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CHARTER SCHOOLS

New Model for Public Schools Provides Opportunities and Challenges



**Health, Education, and
Human Services Division**

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The Honorable Arlen Specter
Chairman, Subcommittee on Labor, Health
and Human Services, Education
and Related Agencies
Committee on Appropriations
United States Senate

The Honorable Edward M. Kennedy
Ranking Minority Member, Committee
on Labor and Human Resources
United States Senate

Charter schools are a rapidly growing education reform, offering a new model for public schools. This model is intended to address a variety of concerns about our educational system, including unresponsive district bureaucracies, restrictive rules, limited choices among types of public schools, and a lack of accountability for student performance.

Unlike traditional public schools, charter schools operate under charters or contracts with school districts, state education agencies, or other public institutions. They are designed by groups of parents, teachers, school administrators, other members of the community, and private corporations. Also, charter schools can operate with considerable autonomy from external controls such as district, state, and union requirements.¹ Charter schools get this autonomy in areas such as curriculum, instruction, budget, and personnel in exchange for being held accountable for student performance. As of January 1995, 11 states had passed legislation authorizing charter schools.²

This report responds to your request for information on charter schools;³ it answers the following questions:

- How many charter schools have been approved under state laws?

¹Other education reforms, such as school-based management and regulatory flexibility, can provide similar autonomy. For more information, see *Education Reform: School-Based Management Results in Changes in Instruction and Budgeting* (GAO/HEHS-94-135, Aug. 23, 1994) and *Regulatory Flexibility: What Happens When Schools Are Allowed to Change the Rules?* (GAO/HEHS-94-102, Apr. 29, 1994).

²These states are Arizona, California, Colorado, Georgia, Hawaii, Kansas, Massachusetts, Michigan, Minnesota, New Mexico, and Wisconsin.

³This report was also requested by former Senator David Durenberger, Committee on Labor and Human Resources, United States Senate.

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- What characterizes charter schools' instructional programs?
 - How autonomously do charter schools operate and what influences their autonomy?
 - How are charter schools held accountable for student performance?
 - What challenges do charter schools pose for federal education programs?

To address these questions, we reviewed charters or charter proposals, collecting information on the schools' instructional programs, accountability systems, and financial and administrative relationships with the school districts where they are located. We reviewed these documents for most of the 83 approved or proposed charter schools we identified as of May 1994; these schools were in California, Colorado, Massachusetts, and Minnesota (see app. I for a list of the 83 charter schools). We also conducted telephone interviews to collect information on individual charter schools; their relationships with the school districts where they are located; and school, district, and state experiences with how federal programs work with charter schools. We interviewed (1) the principals or other representatives of 50 charter schools, (2) district officials in 34 districts with charter schools, and (3) state officials in the 11 states with laws authorizing charter schools.

We also analyzed the laws of the 11 states to determine similarities and differences in charter schools' legal status, exemption from state rules, approval process, funding, and accountability for student performance. We supplemented our legislative analysis with information from officials in each state on issues that were unclear in the legislation. These officials reviewed relevant portions of this report and provided oral comments. We obtained updates from these state officials, as of January 1, 1995, on (1) the number of charter schools in their states and (2) whether the charter schools were new or conversions of existing schools. We did our study from February 1994 through January 1995 in accordance with generally accepted government auditing standards.

Results in Brief

As of January 1995, 134 charter schools had been approved in 9 of the 11 states with charter school laws.⁴ As the number of charter schools has grown, so has their diversity. While charter schools may be envisioned as new, highly autonomous schools, this is not always the case. Indeed, charter schools' diversity, as well as the many differences in the laws authorizing them, make generalizing about them difficult.

⁴These states are Arizona, California, Colorado, Hawaii, Massachusetts, Michigan, Minnesota, New Mexico, and Wisconsin.

Charter schools' instructional programs reflect diversity and innovation. They include innovative approaches, such as instructing children of multiple ages in the same classroom—known as multiage grouping—or teaching subjects in the context of a common theme, such as citizenship—known as thematic instruction. Some charter schools emphasize specific subject areas, such as the arts or sciences; others target their instructional programs to specific student populations, such as those at risk of school failure or home-schooled students.

Charter schools vary considerably in their autonomy. Some operate as legally independent entities, for example, as nonprofit corporations or teacher-owned cooperatives. Five states—Arizona, California, Massachusetts, Michigan, and Minnesota—authorize legally independent charter schools. In contrast, some charter schools operate with no greater autonomy than many traditional public schools. Factors that influence charter schools' autonomy include their legal status and how they are approved, funded, and gain exemptions from rules.

Charter schools also vary in how they plan to measure student performance and how specifically they state those plans. They expect to use a wide variety of assessment methods and measure a wide variety of student outcomes; many schools will include achievement on standardized tests. Some schools have their assessment systems in place; others—including some schools already open—are still developing their assessment systems. Whether charter schools will be held accountable for student performance depends on the quality of assessments and completeness of reporting and remains an issue for future evaluations of these schools.

Charter schools pose new challenges for federal program administration. These challenges stem from the lack of connection of some charter schools to school districts—the usual local point of federal program administration. States are uncertain about how to treat charter schools in regard to federal programs and requirements such as those for Title I and special education.⁵ An important issue is whether legally independent

⁵Title I (formerly Chapter 1 of Title I) of the Elementary and Secondary Education Act (ESEA) serves educationally deprived children—those whose educational attainment is below that appropriate for their age—in relatively high-poverty areas. Title I is the largest federal program for elementary and secondary education; it serves over 5 million children and was funded at \$6.9 billion in fiscal year 1994. Federal special education programs include a variety of state grant programs included in the Individuals With Disabilities Education Act (IDEA); these programs were funded at \$2.9 billion in fiscal year 1994. Regulations implementing the IDEA also specify a variety of requirements that must be met in serving all disabled students.

charter schools can be considered local education agencies (LEAs),⁶ like school districts. If so, for example, charter schools would be eligible to receive Title I funds from their states and operate their own Title I programs. Because of states' uncertainty, clarification is needed on how charter schools can be treated for federal program administration.

Background

Charter schools are a new and increasingly popular entrant in the debate on restructuring and improving U.S. public education. The model offered by charter schools differs substantially from the traditional model for governing and funding public schools. Charter schools operate under a charter or contract that specifies the terms under which the schools may operate and the student outcomes they are expected to achieve. Charter schools may be exempt from most local and state rules, hire their own staff, determine their own curriculum, receive funding directly from the state, and control their own budgets. In contrast, traditional public schools are subject to substantial external controls, such as local, state, and federal requirements, which limit their authority over curriculum and personnel decisions. Federal, state, and local funding for traditional public schools usually flows through the district, and individual schools often have little control over their budgets.

