states that charter schools must accept all students who apply and must use a lottery in the case of over-subscription. Of the two conversion schools, one serves new immigrants with limited English proficiency, while the other serves middle school graduates considered at-risk in the large impersonal atmosphere of most New York City public high schools. While both schools operate under a strong egalitarian ethic, both had developed their own methods of working with feeder schools and the Board of Education to select those students they believed would benefit from their very particular environments and academic programs.

These charter schools had anticipated continuing the admission policies and processes they had used as public schools. However, the Board of Education argued that, since charter schools were not allowed to select students, these schools no longer had the right to the application materials circulated internally among New York's public schools.⁶ For a time, there was even a question about whether the

⁶ Issues of student admissions continued to plague the schools. Despite using a lottery for final selections, one school was asked by the SED to provide evidence that students were not being admitted solely on the recommendations of middle-school staff.

charter schools would be listed in the High School directory given to all New York City public school students selecting a high school. While one charter school principal saw these changes as a sign that the Board of Education “no longer trusts us,” the Board of Education viewed its position as the proper implementation of charter legislation. One Board of Education official saw the schools’ complaints as indications that the schools were not prepared to take on new responsibilities, and “like adolescents, they want their freedom, but they still expect to come home to do their laundry.”

New York’s charter law also makes clear that charter schools "shall not discriminate against any student . . . on the basis of disability," and that the methods and strategies used to serve students with disabilities must be "in compliance with all federal laws and regulations." The state interpreted these provisions as meaning that charter schools must identify all special needs students and provide them with services traditionally deemed appropriate. But one of the conversion schools had made a policy decision some fifteen years ago not to identify its special needs students. Although this policy decision had resulted in a significant loss of funds for the school, the principal and many of the teachers believed that the stigma attached to a special needs identification had such negative educational repercussions that they were willing to sustain the loss of funding in order not to label and stereotype their students. Ironically, charter status placed the school under pressure for the first time to show that it was identifying those students needing "special services," and that Individual Education Plans and “appropriate” services were being provided. Finally, both schools spent their first year as charter schools in an extended and at times dramatic battle against the imposition of the New York State Regents English Language Assessment as a requirement for student graduation. While New York's charter law stipulates that charter schools will “be required to take Regents examinations to the same extent such examinations are required of other public school students,” as alternative schools both schools had been granted waivers from state assessment until 2001. Moreover, their charter application had stipulated that students in their schools would be evaluated by performance-based assessment,

linked to the state standards but not to the Regents exam. In May 2000, the New York State Commissioner of Education ruled that, while some alternative schools would maintain their exemptions from the Regents exams for another year, both conversion charter schools would have to administer the Regents exams. The schools challenged the Commissioner's decision in court, arguing that these exams would force the schools to shift away from the curriculum they had worked so hard to develop, and that they would not have converted to charter schools if they had thought they would lose their Regents' exemptions. When the schools lost their case in court, their students were forced to take the exams with little time for preparation.

IV. THE CHARTER SCHOOL PROMISE: THE AUTONOMY FOR ACCOUNTABILITY EXCHANGE

In converting to charter status or opening a new charter school, the school staffs we interviewed assumed they were entering into a straightforward contract: in exchange for meeting their student performance targets in a well-defined system of accountability, the school would receive increased autonomy. This belief in a simple exchange of sharpened accountability for greater freedom is what drew a number of small alternative schools to consider charter status.

Yet the actual implementation of the charter exchange—autonomy for accountability—was much more complex and multi-dimensional than any of the schools had anticipated.

1. Autonomy

Principals and staff in both the start-up charter school and the new public school in our sample wanted autonomy in both instructional and operational areas of schooling. They wanted to design their own curriculum, shape their own school day, train their own teachers and make other management decisions effecting instruction. Over the school year, however, the focus on instruction was dwarfed by the urgency of solving administrative and operational issues, including payroll, transportation, and food services.

By contrast, staff in both the more established alternative schools and the conversion charter schools had dedicated years to sharpening their mission and creating an infrastructure to bolster the instructional programs they themselves had shaped. Having already achieved a good deal of operational autonomy from their districts and the Board of Education, these schools had hired teachers who subscribed to the schools' mission and realized it through their classroom teaching. For these schools, autonomy meant being left alone to strengthen their existing programs.

Even within the more established alternative schools and conversion charter schools, the principals and teachers defined autonomy differently. The principals were strong instructional leaders, and they were more concerned with the administrative and operational autonomy necessary to implement the instructional programs they wanted in their schools. The teachers tended to seek instructional autonomy, both to implement their curriculum and to manage their classrooms. But because the non-charter schools in our study were alternative public schools, most teachers in those schools felt able to exercise discretion over major aspects of their work. Teachers' interest in going charter was often limited, because they saw their autonomy as determined more by their principal than by the schools' external status as an alternative public or charter school. One teacher acknowledged that, while a certain degree of freedom was useful, it was also good to have the structure a principal established.

Interestingly, staffs in both the new alternative school and the start-up charter school were least likely to complain about external infringements on their autonomy in large part because, being new to the system, they had no reference for what infringements on their autonomy might mean. Moreover, city and state rules were at times seen as positive guidelines in what was otherwise an overwhelming sea of new responsibilities.

Staff in all seven case study schools felt restrictions on their autonomy from outside the school in the form of regulations, required meetings and paperwork imposed by

their district, their chartering agency, the BOE or the state. Charter schools were subjected to cumbersome reporting and fiscal and operational audits by the State Education Department acting in behalf of the Regents. Alternative schools, which had exempted themselves from some district and union staffing procedures and some standardized assessments, were still subject to bureaucratic requirements that they saw as often inconsistent with their schools' needs. Mandatory meetings were especially burdensome to small schools that didn't have enough teachers to cover classes for missing staff. Alternative and charter schools alike felt that their freedom to create meaningful curricular programs was curtailed by accountability mechanisms that required them to utilize instructional time to prepare students for city and state assessments.