Between 1991 and 1994, 11 states enacted legislation authorizing charter schools to achieve a variety of purposes, including

- encouraging innovative teaching,
- promoting performance-based accountability,
- expanding choices in the types of public schools available,
- creating new professional opportunities for teachers,
- improving student learning, and
- promoting community involvement.

The federal government has also acted on behalf of charter schools. Two major pieces of federal education legislation passed in 1994 include provisions on charter schools. The Improving America's Schools Act, which reauthorized and amended the ESEA of 1965, includes a new federal grant program to support the design and implementation of charter

⁶An LEA is defined as "a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school." (20 U.S.C. 2891(12).)

schools (see app. II for a description of this program). The Improving America's Schools Act also specifies the conversion of a school to charter school status as a possible corrective action that a school district can require of a school that has been identified for school improvement. The Goals 2000: Educate America Act allows states to use federal funds provided under the act to promote charter schools.

Growth in Charter Schools Reflects Diverse National Reform Movement

As of January 1995, nine states had approved 134 charter schools with diverse instructional and operating characteristics. Another two states—Georgia and Kansas—had adopted laws authorizing charter schools but had not yet approved any. (See table 1.) As many as 14 more states may consider legislation in 1995.⁷ Approved charter schools include 85 new schools and 49 conversions of existing schools (see fig. 1), with some states only allowing such conversions (see table 2).

⁷These states include Connecticut, Florida, Illinois, Iowa, Indiana, Ohio, Oregon, Pennsylvania, New Jersey, North Carolina, Texas, Vermont, Virginia, and Washington.

Table 1: Number of Charter Schools Authorized and Approved Under State Laws

State	Year law passed	Number of charter schools approved as of January 1995	Number of charter schools authorized
Arizona	1994	3	^a
California	1992	73	100
Colorado	1993	16	50
Georgia	1993	0	^b
Hawaii	1994	1	25
Kansas	1994	0	15
Massachusetts	1993	14	25
Michigan	1993 ^c	8	^d
Minnesota	1991	14	35
New Mexico	1993	4	5
Wisconsin	1993	1	20

^aCharter schools in Arizona may be sponsored by a school district, the state board of education, or the state board for charter schools. The state board of education and state board for charter schools may each sponsor up to 25 schools each fiscal year. No restrictions exist on the number of charter schools approved by school districts.

^bNo limit.

^cIn November 1994, a Michigan court ruled that Michigan's charter school law violated the state's constitution. Although Michigan is appealing the case, it enacted a new law in January 1995. Information in this report reflects changes made in the new law. The new law includes a provision to repeal substantial portions of it should the original law be upheld on appeal.

^dMichigan's new charter school law limits the number of charter schools state universities may approve to 75. No restrictions exist on the number of charter schools approved by other institutions.

Figure 1: Charter Schools Include New Schools and Conversions of Existing Schools

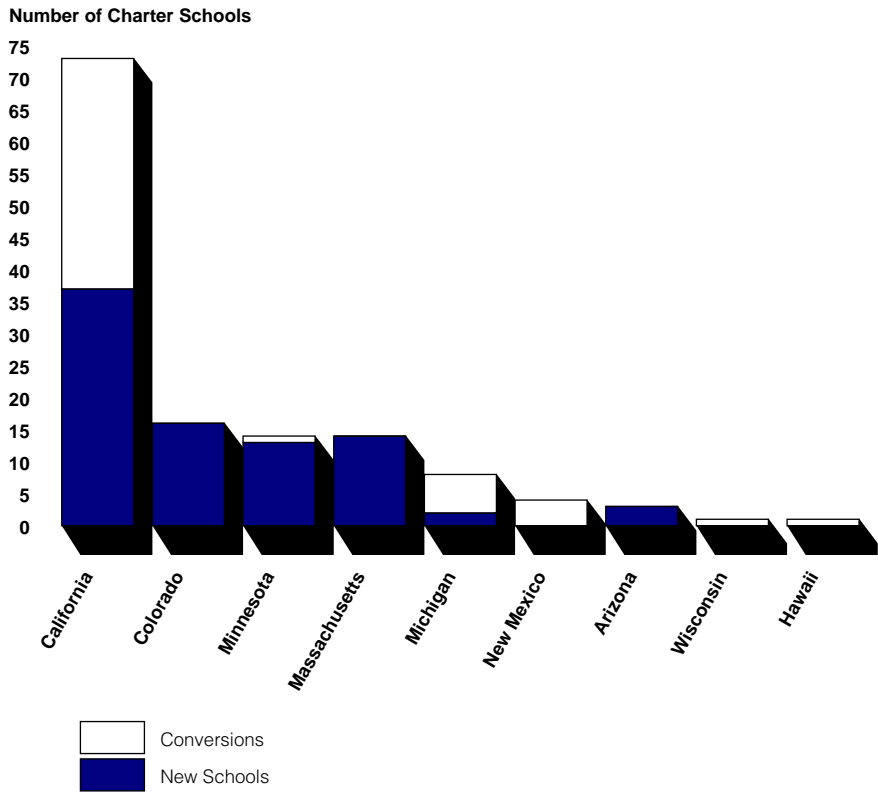


Table 2: State Laws Vary in Authorizing Charter Schools as New Schools or Conversions of Existing Schools

State	Charter schools that—		
	May be new schools or conversions of existing schools	Are limited only to conversions of existing schools	May include conversions of existing private schools
Arizona		X	X
California		X	
Colorado		X	
Georgia			X
Hawaii			X
Kansas	X		
Massachusetts	X		
Michigan	X		X
Minnesota	X		X
New Mexico			X
Wisconsin	X		

Charter schools' diverse instructional programs include approaches such as instructing children of multiple ages in the same classroom, known as multiage grouping; teaching subjects in the context of a certain theme, known as thematic instruction; and using the Internet as an instructional tool. Some charter schools specialize in certain subject areas, such as the arts, sciences, or technology; others emphasize work experience through internships or apprenticeships. Some charter schools target specific student populations, including students at risk of school failure, dropouts, limited English proficient students, noncollege-bound students, or home-schooled students. Under the state laws in California, Colorado, Kansas, and Wisconsin, charter schools that target students at risk of school failure receive preference for approval.

Charter Schools' Autonomy Varies

As some advocates envision them, charter schools would operate with far greater autonomy than traditional schools. They would operate independently from the school districts where they are located and unconstrained by government regulations; they would control their own budgets, personnel, curriculum, and instructional approaches. While this is the case for charter schools in some states, other states have laws that authorize charter schools with more limited autonomy. State laws influence charter schools' autonomy by how they provide for their (1) legal status, (2) approval, (3) funding, and (4) exemption from rules.

Some Charter Schools Are Legally Independent

Charter schools under four states' laws are legally independent from the school districts where they are located; that is, the charter schools are legally responsible for their operations (see table 3). Charter schools in Minnesota, for example, operate as nonprofit corporations or cooperatives. In five states, charter schools must be part of a school district that is legally responsible for the school's operations (see table 3). In one state, California, a charter school's legal status is determined through negotiation with the local school board that approves its charter. Some charter schools in California have organized as legally independent nonprofit corporations; others are legally part of a district; and some schools' legal status remains to be determined. In one state, Hawaii, the legal status of charter schools remains uncertain and awaits a decision by the State Attorney General.

Table 3: Some State Laws Authorize Legally Independent Charter Schools

State	All charter schools legally independent	Charter schools can be legally independent	All charter schools legally part of traditional district
Arizona	X		
California		X	
Colorado			X
Georgia			X
Kansas			X
Massachusetts	X		
Michigan	X		
Minnesota	X		
New Mexico			X
Wisconsin			X

The legal status of a charter school may influence its authority over budgeting and personnel decisions. Legally independent charter schools generally control their own budgets and make their own hiring and firing decisions. Charter schools that remain legally part of a school district may have little control over budgeting or personnel, although this varies.

Approval and Appeals Processes for Charter Schools Vary and May Influence Autonomy

All charter schools must be approved by some public institution. Most have been approved by a school district or state board of education, although some states involve neither. State laws vary considerably in the options they give to charter schools seeking approval. State laws also vary in allowing applicants to appeal a decision to reject a charter school application. (See table 4.) Required school district approval could result in less autonomous charter schools if districts use their leverage with the schools to maintain more traditional relationships with them. The availability of multiple approval options could result in more autonomous charter schools because applicants could seek the least restrictive situation. As a condition for approving a charter, for example, one district required charter schools' terms of employment—for teacher tenure, salary, and schedule for advancement—to be the same as those for other schools in the district. Evidence from California indicates that districts were least supportive of charter schools seeking the most independence.⁸

⁸M.R. Diana and R.G. Corwin, *Vision and Reality: A First-Year Look at California's Charter Schools*, Southwest Regional Laboratory (May 1994).

Table 4: Approval and Appeals Processes for Charter Schools Vary Under State Laws

Arizona	Local boards of education, the state board of education, or the state board for charter schools may approve charter schools and grant their charters. Rejected applications may be resubmitted.
California	Local school board or county board of education approval required. Rejected applicants may appeal to the county superintendent. ^a
Colorado	Only local school boards can approve charter schools. Rejected applicants may appeal to state board of education, which can overturn local board decision.
Georgia	Local school board and state board approval required. Local and state boards may allow deficient applications to be resubmitted. State may request a hearing to receive further information on applications rejected by local school boards.
Hawaii	Approval required by three-fifths of the schools' administrative, support, and teaching personnel and parents. State board of education approval is automatic unless it finds that the school plan conflicts with statewide educational performance standards. Local school boards may amend applications to resolve any conflicts with statewide standards.
Kansas	Local school board approval required. State board of education reviews each application for compliance with state and federal laws and regulations. If the application is in compliance, the state board must approve the application.
Massachusetts	Secretary of Education approval required only. No appeals process.
Michigan	Local school boards, ^b state universities, community colleges, and regional intermediate school districts may approve charter schools. Applicants rejected by the board of a school district may appeal to the board for reconsideration by the school electors of the school district if at least 15 percent of the electors sign the petition and it includes all required information. The board will grant the charter if a majority of the school electors voting votes to grant the charter.
Minnesota	Local school board and state approval required. Rejected applicants may appeal to state board if two members of the school board voted for sponsorship. State board becomes the sponsor if the appeal is upheld.
New Mexico	State board of education approval only; school applies to state, district may include its recommendation concerning approval and must approve the school's budget. No appeals process.
Wisconsin	Local school board and state board approval required. No appeals process.

^aOne school in California may apply directly to the state for approval. This school is the Lab School at the University of California, Los Angeles, which was authorized to become a charter school under special legislation in 1994.

^bMichigan law prohibits the state's smallest school districts from approving charter schools.

Charter Schools' Funding Arrangements Vary and May Influence Autonomy

Charter schools' funding arrangements vary in (1) the extent to which the funding amounts are negotiable and (2) how funds flow to the schools. Charter schools' autonomy could be limited when funding amounts are subject to negotiation with the school district that approves the charter. Districts may seek to retain control over some funds as a condition for approval.

In six states, the amount of state or local funding for charter schools is subject to negotiation with the school districts that approve the charters. In four states, funding for charter schools is set by the state, and the amount is not subject to negotiation with school districts. In one state, Arizona, funding is subject to negotiation when charter schools are approved by school districts, but not when they are approved by the state. In states in which funding is not subject to negotiation, funds flow from the state directly to the charter school, with the exception of Massachusetts and Michigan. In states in which funding is subject to negotiation, funds flow from the state to the district to the charter school. (See table 5.)

Table 5: How Charter Schools Are Funded Varies

Arizona	If the state sponsors the charter school, state funds flow from the state to the school, amount not subject to negotiation; federal funds flow from the state to the school. If a district sponsors the charter school, federal, state, and local funds flow through the district to the school; the amount of funds available to the school must be the minimum per pupil expenditure in the district, as defined by the district, total amount subject to negotiations on district services to the school.
California	State and federal funds flow from the state to the county to the district to the charter school. Local funds flow from the district to the charter school. Amounts from each source are subject to negotiation with the district.
Colorado	State and federal funds flow from the state to the district to the charter school. Local funds flow from the district to the charter school. At least 80 percent of the per pupil operating revenue of the district, which includes state and local funds, follows the student to the charter school. The actual amount of funding is subject to negotiation with the district.
Georgia	State and federal funds flow from the state to the district to the charter school. Local funds flow from the district to the charter school. Amounts from each source are subject to negotiation with the district.
Hawaii	State funds flow from the state to the charter school, amounts not subject to negotiation. Allocation of federal funds remains to be determined.
Kansas	State, local, and federal funds flow from the state to the district to the charter school, amounts from each source subject to negotiation with the district.
Massachusetts	State and local funds flow from the state to the district to the charter schools, amounts from each source not subject to negotiation. Charter schools collect a tuition payment that is based on average cost per student for each student from the district where the student lives. Allocation of federal funds remains to be determined.
Michigan	The institution that approves a charter school becomes its fiscal agent. State and federal funds flow from the state to the fiscal agent to the charter school, amounts not subject to negotiation. Public schools do not receive local funds.
Minnesota	State and local funds flow from the state to charter schools, amounts not subject to negotiation. Some federal funds flow from the state to the district to the charter schools; some flow directly from the state to the charter schools.
New Mexico	State and federal funds flow from the state to the district to charter schools, amounts subject to negotiation with the district. Public schools do not receive local funds.
Wisconsin	State and federal funds flow from the state to the district to charter schools. Local funds flow from the district to the charter school. Amounts from each source are subject to negotiation with the district.