Schools with connections to educational service providers (ESPs) struggled with very particular issues of autonomy, complicated by overlapping identities and intermingled authority. The ESPs often saw themselves and their schools as a single entity, identical in their interests. "We [the ESP] operate schools on the school's behalf. The school is the subsidiary of us," said the president of one organization. From the principals' perspective, the ESP-school relationship was more nuanced. Principals spoke of acting as partners with the ESP in a common enterprise, and of the enormous support they received from the ESP. But principals also saw themselves as being accountable to the ESP. One noted that the school was free to make changes so long as the students' test scores remained satisfactorily high.

Teachers were generally more distant from the school's ESP, as well as more likely to be critical of the relations between the school and the ESP. Although some teachers mentioned the funds and the resources they received from their ESP, they felt the tug of an outside authority they experienced as disconnected from the daily reality of the school. In one case, the educational service provider was playing a leading role in getting the school to go charter by writing the charter application. Teachers remained distant from this potential transition to charter status, and belatedly mobilized against conversion when the charter was granted.

In theory, charter status allows schools the autonomy necessary for operational and instructional innovation, and so fosters greater efficiency and higher student achievement. Yet both the desires and realities of school staff in our study sample contradicted the image of strong schools as separate islands free to follow their mission. While all of our study schools wanted more independence from public education authorities, most of our interviewees sought to strengthen their schools through a mix of autonomy and connection. For example, the two conversion charter schools were active in creating a statewide network to advance performance-based assessments. One charter school was also part of a national network of high schools situated inside college facilities. The principal of a conversion charter school described the ideal “virtual district.” Created by networks of schools, this virtual district would come into existence when a school or a group of schools needed support, but since it operated through connections rather than an established bureaucracy, it disappeared when the school(s) no longer needed support. For this principal, as for others, autonomy was the simultaneous pursuit of freedom and connection: freedom from the constraints of bureaucracy and connection to supporting structures.

2. Accountability

Unlike traditional public schools, charter schools owe their existence to their promise to reach an agreed-upon level of student performance; if they fail to reach the achievement targets promised in their application, their charter can be revoked. In New York State, the standards movement has led to a battery of new state-wide standardized assessments, and has increased pressure on all public schools to meet state performance targets. However, several years ago a group of alternative high schools received the state education commissioner’s exemption from administering the Regents examinations. The two conversion schools were among this group. While charter law is explicit that charter school students are to take the Regents examinations “to the same extent as other public school students,” the law does not state that charter school accountability promises must be phrased as student scores

on these assessments. Indeed, the two conversion charter schools had framed their performance targets in terms of their portfolio-based assessments.

In addition to the unending pressures of both mandated tests and compliance reporting, the principals and teachers in all our case study schools tried to develop their own standards for a quality learning environment. Principals reported feeling responsible for providing both engaged learning for students, and the support and professional development teachers needed to create this engaged learning environment. Some spoke of being accountable for creating a school culture that facilitated mutual support. “Support is linked to accountability. This includes creating an environment where it’s okay for teachers to ask for help in a timely manner – before its too late.” One charter school had also instituted parental contracts, which meant that parental support for the school’s programs was tied into its internal accountability.

Teachers saw their accountability role as organizing and delivering instruction to improve student achievement. One teacher held herself accountable, not just for getting the students to understand a lesson, but for teaching them how to make connections between lessons and to extrapolate from one lesson to another. “If the kids’ questions are on target, then I know I am teaching well. If I am getting questions from left field, then I know that I am not conveying something well.”

In a school that had established strong theme-based teacher teams, the teachers spoke of their responsibility to each other. “If I don’t teach a particular subject well enough, the burden is going to fall on the next teacher.” This sense of accountability also influenced the hiring of new staff: “If we hire a weak link, it’s our responsibility to bring that person along, or we all suffer.” Teachers also spoke of accountability to parents and to their principal, as they shared the ongoing task of turning the school into a community.

Several schools in our sample had designed systems of shared internal accountability that included self-corrective mechanisms. Committees, clusters, governing structures, and boards of trustees helped to keep the schools grounded in their mission. In one school, teams of teachers made their own hiring decisions, shaped the curriculum of the team, and observed each other's classroom lessons. Teachers in this school felt that this internal accountability system both strengthened the quality of teaching and contributed to a sense of community and camaraderie in the school.

Although teachers and principals were quick to acknowledge their accountability for student learning, the standardized tests used to measure this learning were the subject of intense debate. Some teachers believed that neither the New York State Education Department nor the New York City Board of Education were in a position to design appropriate assessments for students, and that the construction of tests should be left to the teachers and principals who know their students best. A principled position against all standardized assessments was embodied in the resistance of the conversion charter schools to taking the Regents exams, and their threat to reconvert to BOE schools if this issue could not be resolved in their favor.

Schools sometimes experienced contradictions in the external accountability systems. Several schools in our sample were caught between the educational desires of their ESPs, from whom they received funding, and the educational requirements of the city or state. One school, for example, was working with its ESP, a community-based organization, to build an innovative dual language program, an effort which might easily take time from teaching to the state's standards, and whose successes would not be measurable on the state tests. Another school saw itself in constant tension between the progressive curriculum and instructional methods it was developing with support from its ESP, and the pressure it felt from both the ESP and state and local authorities to show increased performance on standardized tests.

Beyond the accountability for student performance outlined in their charters, all three charter schools in our study were being monitored for a variety of compliance issues, including their admissions procedures, provision of services to special education and ELL students, student discipline procedures, parent involvement programs, and adherence to the curriculum and instructional programs specified in their charters. By contrast, the alternative non-chartered public schools in our sample seemed freer to make programmatic changes in their curriculum and instruction as they saw fit, and they were under somewhat less pressure to meet performance targets.

The State Education Department conducted an on-site audit of the three charter schools in our sample in June 2000. The focus of these visits was to make sure the schools were in compliance with state regulations and that they were following the instructional programs defined in their charter applications. Preceding the visits, the schools received an extensive list of process issues for which the state required documentation, including hours of operation, admissions process, qualifications of teachers and other staff, insurance coverage, and the alignment of the curriculum in every subject area and grade with the state's standards. During the daylong visits, the state reviewed the documentation on these issues and met with school staff to discuss its concerns with a variety of operational procedures. Responding to the audit, a conversion charter school principal said, "This is the most extensive laundry list I have ever seen in an audit. This is something we never experienced before."

Two and a half months later, the State Education Department sent the schools its reports on the visits, giving the schools 30 days to respond to the state's concerns. The reports itemized all the process issues that had been covered during the site visits, and rated the schools as either "adequate" or "needs improvement" on each issue. The form allowed for no "excellent" rating. (While the impossibility of achieving excellence irritated administrators in the conversion schools, who saw a disjuncture between the ratings and the strength of their schools, the president of the ESP connected to a startup charter school took a more sanguine view, "We think we're doing well, but we don't expect praise from bureaucrats.") Those issues rated

“needs improvement” were followed by either a “recommended” or “required” follow-up. While some of the process issues might be useful to the schools, others suggested a misunderstanding of the school’s mission and process. For example, a school that draws students from middle schools in the surrounding districts was told that, as a charter school, it would have to draw its students from the entire city. An assistant principal commented on the State Education Department’s audit report, “Under the Board of Education, we knew what they wanted. But now it’s a new game—and one in which they are making up the rules as they go along.”

Finally, by law, charter schools are required to submit annual reports to their chartering agencies and the Regents each August. The law requires that each annual report will “at least” consist of: academic and fiscal performance measures; a discussion of the school’s progress in achieving its charter goals; a certified financial statement; and a copy of the most recent independent fiscal audit. This year, a twenty-six-page SED annual report guide and list of forms dated, “July 2000,” was received by all charter schools on August 1st, the day they were due. But the forms themselves went far beyond the four areas outlined in the law, including detailed questions concerning internet connectivity, library media resources, and incidents of prohibited conduct (homicide, rape, robbery, arson, and kidnapping). The cover letter, which asked for an original and five copies, also extended the deadline to September 15, 2000. Again, while the ESP connected to the start-up charter school responded to the requests as part of the new paper-heavy world in which the new school had to find its place, the two conversion charter schools, which had no outside educational group to assist them, complained that they had already sent in their annual reports and were forced to begin again using the new reporting format.

V. CONCLUSION

Although each of our seven study schools had a unique story, several themes emerged from our first year of research. Stated broadly, these might be phrased as the dreams and fears of charter autonomy, and its disappointments—particularly as schools experienced the multiple constraints of charter accountability.

In the hope of obtaining increased autonomy, three alternative schools in our study were investigating the idea of converting to charter status in fall 1999. For these schools, converting to charter status promised freedom from the oversight and changing initiatives of their community school districts and the Board of Education; they also believed that as charter schools they would manage their finances, hire their own staff, sharpen their instructional programs, and design their physical spaces. Principals were generally the strongest advocates for going charter, because they were most likely to experience cumbersome reporting requirements and the burden of regulatory procedures. While teachers were interested in the prospect of charter status, they were concerned about the technical aspects of school operations that may impact teaching and learning. Despite initial enthusiasm in all three alternative schools, only two developed charter applications, and only one will convert to charter status in 2000-2001, the other having delayed its conversion to charter status for a year.

Our sample contained two new schools, a charter school and an alternative school. Both began the year with principals who were new to leadership roles and with a young and relatively inexperienced staff—all of whom were enthusiastic about building a new school from the ground up. While excitement and youthful energy contributed to the development of a close-knit staff, in both schools, pressing operational issues often took precedence for the principals, leaving teachers feeling frustrated and unsupported in their attempts to identify useful curriculum and gain control over their classrooms. At the end of the year, both schools talked about the need to hire teachers with more experience for the coming school year. In one school, the principal also spoke honestly of the need for administrative expertise and support.

New York's first two conversion schools—strong alternative high schools with highly developed instructional programs and systems of self-governance—hoped that charter status would provide the autonomy to pursue and strengthen their distinctive

missions. However, both schools spent the year struggling to extricate their finances and operations from the BOE. More important in its portent for the future, both schools also experienced increased regulatory constraints as a result of their new charter status in several areas key to their missions. These included losing the freedom to shape their own admissions policy process and experiencing tightened regulations in their handling of special education students and English Language Learners. Most important, while both schools had been exempt from administering the Regents examinations as alternative schools, in late spring 2000, the state ruled that as charter schools the two schools were required to administer the Regents tests.

All seven schools in our sample—both the alternative schools and the charter schools—worked to create a system of peer accountability. This was seen as a critical part of the schools’ mission and pursuit of excellence. Teachers saw themselves as responsible both to their students and one another—a subject taught poorly in one class placed a heavier burden on the next teacher. Principals and teachers also felt themselves to be in a kind of reciprocal accountability, and in one school parent contracts made parents a formal part of the school’s accountability system. Although the staff in all these schools wanted their students to do well on state and city exams, this external accountability often conflicted with the learning program they were trying to strengthen and develop.

New York’s charter law specifies that charter schools are independent and autonomous public schools. In practice, however, the limits on their autonomy go far beyond the health and safety rules, teacher certification regulations, and civil rights laws specified in the legislation. While staff in all seven schools in our study experienced the pressure of both mandated tests and compliance reporting, the start-up charter school and two conversion charter schools were burdened by a range of compliance monitoring that was unforeseeable given New York’s charter law. Indeed, given the weight of process constraints currently experienced by charter schools, it is not clear whether public schools will see reasons to convert to charter status.