Charter Schools' Autonomy From State and District Rules Varies

Charter schools' autonomy from state and district rules varies considerably across states. Some state laws exempt charter schools from most state education rules; that is, charter schools receive a blanket exemption.⁹ Other states require charter schools to request exemption from specific rules (rule-by-rule exemption), requests that are subject to district or state approval or both. (See table 6.) Legally independent charter schools are not subject to district rules unless agreed to as part of negotiations leading to charter approval. In contrast, charter schools that are legally part of a district are subject to district rules unless waivers are negotiated. Some districts have denied waivers from local rules requested by charter schools.¹⁰

⁹Even with blanket exemptions, charter schools remain subject to some rules, such as those concerning health and safety and civil rights.

¹⁰M.R. Diana and R.G. Corwin, An Early Look at Charter Schools in California, Southwest Regional Laboratory (April 1993).

Table 6: Extent to Which Charter Schools Exempted From State and District Rules Varies

Arizona	Blanket exemption from most state rules; district rules not applicable due to charter schools' legal independence, unless negotiated into contract.
California	Blanket exemption from most state rules; rule-by-rule or blanket exemption from district rules, subject to district approval.
Colorado	Rule-by-rule exemption from most state statutes and rules and district regulations, subject to state and district approval.
Georgia	Rule-by-rule or blanket exemption from state and district rules, subject to state and district approval.
Hawaii	Blanket exemption from most state rules.
Kansas	Rule-by-rule exemption from state and district rules, subject to state and district approval.
Massachusetts	Exemption from state rules on curriculum and teacher tenure and dismissal. Other rule-by-rule exemptions from state rules subject to state approval. District rules not applicable due to charter schools' legal independence, unless negotiated into contract.
Michigan	Charter schools must adhere to all applicable state laws. No specific exemption process. District rules not applicable due to charter schools' legal independence, unless negotiated into contract.
Minnesota	Blanket exemption from most state rules; district rules not applicable due to charter schools' legal independence, unless negotiated into contract.
New Mexico	Rule-by-rule exemption from state and district rules, subject to state approval and district agreement.
Wisconsin	Blanket exemption from most state rules; ^a rule-by-rule waivers from district rules subject to district approval.

^aCharter schools in Wisconsin must meet three general state requirements. First, they must participate in the state student assessment system, which includes testing requirements at grades 3, 8, and 10. Second, they must participate in the school and district performance reporting system, which requires schools to report a variety of data to the state, such as the number of dropouts and suspensions. Third, charter school instructional staff must obtain a charter school license or charter school permit.

Charter Schools Vary in Plans for Assessing Student Performance

The extent to which charter schools can be held accountable depends on how the schools assess student performance and report results to the public institutions responsible for their oversight and contract renewal. The schools' charters indicate plans to use a wide variety of assessment methods to measure a wide variety of student outcomes. Some of these assessments and outcomes were subject to negotiation with the charter-granting institution; others are mandated under law in some states (see table 7). Some charter schools state their plans for assessment in great detail, have their assessment systems in place, and have begun

collecting data. Others—including some schools already open—state their plans in more general terms and are still developing their assessment systems.

Student assessments used by charter schools include portfolios, exhibitions, demonstrations of students' work, and often standardized achievement tests. Student outcomes include objective outcomes—such as specific achievement levels or gains on standardized tests, attendance and graduation rates—and subjective outcomes, such as becoming an independent learner, understanding how science is applied to the real world, participating in community service, and understanding the responsibilities of citizenship.

Because charter schools' efforts to assess and report student performance are fairly recent, several important questions about accountability are unanswered. First, are charter schools collecting adequate baseline data to judge changes in student performance? Accurate judgments may be difficult in schools that opened before their assessment methods were developed. Second, will charter schools report data by race, sex, or socioeconomic status so that the performance of specific student groups can be assessed? No state laws require charter schools to do so; some include no reporting requirements; and most leave the type of reporting to local discretion (see table 7). Third, what are the implications of requiring charter schools to meet state performance standards and to use standardized, norm-referenced tests? Will it discourage charter schools with specialized purposes or that target low-achieving student populations? Will it encourage charter schools to have more traditional instructional programs?

Table 7: Requirements for Charter Schools' Accountability Systems Vary Under State Laws

Arizona	Criteria to measure the effectiveness of the school must be included in a proposal to establish a charter school. Charter schools must design a method to measure pupil progress toward the outcomes adopted by the state board of education. Each school must participate in the essential skills test (a performance-based test) and a standardized, norm-referenced achievement test and must report annually on the results of such testing.
California	Charter proposals must identify educational goals, measurable student outcomes, and the method to assess them. Charter schools are required to conduct pupil assessments, in accordance with state standards, and meet statewide performance standards. Charter schools must submit annual performance and fiscal reports to the school board that granted the charter.
Colorado	Charter schools are subject to the state's Standards Based Education Act. Content standards and assessments must be developed and adopted locally (by districts or charter schools). The adopted content standards must meet or exceed state model standards. Charter schools must also participate in the state student assessment program beginning in 1996. A plan for evaluating pupil performance must be included in charter applications, and the results of such evaluations must be included in a report when seeking renewal by the local board of education.
Georgia	Charter petitions must include performance-based objectives, student outcome-based objectives, and the means for measuring those objectives on a yearly basis to improve student learning and to meet national and state educational goals. Results indicating the progress made by the school in meeting performance objectives must be reported annually to parents, the community, the local board, and the state board.
Hawaii	Charter schools must conduct self-evaluations annually. The implementation plan must detail specific student outcomes to be achieved and ensure compliance with statewide student performance standards. There are no specific reporting requirements but each student-centered school will be evaluated every 4 years by the State Department of Education to ensure compliance with statewide student performance standards.
Kansas	Applications must include an explanation of how pupil performance in achieving the specified outcomes will be measured, evaluated, and reported. Each charter school must participate in the state assessment system and the quality performance accreditation process unless otherwise exempted by the local and state boards of education. At the end of each school year, the local school board will evaluate the impact the charter school has had on the educational system of the district and will submit such evaluation to the state board.

(continued)

Massachusetts	Charter schools must meet the same performance standards and testing and portfolio requirements set by the board of education for students in other public schools and must report annually on progress made toward achieving goals set forth in the charter. Annual reports must be submitted to the state secretary of education, to each parent or guardian of its enrolled students, and to each parent or guardian considering enrollment.
Michigan	The charter must contain the school's educational goals and the methods by which it will be held accountable. Pupil outcomes will be assessed using a Michigan education assessment program test or other models as authorized by law or one or more of the following: the California Achievement Test, the Stanford Achievement Test, the Metropolitan Achievement Test, or the Iowa Test of Basic Skills. There are no specific reporting requirements, but contracts must describe the methods to be used to monitor performance in meeting each school's targeted educational outcomes.
Minnesota	Charter schools must design their programs to meet or exceed outcomes adopted by state board of education or, if none, those in the charter, and must report annually to their sponsor and the state board.
New Mexico	Charter proposals must include pupil performance standards that meet or exceed state board standards. Schools must provide an annual accountability report to the parents of children enrolled in the school, the community, the local school board, and the State Department of Education.
Wisconsin	Charter schools must ensure that their students maintain sufficient progress toward the same educational goals and objectives as other public school students. Charter petitions must include the methods to achieve these goals and to measure pupil progress. Charter schools must participate in the state student assessment system, which requires testing of students in grades 3, 8, and 10 using state assessments.

Charter Schools Pose New Challenges for Federal Programs

Charter schools pose new challenges for federal programs in allocating funds, providing services, and assigning legal responsibility. These challenges stem from the lack of connection of some charter schools to school districts—the usual local point of federal program administration.

School districts are considered LEAs for the purposes of federal program administration; they receive allocations of federal funds from their states and are held legally responsible for meeting program requirements. However, an important issue is whether some charter schools—those with legal independence—can be considered LEAs. While legally independent charter schools appear to meet the definition of an LEA, states are uncertain about this and have approached the issue differently. Title I and

special education programs illustrate challenges posed by charter schools to federal education program administration.

Title I and Charter Schools

As an LEA, a charter school would be eligible to receive Title I funds directly from its state education agency (SEA) and held legally responsible for its Title I program.¹¹ As a school considered part of a traditional school district, a charter school would be eligible for Title I funds just as any other school in a district and would not be eligible to receive funds directly from its SEA.

Current law provides SEAs flexibility in allocating grants to LEAs that could apply to charter schools considered LEAs.¹² However, SEAs using census data to calculate LEA allocations face a complication because census data do not exist for charter schools, and SEAs must use the same measure of low income throughout the state.¹³ It is uncertain, for example, whether an SEA could use other data adjusted to be equivalent to census data for this purpose.¹⁴ An SEA might be able to apply for a waiver under the new charter schools grant program to permit use of such adjusted data;

¹¹LEAs are eligible for Title I basic, concentration, and targeted grants. An LEA is eligible for a Title I basic grant in fiscal year 1995 if it enrolls at least 10 low-income children. Beginning in fiscal year 1996, an LEA will not be eligible for a basic grant if the number of low-income children is equal to 2 percent or less of the total school-age population in the LEA. An LEA is eligible for a Title I concentration grant if the number of low-income children in the county (for fiscal years 1996 through 1998) or LEA (for fiscal years beginning with 1999) exceeds 6,500 or the number of low-income children exceeds 15 percent of the total number of school-age children in the county (for fiscal years 1996 through 1998) or LEA (for fiscal years beginning with 1999). An LEA is eligible for a Title I targeted grant if the number of low-income children in the LEA is at least 10 and if that number is at least 5 percent of the school age-population in the LEA (P.L. 103-382, sections 1124(b), 1124A(a)(1)(A), 1125.)

¹²A provision on special allocation procedures permits SEAs to allocate basic, concentration, and targeted grants to LEAs (1) if two or more LEAs serve, in whole or in part, the same geographical area; (2) if an LEA provides free public education for children who reside in the school district of another LEA; or (3) to reflect the merger, creation, or change of boundaries of one or more LEAs (P.L. 103-382, sec. 1126(b)).

¹³In determining the number of eligible children in an LEA, an SEA must count the number of children in low-income families using the same measure of low income throughout the state (34 CFR, sec. 200.23(b)(1)(ii)). Some SEAs use data on participation in the Aid to Families with Dependent Children program or free and reduced-price lunch program for this purpose. In 1994, the SEAs in 24 states used census data for this purpose. Seven of these states have passed charter schools legislation: Arizona, Georgia, Kansas, Michigan, Minnesota, New Mexico, and Wisconsin. Three of these states authorize legally independent charter schools: Arizona, Michigan, and Minnesota.

¹⁴Additional language on special allocation procedures in the Conference Report for the Improving America's Schools Act suggests SEA discretion: "State education agencies may reallocate part A grants as appropriate when multiple local education agencies serve the same area, or an agency provides educational services to children residing in a different local education agency." (H.R. Rep. No. 761, 103d Cong., 2d Sess. 637 (1994)).

however, language in different waiver provisions makes this unclear.¹⁵ In commenting on a draft of this report, the Department of Education stated that it intends to use the broader authority to grant waivers under the charter schools provision to promote flexibility in charter schools (see app. III).

Of those states that authorized legally independent charter schools, Arizona and Massachusetts have not yet decided on how to treat them concerning Title I. California, Minnesota, and Michigan have decided on contrasting approaches.

California

The California Department of Education has not decided whether its legally independent charter schools are LEAs for Title I purposes. To avoid creating a new funding structure, it treats all charter schools as regular schools within a district for Title I funding. If a charter school is eligible for Title I funding, then the district must determine the charter school's share the same way it does for other eligible schools.¹⁶

Minnesota

While state officials in Minnesota consider charter schools LEAs, the state Title I office has delegated responsibility for Title I to districts and given them two options for serving charter schools. Under the first option, the district employs the Title I staff and provides services at the charter school. Under the second option, the district allocates part of its Title I funds to the charter school, and the charter school employs the Title I staff. Under either option, the state considers the district legally responsible for the charter school's Title I program. The state adopted this arrangement because it lacked census data on charter schools but was required to use census data as part of its statewide distribution approach to allocating Title I funds to LEAs.¹⁷

¹⁵A provision on waivers concerning the new charter school grant program specifies, "[t]he Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school..." However, another section on waivers specifies, "[t]he Secretary shall not waive under this section any statutory or regulatory requirements relating to...the allocation or distribution of funds to States local educational agencies, or other recipients of funds under this Act..." (P.L. 103-382 sections 10304(e) and 14401(c)).

¹⁶Management Advisory: 93-10, California Department of Education (Dec. 21, 1993), p. 11.

¹⁷In Minnesota and some other states, the SEA allocates Title I funds to LEAs without regard to their county because many LEAs overlap county boundaries. While still requiring special approval from the Secretary of Education, current law makes this "statewide distribution" approach more flexible. SEAs must no longer make Title I allocations using "precisely the same factors for determining a grant" as are used by the Secretary of Education, which include census data. They may now use alternative data approved by the Secretary (P.L. 103-382, sections 1124(a)(2)(B), 1124A(a)(4)(B), 1125(d)(2)).