Going Charter: The Systemic Effects

I. INTRODUCTION

This first year report on *Going Charter: the Systemic Effects* documents developments in educational policy and operations at the city and state levels as part of implementing New York State's charter school legislation. Since the first charter school opened in Minnesota in 1991, major research studies have focused primarily on the charter schools themselves, with only marginal attention to state and local changes as a result of charter school legislation. Analysis of the systemic effects of the implementation of charter legislation has generally been directed to how charter schools may have spurred improvement in public schools, rather than on the transformations charters generate in state and local agencies.¹ Our research attempts to fill this gap by investigating the changes in New York State's major public education agencies as a result of charter school implementation. This first year report provides an overview of current city and state level operations by examining the role of the chartering authorizers and investigating the interaction among chartering agencies.

The first year of charter school implementation in New York State in 1999-2000 was a far more complicated process than those involved—charter authorizers, school personnel and researchers alike—had projected. There were three chartering agencies: the Board of Regents, the State University of New York (SUNY), and the New York City Schools Chancellor and Board of Education. These agencies varied in their missions and modes of operation, both of which influenced their relationships with charter schools. Chartering raised new issues of oversight and monitoring for SUNY, which is building K-12 public education operation from the ground up, as well as for the Regents and the Chancellor, which had existing K-12 operations on which they could rely. Charter school implementation also opened the

educational landscape to for-profit and non-profit entities hoping to make their mark on New York's large and highly visible education stage. Finally, the intersection of charter school reform and standards-based reform, particularly high-stakes testing, raised questions about the compatibility of these two movements in New York State.

II. METHODOLOGY

Fieldwork: December, 1999, 2000

Our *Systemic Effects* research included periodic interviews with key persons at New York State's three chartering agencies: the Board of Regents and its administrative arm, the State Education Department; the State University of New York and its administrative arm, the Charter School Institute (CSI); and the New York City Schools Chancellor and his administrative arm, the New York Board of Education. In addition, we interviewed individuals in community school districts or high school superintendencies in which charter schools are located, as well as staff of the United Federation of Teachers. Finally, we spoke with representatives of other organizations involved in New York State's charter school movement, such as community agencies, foundations, non-profit and for-profit companies and technical assistance agencies. The majority of our interviews were conducted in person. Because we granted full confidentiality and anonymity to our interviewees, our descriptions of their identities are necessarily vague. In the few cases that we do name an official, the source of information is a matter of public record and not derived from our interviews. Finally, our method included an analysis of newspapers, documents and events.

Throughout the year, we also conducted a companion study, *Going Charter: Perspectives of School Staff on Autonomy, Accountability, Finance and Supports*, an investigation of the experiences and perceptions of staff in small alternative public schools, conversion charter schools, and start-up charter schools. In that study we paid particular attention to issues critical to charter reform: autonomy, finance, accountability and school supports. Although that research is reported separately,

¹ Teske, P., Schneider, M., Buckley, J., and Clark, S. *Does Charter School Competition Improve Traditional*

the two studies complement each other: issues raised in our *Systemic Effects* interviews were pursued in conversations with school personnel in our *Going Charter* research. Similarly, interviews conducted with school staff often raised problems and prospects that were documented at the systemic level.

III. LEGISLATIVE OVERVIEW

Two charter school bills were introduced into the New York State Assembly in 1997, one at the request of Republican Governor George Pataki and the other by Democratic Assemblyman James Brennan. But opposition from New York State Education Commissioner Richard Mills and the Board of Regents, as well as such groups as the New York School Boards Association and the American Federation of Teachers, caused both bills to languish. Charter legislation was finally passed, without hearings or debates, on December 17, 1998, after Governor Pataki signed a bill giving legislators a 38 percent pay increase in return for approval of the charter bill.² Governor Pataki called the creation of charter schools "the single greatest improvement in education in state history," and promised that charter reform would "better the lives of children" and "give New York families the public educational choice enjoyed by so many Americans."³

The Center for Education Reform in Washington, DC, a well-known charter advocacy group, links the strength of state charter laws to the proliferation of charter schools. Characteristics of a strong law, in the Center's definition, include the number of charter schools permitted, the existence of multiple authorizers and the deregulation of collective bargaining and teacher certification. In a ranking of thirty-seven states, New York State's charter school legislation is ranked as tenth in strength.⁴

Public Schools? Center for Civic Innovation, Civic Report (10). June, 2000.

²Albany's Slapdash Deals," *New York Times*. December, 19 1998: 14.

³Pataki Announces Agreement on Charter Schools. Press Release. Friday, December 18, 1998.
http://www.nycharterschools.org/pataki_press.html.

⁴ The Center for Education Reform: New York's Charter Law http://edreform.com/charter_schools/laws/New_York.htm.

New York has three authorizers, and the law allows a total of 100 charter school start-ups and an unlimited number of public school conversions. SUNY can authorize up to 50 new charter schools throughout the state; all other authorizers in the state are collectively permitted to charter 50 new charter schools. The New York City Schools Chancellor can authorize conversion and new charter schools, but only in its own district.

For the Center for Education Reform, another indicator of the strength of a state's charter law is the deregulation of union representation. However, New York's law is actually rather complicated in this area. Schools with more than 250 students in their first year are required to collectively bargain with instructional employees only as a separate bargaining unit. But the charter law automatically grants ten waivers from collective bargaining requirements, to be determined by the SUNY trustees. Probably the most significant and controversial dynamic of the union provision is that conversion schools will be unionized, but can modify the collective bargaining agreement at will, with a majority vote of the staff. Thus, individual schools can become the equivalent of union "locals" and act as their own individual bargaining agents.

The Center for Education Reform also uses the deregulation of teacher certification, as an indication of strong charter law. New York's law presents a mixed picture in this area. Charter schools may have up to 30 percent, or no more than five, uncertified teachers, but teachers may also be hired through an alternative route approved by the Board of Regents.⁵ In New York City, where schools generally suffer from low rates of teacher certification, and low-performing schools are under a mandate to hire only certified teachers, there has been intense competition for these teachers. During 1999-2000, this resulted in a number of schools deciding not to convert to charter status because of fear of losing their uncertified staff.

⁵ The Board of Regents has allowed charter schools to hire teachers with unusual qualifications and with liberal arts degrees in the subject area they teach. New York State Charter Law 1998, Pub. L. No. 7881, Article 56.