Michigan

The state Title I office in Michigan considers charter schools LEAs and plans to allocate Title I funds directly to them; it considers the schools legally responsible for administering their own Title I programs. To ensure that charter schools get a fair share of Title I funding, the state Title I office devised a way to divide a traditional LEA's Title I allocation with a charter school within its boundaries. As of September 1994, Michigan had used this method in one charter school, the charter school at Wayne State University in Detroit. The state Title I office, with the consent of the district and the charter school, allocated part of Detroit's Title I allocation to the charter school on the basis of the number of students eligible for free or reduced-price lunch at the school. The state expects to use the same method for other charter schools, although this may be more difficult when students from more than one district attend a charter school, the state coordinator said.

Special Education and Charter Schools

Whether charter schools are LEAs or part of a traditional school district has implications for (1) which institution—the school or the district—is legally responsible for meeting federal special education requirements and (2) how states and districts fund special education services. Under the IDEA, LEAs must provide a “free appropriate public education” to disabled children. Regulations implementing the act specify requirements that LEAs must follow in identifying children with disabilities and selecting their special education services. While the IDEA provides some federal funding for special education, most funding comes from state and local sources. Charter schools pose a particular challenge to funding special education when local revenues are used for this purpose. Since charter schools do not levy taxes, another institution must provide the revenue.

Minnesota, which treats its charter schools as individual LEAs, resolved issues of legal responsibility and funding after some uncertainty and may serve as a useful example for other states.

Determining Legal Responsibility

The SEA in Minnesota decided that legal responsibility for meeting federal special education requirements for children in charter schools depends on whether the district or the parent places the child in the charter school. If the district where the student lives places the child in a charter school, then the district remains legally responsible. If the parent places the student in a charter school, then this is “akin to the child moving to another district,”¹⁸ and the charter school becomes legally responsible. These decisions were established in rulings on complaint investigations.

¹⁸Letter of Findings, Minnesota Department of Education (Nov. 24, 1993), p. 2.

In one case, the complainant alleged that the district where the student lived failed to implement the student's individualized education plan (IEP) at the Metro School for the Deaf. The Minnesota Department of Education ruled that the district was in violation and was responsible for ensuring service provision because it had placed the student in the charter school.¹⁹ In another case, the complainant also alleged that the district had failed to implement the student's IEP at a charter school, specifically, that the student had received no speech services during the school year. The Minnesota Department of Education ruled that, because the student was placed at the Cedar Riverside Charter School by parental choice, the district of residence was not responsible for providing the student a free appropriate public education and that the charter school was now responsible for doing so.²⁰

Funding Special Education Services

In Minnesota, the SEA allocates state funds directly to charter schools as a partial reimbursement for special education costs. Charter schools, in turn, bill unreimbursed costs to the districts where the students live. The districts are expected to use revenues from property taxes or federal special education funds to fund the unreimbursed amount. In the future, the SEA may allocate federal special education funds directly to charter schools. Officials in several districts said they were unhappy with the state's expectation that they use local property taxes for unreimbursed costs for charter schools' special education programs because the charter schools are legally independent.

Conclusion

Charter schools offer a new model for autonomous public schools that provides opportunities for diverse and innovative approaches to education. A great deal, however, remains to be learned about these schools, for example, whether limits on their autonomy will stifle innovation. Furthermore, this autonomy poses challenges for holding charter schools accountable for student performance and administering federal programs.

Accountability for student performance is a critical aspect of the charter schools model, given the schools' autonomy from external controls that govern traditional public schools. Whether charter schools can be held accountable for student performance depends in part on how well student performance is assessed and reported. Important issues for future evaluations of these schools include whether charter schools (1) collect

¹⁹Letter of Findings, Minnesota Department of Education (Mar. 30, 1994).

²⁰Letter of Findings, Minnesota Department of Education (Nov. 24, 1993).

adequate baseline data to judge changes in student performance and (2) report data by race, sex, or socioeconomic status to assess the performance of specific student groups.

The challenges charter schools pose for federal program administration concern their status as single schools operating as LEAS. Current law and regulations did not anticipate such an arrangement. Unless the Department of Education clarifies (1) whether charter schools may be considered LEAS and (2) how these schools can be treated for purposes of administering Title I and special education programs, uncertainty will persist that could impede charter schools' implementation.

Recommendations to the Secretary of Education

We recommend that the Secretary of Education determine whether states may consider charter schools LEAS for federal program administration. In addition, if charter schools may be LEAS, the Secretary should provide guidance that specifies

- how states may allocate Title I funds to charter schools, particularly in states that use census data to count low-income children, and
- how states may determine charter schools' legal responsibility for providing special education services.

Agency Comments

The Department of Education provided written comments on a draft of this report (see app. III). The Department said our report raised thoughtful issues about the challenges facing charter schools and presented an informative survey of their development nationally. The Department also commented on our recommendations to the Secretary and questions we raised about the applicability of different waiver provisions.

In its comments on our recommendations, the Department stated that it (1) encourages states to develop legal arrangements that best support state and local strategies and (2) intends to work with states on a case-by-case basis to address issues raised in our report concerning federal program administration in charter schools. We support the Department's intention to work with states to resolve these issues. However, the Department's response does not fully clarify whether, and under what conditions, charter schools can be considered LEAS and we believe the Department should do so.

In the draft reviewed by the Department, we also noted that the applicability of different waiver provisions in the Improving America's Schools Act was uncertain in regard to charter schools. In its comments, the Department stated that it intends to use the broader authority to grant waivers under the charter schools provision of the act to promote flexibility in charter schools. We revised the report to incorporate the Department's comments on this matter.

We are sending copies of this report to congressional committees, the Secretary of Education, and other interested parties. Please call Richard Wenning, Evaluator-in-Charge, at (202) 512-7048, or Beatrice Birman, Assistant Director, at (202) 512-7008 if you or your staff have any questions about this report. Other staff who contributed to this report are named in appendix V.