Finally, charter school reform stresses the importance of parents' and students' ability to start and select charter schools. Although New York's law allows parents to start charter schools, the applications developed by all three authorizers strain the capacities of local parent groups, leading them to partner with non-profit and for-profit management organizations. Thus far non-profit and for-profit organizations have submitted the majority of charter applications.

New York's law is also clear that parents, not schools, should be given choice: the legislation is explicit that charter schools must use a lottery to determine their student admissions. As in a number of states, New York State's charter law may limit parental choice somewhat by giving preference to charter schools serving at-risk populations. However, unlike states such as California, Connecticut, Minnesota, and Pennsylvania, the law does not contain any racial balance provision specifying that charter schools must serve the same demographic populations as the districts in which they are located. Finally, although charter schools are required to report to governmental authorities, beyond choice, no provision ensures that they are accountable to their community of parents.

IV. THE CHARTERING AGENCIES

During New York State's first year of legislation, three chartering entities authorized schools: the New York State Board of Regents, the State University of New York, and the New York City Chancellor. The three entities differed in their visions of their responsibilities and styles of operations.

The New York State Board of Regents and the State Education Department

The Board of Regents, established by the New York State Legislature in 1784, is the oldest state education entity in the United States. Comprised of sixteen members, the Board of Regents acts as a quasi-legislative body implementing state law and policy for both public and private education. Since 1904, when the New York State Education Department (SED) was created, the Regents have appointed New York's Commissioner of Education and presided over the SED, which, in turn, is responsible

for supervising all education institutions in the state. The State Education Department, as the administrative arm of the Regents, has established two new charter school offices since passage of the law. One, in Albany, focuses on charter schools upstate, and the other, in the SED's Brooklyn office, focuses on New York City's charter schools. Both offices review new charter school applications, make recommendations for charter approval to the Regents, and monitor all charter schools to ensure compliance with the state charter law.

The Regents' expertise is largely at the policy level, although members periodically tour the state's schools. But, while the SED has acquired experiences intervening in failing schools that are designated as SURR (Schools Under Registration Review), its roles have been primarily monitoring and technical assistance. Thus, the advent of charter schools has propelled both the Regents and the SED into a new arena—that of sponsoring and nurturing the development of new schools.

The Board of Regents plays a dual role, acting both as an authorizing agency and as the final authorizing and monitoring authority for all New York's charter schools. However, charter legislation has actually eroded the authority of the Regents. Because the Regents are legislative appointees selected by a Democratic-majority legislature, Governor Pataki feared that they would resist charter school reform. Thus, New York's legislation allows SUNY to override a rejection by the Regents of any of its charter applicants⁶—reducing the Regents' historical final authority over public schools.

As if fulfilling Governor Pataki's predictions, as of the fall of 2000, the Regents had granted only two charters: Harriet Tubman Charter School in the Bronx; and Genesee Community Charter School in Rochester.⁷ Not surprisingly, the Board of Regents was perceived as a hesitant authorizer of charter schools.

⁶ Pataki Announces Agreement on Charter Schools. Press Release. Friday, December 18, 1998. http://www.nycharterschools.org/pataki_press.html

The State University of New York (SUNY) and the Charter School Institute (CSI)

SUNY is the largest comprehensive public university system in the United States. Created in 1948 to educate New York's World War II veterans and its growing population, SUNY now serves more than 367,000 students across 64 campuses. Its mission has been to provide vocational and higher education to a broad range of citizens at an affordable price. A sixteen-member Board of Trustees, appointed by the Governor of New York with the consent of the New York State Senate, oversees the SUNY system.

In a number of states, pro-charter governors have sought to ensure the implementation of charter school reform by creating a chartering agency separate from the state or local education authorities; the State University of New York was appointed a chartering agency to play that role. On the surface, the advent of charter legislation has extended SUNY's jurisdiction beyond higher education and into the world of elementary and secondary schooling, thrusting SUNY into the business of chartering and supporting the growth of new k-12 public schools. Yet the university's new role may be more symbolic than real. The administrative functions of SUNY's role as a charter authorizer are conducted by a new entity located on the Albany and Purchase campuses of SUNY, the Charter School Institute (CSI), which reports to the SUNY Board of Trustees. In its first year of operation, the CSI had two directors. The first was a SUNY Vice Chancellor who created the CSI; the second was drawn from Governor Pataki's personal circle of advisors.

As of fall 2000, CSI had chartered seventeen schools throughout the state, by far the most of any other charter authorizer. (Seven of the CSI schools are in New York City, two on Long Island and eight up state.) But the reputation for permissiveness the CSI acquired stemmed not just from the number of school charters it approved. As important was the CSI's override of the Regent's rejection of the New Covenant Charter School in Albany, and the school's subsequent difficulties. New Covenant,

⁷ Harriet Tubman was scheduled to open in the fall of 2000 in partnership with a for-profit company, Victory Schools, but the relationship between the school and the company was severed, and the school is now scheduled to

which was run by the local Urban League leader in partnership with a for-profit company, Advantage Schools, experienced a myriad of problems, including the resignation of Advantage Schools, a high turnover of students and staff, fiscal mismanagement, and poor performance on the states fourth-grade English Language Arts assessment.⁸ The school partnered with a new for-profit company, Edison Schools, and in July 2000 submitted a new charter application to SUNY (the CSI). The school re-opened in September 2000 under probationary status. It will be required to adhere to a “remedial action plan,”⁹ which mandates that New Covenant cap its enrollment at 400, appoint a third party to monitor the financing and construction of a permanent facility, submit monthly financial reports to the State Education Department, submit mid-year and year-end performance reviews, and provide training sessions for New Covenant board members on board duties.¹⁰

During the first year, the CSI appeared to favor school partnerships with for-profit and non-profit education service providers as a charter school support strategy. (As an applicant noted, the CSI application would be virtually impossible to complete by grass-roots groups without professional assistance.) Of the seventeen CSI schools, seven partnered with non-profit organizations, and nine with for-profit companies. An early interview with a CSI official indicated that the agency wanted to be careful “not to scare away the educational management organizations.” CSI’s receptiveness to private companies is also evident on its website, which provides “sales contacts” (charter schools and their contact information) for businesses interested in offering their services to schools. Whether functioning both as a charter authorizer and as a headhunter for companies looking for “clients” will complicate CSI’s relationship with schools remains to be seen.

open in the fall of 2001 with another for-profit company, Learn Now. Genesee Charter School has been approved to open in the fall of 2001, in partnership with the Rochester Museum and Science Center.

⁸ Wyatt, E. (August 18, 2000). “Charter School’s Problems Yield Cautionary Tale.” *The New York Times*. A1, B5.

⁹ Kuo, A. (August 28, 2000). “SUNY Trustees Approve New Covenant’s Revised Charter.” *Boston Globe*, 18.

¹⁰ Saunders, S. (September 13, 2000). “Albany charter school gets a second chance.” *New York Teacher*. Vol.XLII, No. 1

The Chancellor and the New York City Board of Education

Over the past several decades, the Board of Education (BOE) has started hundreds of new public schools, including new programs, schools within a school, academies and alternative schools. In 1983, a superintendency was created in the New York City public schools system devoted specifically to supporting alternative schools.

Even with this experience fostering new schools, the Chancellor and the BOE faced new possibilities and pressures from the charter school law. The BOE assumed two roles: it provides money, services, oversight and technical assistance, and it acts as a charter authorizer. During 1999-2000, two charter schools within the BOE's geographic boundaries were chartered by other agencies. The BOE was a service provider to both schools: one received transportation services from the BOE, and the other food services as well as transportation.

The New York City Schools Chancellor authorized two conversion schools during the first year of charter reform. (Six additional schools were chartered to open in fall 2000, of which five are conversions and one a new charter school.) In addition to acting as an authorizer, the BOE played both facilitating and service roles for the two first-year conversion schools. These new roles involved numerous fiscal and operational complications as the BOE tried to invent its relationship to a new type of school.

To execute its new charter school responsibilities, the Board of Education expanded its existing Office of New School Development, creating the office of Charter and New School Development. Staffed by educators with considerable experience in the New York City public school system, and particularly in developing new schools, the office tried to use its past experience to map charter school development. It also hired a new staff member with experience in charter reform. Believing it is best to maintain a close connection to schools, the office approached the chartering process as a "conversation." Feedback was offered on draft proposals, and technical assistance was provided on complicated issues such as finance. However, once a proposal was submitted, the review process was formal and extensive.

Although the Office of Charter and New School Development was the Chancellor's administrative arm for charter school reform, other Board of Education offices were involved in resolving important issues related to charters. Most critical during the first year was extricating the conversion schools' budgets and personnel from the Board of Education systems. Since teachers' salaries form a major part of any school's budget, a key problem was how charter school teachers would receive pensions through the New York City Teachers Retirement System (TRS). Delays in determining pension issues kept the budgets of the charter schools tied to the BOE throughout the 1999-2000 school year. The current plan is to separate the school budgets from the BOE by January 2001.

In addition, the Board had to determine what kinds of centrally maintained information it would share with charter schools. In the first year, this played out in decisions about what student information would be made available to the conversion charter schools, which by law are not allowed to select their students. Yet both conversion schools have education programs targeting particular at-risk populations, which the charter law does allow. One school serves newly arrived immigrant students with limited English proficiency, and the other targets students identified by their middle schools as at-risk for academic failure and in need of a small caring high school. Thus, both need basic student information about potential applicants in order to create the specific pool for a selection-blind lottery.

A related problem included how and if the charter schools would be listed in the BOE high school directory, and whether they would be allowed to participate in the same application process as BOE high schools involved in New York City's high school choice program.

V. INTERACTION BETWEEN THE CHARTERING AGENCIES

Although the Center for Education Reform considers the existence of multiple charter school authorizers to be a key element of a strong charter school law, the way the law is implemented very much shapes the authority of charter school authorizers as well as the autonomy they allow the schools. In New York State, despite the

existence of multiple authorizers, the State Education Department retains an active role in all charter schools, including those authorized under the other entities. Although the legislation designated the Chancellor as one of the three charter authorizers, his authority is compromised by the regulatory relationship between the SED and the BOE.

The legal right to charter schools placed the three new chartering agencies in potential competition, to which they responded by sharpening their respective missions in the hope of attracting potential charter school applicants. However, several organizations that submitted an application to one agency submitted a second application to a different agency because, as they explained, they did not want to be politically beholden to one charter authorizer. A representative from a non-profit organization working with two charter schools remarked, "People are already talking about the SUNY group and the BOE group. I don't want to be part of any group."

As the year went on, the relationship among the three agencies appeared to become more cooperative. The Board of Education adopted the State Education Department's charter applications. Although the CSI had created its own applications in May 1999, as well as its own guidelines for monitoring, the agency shared its applications and monitoring guidelines with the SED, and was working with the state to understand special education regulations and funding, as well as other targeted funds.

VI. MONITORING BY CHARTERING AGENCIES : THE DIFFICULTY OF INVENTING A NEW MODEL

Charter schools are promised decreased regulation in exchange for their students reaching defined performance targets. Thus, accountability in these schools should, in theory, be focused largely on outcomes, with process monitoring by the chartering agencies kept to a bare minimum.

During this first year, all three chartering agencies struggled to shift from traditional compliance-oriented monitoring to a new kind of monitoring. As a CSI official

responded when asked how their monitoring would differ from that of a district, “It will be more results-oriented and demand less paperwork.” Another CSI official described the agency’s motto as “monitoring without malice.” Yet discussions with officials at the three agencies, as well as with the charter schools in our *Going Charter* sample, suggest that the agencies were largely relying on existing compliance models for handling their oversight responsibilities. Moreover, the State Education Department, acting in behalf of the Board of Regents, assumed monitoring authority over all charter schools.