Linda G. Morra
Director, Education
and Employment Issues

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Abbreviations

ESEA	Elementary and Secondary Education Act
IDEA	Individuals With Disabilities Education Act
IEP	Individualized Education Plan
LEA	Local Education Agency
SEA	State Education Agency

Charter Schools Proposed or Approved as of May 1994

Table I.1: Charter Schools Proposed or Approved as of May 1994—California

School and address	Date opened	Enrollment	Grades served
Vistas-Bear Valley Charter School P. O. Box 6057 Big Bear Lake, CA 92315	July 1993	32	6-8
El Dorado Charter Community 6767 Green Valley Road Placerville, CA 95667	September 1993	1,000	K-12
Early Intervention-Healthy Start Charter School	September 1993	^a	Pre-K
Folsom Middle School 500 Blue Ravine Road Folsom, CA 95630	October 1993	857	7-8
Grass Valley Alternative 10840 Gilmore Way Grass Valley, CA 95945	August 1993	120	K-8
Accelerated School P. O. Box 341105 Los Angeles, CA 90034	September 1994		K-6
Canyon School 421 Entrada Drive Santa Monica, CA 90402	August 1993	240	K-5
Edutrain 1100 S. Grand Avenue Los Angeles, CA 90015	^a	^a	7-12
Fenton Avenue School 11828 Gain Street Lake View Terrace, CA 91342	January 1994	1,150	Pre-K-6
Marquez School 16821 Marquez Avenue Pacific Palisades, CA 90272	July 1993	^a	K-5
The Open School 1034 Steams Drive Los Angeles, CA 90035	July 1993	384	Elementary
Palisades Elementary Charter School 800 Via De La Paz Pacific Palisades, CA 90272	July 1993	300	K-5
Palisades High School 15777 Bowdoin Street Pacific Palisades, CA 90272	September 1993	210 in charter school component	9-10 in charter school component

(continued)

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School and address	Date opened	Enrollment	Grades served
Vaughn Next Century Learning Center 13330 Vaughn Street San Fernando, CA 91340	September 1993	1,170	K-6
Westwood School Los Angeles Unified School District, CA 2050 Selby Avenue Los Angeles, CA 90025	September 1993	600	K-5
Natomas Charter School 3700 Del Paso Road Sacramento, CA 95834	July 1993	a	7-9
Jingletown Middle School 2506 Truman Avenue Oakland, CA 94605	September 1993	115	a
Linscott Charter School 220 Elm Street Watsonville, CA 95076	September 1993	125	K-5
Sonoma County Charter 1825 Willowside Road Santa Rosa, CA 95401	September 1994	60-90	K-6
Pioneer Primary/Pioneer Middle 8810 14th Avenue Stanford, CA 93230	January 1994	785	K-8
Schnell 2871 Schnell School Road Placerville, CA 95667	September 1993	500	K-5
Ready Springs Home Study Ready Springs Union School District, CA 10862 Spenceville Road Penn Valley, CA 95946	1993	70	K-8
The Eel River School P. O. Box 218 Covelo, CA 95428	September 1994	a	K-12
Bowling Green Elementary	July 1993	814	Elementary

(continued)

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School and address	Date opened	Enrollment	Grades served
San Carlos Community School c/o Don Shalvey San Carlos School District, CA 826 Chestnut Street San Carlos, CA 94070	September 1994	120	4-6 and K-12 in the future
O'Farrell Community School 6130 Skyline Drive San Diego, CA	^a	1,400	6-8
Waldorf Charter School	^a	^a	K-8
The Charter School of San Diego 3150 Rosecrane Street Suite 200 San Diego, CA 92110	July 1994	500	6-12
Darnall E-Campus 6020 Hughes Street San Diego, CA 92115	September 1993	550	K-5
International Studies Academy 693 Vermont Street San Francisco, CA 90107	July 1994	540	9-12
San Francisco Charter Early Childhood School 73 Arbor Street San Francisco, CA 94131	September 1994	^a	K-3
Deterding Charter School	1994	620	Preschool-6
Charter 25 6134 Highway 9 Felton, CA 95018	July 1993 (Two charter schools housed together but working independently)	150 (90 in Homeschool and 60 in White Oak)	K-12
Peabody Charter School 3018 Calle Noguera Santa Barbara, CA 93105	September 1993	624	K-6
Santa Barbara Charter School 6100 Stow Canyon Road Goleta, CA 93117	September 1993	60	K-3

(continued)

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School and address	Date opened	Enrollment	Grades served
Altimira P. O. Box 1546 Sonoma, CA 95476	September 1994	^a	K-8
Twin Ridges Alternative Charter School P. O. Box 529 North San Juan, CA 95960	September 1993	77	K-8
Options for Youth 29 Foothill La Placenta, CA 91214	July 1993	176 students in two centers (Victor Valley - 103 and Hesperia Unified District - 73)	7-12
West Park Academy Charter School 2695 S. Valentine Avenue Fresno, CA 93706	July 1994	^a	K-7
Carlin C. Coppin Elementary 150 East 12th Street Lincoln, CA 95648	September 1993	531	K-5
Glen Edwards Elementary 1400 1st Street Lincoln, CA 99648	July 1993	700	K-5
Home Independent Study and Adult Charter 870 J Street Lincoln, CA 95648	July 1993	392	New school serving K-12 and adults. No adults presently enrolled.
Lincoln High 1081 7th Street Lincoln, CA 95648	August 1993	700	9-12
Sheridan Elementary 4730 H Street Sheridan, CA 95681 Mailing address: P.O. Box 268 Sheridan, CA 95681	July 1993	88	K-5
Yucca Mesa P. O. Box 910 Yucca Valley, CA 92286	September 1993	600	K-6

^aGAO was unable to get this information before publication.

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Table I.2: Charter Schools Proposed or Approved as of May 1994—Colorado

School and address	Date opened	Enrollment	Grades served
The Connect School 24951 East Highway 50 Pueblo, CO 81006	September 1993	70	6-8
Academy Charter School 794A South Briscoe Street Castle Rock, CO 80104	September 1993	350	K-7
Core Knowledge Institute of Parker Castle Rock, CO 80104	1994	165	K-6
Pueblo School for Arts & Sciences University of Southern Colorado 2200 Bonforte Blvd. Pueblo, CO 81001-4901	September 1994	323	K-9 presently and K-12 in the future
Community of Learners P. O. Box 4380 Durango, CO 81302	September 1994	60	6-8
EXCEL Charter School P. O. Box 1350 Durango, CO 81302	September 1994	113	6-9
The Discovery School Aurora Public Schools 18393 E. LaSalle Place Aurora, CO 80013	Fall 1995	144	K-8
Academy of Charter Schools 11285 Highline Drive Northglenn, CO 80233	1994	350	K-7
Community Involved School 1829 Denver West Drive, #27 Golden, CO 80401	September 1994	470	K-12
Sci-Tech Academy 1829 Denver West Drive, #27 Golden, CO 80401	^a	100 with plans to expand to 500	K-12
Clayton Charter School Denver Public Schools 900 Grant Street Denver, CO 80203	^a	88	Preschool-3
Denver Youth Academy Denver Public Schools 900 Grant Street Denver, CO 80203	Planning to open in fall 1995	120 (expected)	Middle grades

(Table notes on next page)

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^aGAO was unable to get this information before publication.