The State Education Department

During the spring of 2000, the State Education Department conducted site visits to all conversion and start-up charter schools in New York City. (None of these schools was actually chartered by the Regents.) Prior to these visits, the SED asked for documentation on a range of process issues, including hours of operation, admissions procedures, qualifications of teachers and other staff, insurance coverage, and services to limited English proficient and special education students. In addition, SED inquired about operational details that extended beyond the scope of the legislation. During the daylong visits, the state monitors met with school staff regarding school procedures and reviewed the documentation the school had compiled.¹¹ To some observers, the rigor of these monitoring visits was prompted by the problems surfaced at New Covenant.

Two and a half months after the site visits, the SED reported its findings to the schools, categorizing each issue that had been covered during the site visit as either “adequate” or “needs improvement.” Those issues rated “needs improvement” were followed by suggestions or, in some cases, requirements, for how the schools should adjust their processes in order to comply with state regulations. Because the SED office in charge of charter schools in New York City is also responsible for

¹¹ The SED also asked for documentation on student discipline procedures, complaint processes, school facilities, school governance structure, health and food services, professional development, parent and community involvement programs, support services, attendance records, and Board of Trustee meetings.

evaluating low-performing schools, this office was modeling charter school monitoring on its existing compliance activities. Indeed, an official in this department compared a school's charter to the Redesign Plans used by low-performing schools: charter schools, he believed, should be monitored for compliance with their own charters.

Finally, charter schools are required by law to submit annual reports that contain information about academic and fiscal performance measures, the school's progress in achieving its charter goals, a certified financial statement, and a copy of the most recent independent fiscal audit, to their chartering agencies and the Regents at the end of each summer. At the end of August, after some schools had already completed and sent in their reports, the schools received reporting forms from the SED that dictated exactly what information the annual report should contain and how this information should be reported. The forms asked the schools to provide detailed information on such issues as Internet connectivity and library media resources. Although completing such information is more of a burden to school administrators than a serious curtailment of charter school autonomy, it is also clear that the SED's annual reporting requirements far exceeded the oversight required by law and that monitoring procedures were still in flux.

The New York City Board of Education of the City of New York

Having often defined its role as protecting New York City charter schools from state interference, the Board of Education of the City of New York developed its own model of monitoring. In part, because of the state's assumption of a heavy monitoring responsibility, the BOE retained more of the "conversational" approach it used for developing charter applications. As a BOE staff member commented, "Right now our oversight is pretty informal." Officials also reported that in conversations with the state they had tried to get the SED to "scale back" their oversight and become more flexible.

Despite its attempt to play a supportive role with the two conversion charter schools, the BOE's relationship with these schools was complicated and often troubled.

These schools saw themselves as responding to the Chancellor's request to go charter, and expected the BOE to advocate on their behalf. The BOE saw itself as responsible for implementing state and city mandates that often restricted charter school autonomy. Several times during the course of the year, the BOE surfaced legal problems, such as student admissions, facing the conversion schools. The schools interpreted this as the BOE "raising red flags" when the problem might have gone unnoticed. Nevertheless, in comparison with the SED, the BOE appeared relatively flexible and understanding to these charter schools. Although a Memorandum of Understanding between the BOE and the schools clarifying such issues as admissions processes and per pupil allocations had still not been signed at the end of the year, the two conversion schools had come to appreciate the legal and administrative parameters under which BOE officials operate. As a principal remarked, "It's not that there's no will [to support charter schools]. Their hands are tied even more than I realized."

The Charter School Institute

The Charter School Institute (CSI) conducted three informal visits to each of its charter schools during 1999-2000. In June 2000, it also hired a team of outside consultants to conduct formal site visits to each of the schools. According to a staff member of a non-profit organization affiliated with one of the charter schools, even the June CSI visit was fairly informal: no documentation was requested, and the CSI was interested generally in the school's educational program, rather than its operations.

VII. QUESTIONS RAISED BY CHARTER SCHOOL IMPLEMENTATION

In August 1999, when the first charter schools were approved, New York State's charter law was the only guide to the chartering, support, operations and monitoring of charter schools. Although the law established broad outlines for procedures in these areas, as with any legislation, important areas were either undefined or allowed considerable room for interpretation. As a result, throughout the first year of charter reform in New York State, questions arose in nearly every procedural area, from legal liability and fiscal responsibility to what should be monitored. According to a

BOE official, "There isn't a day that goes by that we don't have to ask, what does this mean for how we proceed with both charter schools and other public schools."

Another official used the image of "fixing a 747 while the plane is in flight." Below we highlight questions raised by chartering authorizers and schools during the first year of charter school implementation.

Union Contracts Tailored to the Needs of Different Schools

The two alternative schools that converted to charter status in 1999 are strong union schools with a large proportion of senior staff members. The schools worked closely with the United Federation of Teachers (UFT) in deciding to go charter, and the UFT played a key role in maintaining the teachers' pensions unaltered within New York City's retirement system.

But charter law has raised complicated issues for the UFT. Although, all New York City public schools must adhere to the union contract, schools can choose a School Based Option, which allows them to waive certain contractual hiring regulations. By comparison, charter schools further erode the universal contract by being able to modify all parts of the contract and negotiate as if they were their own locals. As a UFT official expressed it, "We have to move from an industrial model to a new post-industrial model." At stake are work place issues as well as the problems that arise when a charter school wants to offer significantly higher or lower wages to its teachers than other public schools: "We will have to make an effort to work on salary schedules. It will be a challenge not to undercut already low teacher salaries and budget constraints."

The Intersection between Charter Reform and Standards-Based Reform

Both standards-based reform and the development of charter schools reflect the public's belief that student achievement must be improved and that educational accountability should be focused on student performance. Since charter school reform and state standards share an emphasis on performance-based accountability, educators have generally assumed that the two movements will complement and strengthen one another. In actuality, however, because of the over reliance on

standardized assessments, the relationship between the two movements has been more complicated. In some cases, the lack of alignments between assessments and instruction results from school programs being more experimental than the tests; in other cases, it is the result of insufficient resources at the school level to provide adequate opportunities to learn the tested material.¹²

Before going charter, the two New York City conversion charter schools had developed performance-based assessments for their schools, and were part of a consortium of public schools throughout the state seeking to develop a system of performance-based assessments as alternatives to the Regents Comprehensive Exams (RCTs). In 1995, thirty-eight high schools from what subsequently became The New York Performance Standards Consortium, along with other alternative high schools in the city, were granted a group waiver, signed by the former NY State Education Commissioner, Thomas Sobol, to run through 2001.¹³

When the charter law was passed, former Chancellor Crew invited these two alternative high schools to become charter schools. He was said to want strong public schools to be the first to convert to charter status, and these two schools had already initiated innovative forms of self-management. Although the new charter law explicitly states that charter schools are to implement all state assessments “to the same extent as other public schools,” the two schools defined their student achievement targets in their charter applications in terms of the performance-based assessments they had developed and had been using for years. The BOE interpreted the charter law as saying that explicit waivers would be continued and new waivers might be considered. In our interviews, both principals were adamant that they would have never considering going charter had they suspected they might lose their waivers.

¹² Ascher, C., Jacobowitz, R., McBride, Y. (1999) *Standards-Based Reform and the Charter School Movement in 1998-99: An Analysis of Four States*. Final Report to the Edna McConnell Clark Foundation.

¹³ Keller, B. (2000, January 12). “Mills to Decide Soon on New York Testing Waiver.” *Education Week*.

However, on January 26, 2000, State Education Commissioner Richard Mills issued a six-page ruling mandating that twenty-two of the schools originally granted waivers had to administer the Regents Competency Tests (RCT), starting immediately. Students in the other sixteen schools were to be exempt from Regents testing in the 1999-2000 school year, but were required to begin taking the Regents exams in June 2001.¹⁴ The Commissioner also ruled that the two conversion charter schools were legally new entities, and so would have had to apply for exemptions—which were no longer being granted. Put differently, the schools had actually increased their regulatory constraints by converting to charter status.

An increasingly fractious dialogue ensued between the schools and the state. The charter schools sued the state for the right to maintain their waivers throughout the designated five-year period. However, the state refused to back down on its decision, and the Court upheld the Commissioner’s ruling, with the result that students at both conversion schools took the RCT exams in late spring, with little time for test preparation. Nevertheless, the attempt by the two schools to measure themselves by alternative assessments has given new life to the debate about the relationship between mandated standardized tests and innovation in charter schools and other public schools.

The Legal Status of Charter Schools

New York’s charter school law is unclear whether charter schools are to be their own Local Education Agencies (LEAs) or whether they remain within the jurisdiction of their geographic LEA. The question has implications for both authority and funding. Since the only LEA in New York City is the Board of Education, special education and Title I funds flow through the BOE. Thus, in 1999-2000 the BOE was responsible for monitoring the use of these funds in all charter schools in New York City—including those schools located in the city but chartered by the Regents or SUNY. In addition to requiring the BOE to be responsible for schools over which it

¹⁴ “Alternative Schools Ordered to Use Regents.” *New York Times*. January 27, 2000

had no control, such overlapping authority had the potential to create turf issues among the chartering agencies.

One possible solution is to designate charter schools as LEAs, a status that would allow them to receive special education and Title I funding directly. However, as LEAs, charter schools would have to assume the heavy burden of district-level reporting requirements. As problematic, districts might be “held harmless” in a number of funding areas, which means their funding cannot be decreased. Thus, if charter schools were to become their own LEAs, new monies might be needed to fund these charter school LEAs.

The SED has even considered designating charter schools as LEAs for some purposes and not for others. The issue, which is still unresolved, may go to litigation and legislative action.

The BOE as a Service Provider

In the fall of 1999, BOE officials indicated that the advent of charter schools in the city would prompt the BOE to act as a service provider in competition with other non-profit and for-profit providers, offering everything from school lunches to payroll. One official believed that the BOE might do well in such a situation, because of its years of experience in assisting New York City's schools. But the costing-out of services in preparation for entering the market place was, and still is, a huge undertaking, and it is unclear how much headway has been made.

Payroll is another important unresolved area. Throughout the first year, staff in conversion charter school staff received their paychecks as if the schools were still a part of the BOE. While delays in extricating charter schools' payrolls were initially caused by difficulties in resolving the pension issue, these delays were compounded by the fact that the BOE had to negotiate with several city agencies about how they would relate to a new group of small independent schools.

VII. CONCLUSION

The first year of charter implementation in New York State was one of discovery and invention for officials in New York's three chartering agencies. As with all legislation, New York's charter law left major areas open to interpretation entirely unaddressed. Issues of autonomy, accountability and monitoring, as well as many of the details of converting to charter status and running a charter school, were being worked out as charter law was implemented.

Over the past year, the Regents, SUNY, and the Board of Education all struggled to establish their identities as chartering entities. While each began with a different vision of charter reform, as the year progressed the agencies benefited from working together, and their differences appeared to diminish. As important, the State Education Department, with its strong history of authority over New York's education system, maintained its dominance in accountability and oversight of charter schools.

Finally, charter reform intersected with other school reform initiatives. Most powerful among these was standards-based reform with its mandated state assessments. Since charter school accountability has been framed within this new system, charter schools found themselves caught between the politics of two state initiatives, with rigid assessments overshadowing innovative charter reform. At the same time, monitoring of charter schools was not limited to the outcome-based accountability implied by the reform. Instead, charter schools found themselves monitored on a wide variety of procedural areas beyond the boundaries of New York's law.

Charter reform also changed New York's educational landscape, opening up the operations and servicing of schools to for-profit and non-profit educational service providers. This, in turn, put new pressure on the Board of Education to untangle the costs of its operations and services, and on the United Federation of Teachers to tailor contracts to the specific needs of emerging charter schools. Although these

internal transformations have yet to occur, they promise greater change in public education.

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