Table I.3: Charter Schools Proposed or Approved as of May 1994—Massachusetts

School and address	Date opened	Enrollment	Grades served
Benjamin Franklin Classical 390 Oakland Parkway Franklin, MA 02038	Not open	270 (expected)	K-8
Boston Renaissance 529 5th Avenue New York, NY 10017	Not open	700 (expected)	K-12
Boston University 775 Commonwealth Avenue Boston, MA 02115	Not open	150 (expected)	7-11
Cape Cod Lighthouse P. O. Box 968 South Orleans, MA 02662	Not open	100 (expected)	7-12
City on a Hill Charter School 39 Jordan Road Brookline, MA 02146	Not open	60 (expected)	9-10 expanding to 7-12
Community Day 190 Hampshire Street Lawrence, MA 01840	Not open	140 (expected)	K-6
Fenway II 250 Rutherford Avenue Charlestown, MA 02129	Not open	^a	9-12 expanding to 6-8
Francis W. Parker 234 Massachusetts Avenue Harvard, MA 01451	Not open	^a	7-12
Lowell Charter School 529 5th Avenue New York, NY 10017	Not open	400 (expected)	K-4 expanding to K-12
Lowell Middlesex Academy 33 Kearney Square Lowell, MA 01852	Not open	100 (expected)	9-12
Neighborhood House 232 Centre Street Dorchester, MA 02124	Not open	45 (expected)	K-8
South Shore 936 Nantasket Avenue Hull, MA 02045	Not open	60 (expected)	K-12 and adults

(continued)

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School and address	Date opened	Enrollment	Grades served
Western Massachusetts Hilltown 3 Edward Street Haydenville, MA 01039	Not open	35 (expected)	K-4
Worcester 529 5th Avenue New York, NY 10017	Not open	500 (expected)	K-4 expanding to K-12
YouthBuild 173A Norfolk Avenue Roxbury, MA 02119	Not open	50 (expected)	^a

^aGAO was unable to get this information before publication.

**Table I.4: Charter Schools Proposed or
Approved as of May 1994—Minnesota**

School and address	Date opened	Enrollment	Grades served
Metro Deaf 289 E. 5th Street Suite 102 St. Paul, MN 55101	Fall 1993	14	K-7
Cedar Riverside Community School 1808 Riverside Avenue Suite 206 Minneapolis, MN 55454	Fall 1993	85	K-8
St. Paul Community School c/o Holos Foundation 12 Oliver Avenue, South Minneapolis, MN 55405	Not open	^a	K-12
Skills for Tomorrow 52 10th Street, South Dun 227 Minneapolis, MN 55403-2001	March 1994	Start with 20, maximum 80-100	9-12
Toivola-Meadowlands 7705 Western Avenue P.O. Box 215 Meadowlands, MN 55765	September 1993	196	K-12
City Academy St. Paul, MN School District 1109 Margaret Street St. Paul, MN 55106	September 1992	40	Ages 13-21
New Heights Schools, Inc. 614 W. Mulberry Stillwater, MN 55082	September 1993	216	K-12

(continued)

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School and address	Date opened	Enrollment	Grades served
Bluffview Montessori 101 E. Wabasha Winona, MN 55987	March 1993	76	K-3 the first year and adding 4-6 the second year
Minnesota New Country School P. O. Box 423 Henderson, MN 56044	Fall 1994	100-200	7-12
Dakota Open Charter School	Fall 1994	^a	7-12
Parents Allied With Children and Teachers (PACT) 600 East Main Street Anoka, MN 55303 School site: 440 Pierce Street Anoka, MN	Fall 1994	81	Pre-K-12

^aGAO was unable to get this information before publication.

Federal Grant Program to Support Charter Schools

The Improving America's Schools Act, which reauthorized the Elementary and Secondary Education Act of 1965,²¹ includes a provision establishing a new federal grant program to support the design and implementation of charter schools.²² The text of this provision appears here.

²¹P.L. 103-382, October 20, 1994.

²²P.L. 103-382, Title X, part C, sections 10301-10307.

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PART C.--PUBLIC CHARTER SCHOOLS

SEC. 10301. FINDINGS AND PURPOSE.

(a) FINDINGS.--The Congress finds that

(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

(2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

(3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State content standards and challenging State student performance standards for all students;

(4) charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, which reduction can have a significant effect on student achievement;

(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter schools models in order to help demonstrate the benefits of this promising education reform; and

(7) there is a strong documented need for cash flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

(b) PURPOSE.--It is the purpose of this part to increase national understanding of the charter schools model by--

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(1) providing financial assistance for the design and initial implementation of charter schools; and

(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents.

SEC. 10302. PROGRAM AUTHORIZED.

(a) IN GENERAL.--The Secretary may award grants to State educational agencies having applications approved pursuant to section 10303 to enable such agencies to conduct a charter school grant program in accordance with this part.

(b) SPECIAL RULE.--If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 10303, the Secretary may award a grant to an eligible applicant that serve such State and has an application approved pursuant to section 10303(c).

(c) PROGRAM PERIODS.--

(1) GRANTS TO STATES.--Grants awarded to State educational agencies under this part shall be awarded for a period of not more than 3 years.

(2) GRANTS TO ELIGIBLE APPLICANTS.--Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this part shall be awarded for a period of not more than 3 years, of which the eligible applicant may use--

(A) not more than 18 months for planning and program design; and

(B) not more than 2 years for the initial implementation of a charter school.

(d) LIMITATION.--The Secretary shall not award more than one grant and State educational agencies shall not award more than one subgrant under this part to support a particular charter school.

SEC. 10303. APPLICATIONS.

(a) APPLICATIONS FROM STATE AGENCIES.--Each State educational agency desiring a grant from the Secretary under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

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(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.--Each application submitted pursuant to subsection (a) shall--

(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program;

(2) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing--

(A) a description of the educational program to be implemented by the proposed charter schools, including--

(i) how the program will enable all students to meet challenging State student performance standards;

(ii) the grade levels or ages of children to be served; and

(iii) the curriculum and instructional practices to be used;

(B) a description of how the charter school will be managed;

(C) a description of--

(i) the objectives of the charter school; and

(ii) the methods by which the charter school will determine its progress towards achieving those objectives;

(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

(E) a description of how parents and other members of the community will be involved in the design and implementation of the charter school;

(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

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(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

(I) a description of how students in the community will be--

(i) informed about the charter school; and

(ii) given an equal opportunity to attend the charter school;

(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part; and

(L) such other information and assurances as the Secretary and the State educational agency may require.

(c) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.--Each eligible applicant desiring a grant pursuant to section 10302(e)(1) or 10302(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

(d) CONTENTS OF APPLICATION.--Each application submitted pursuant to subsection (c) shall contain--

(1) the information and assurances described in subparagraphs (A) through (L) of subsection (b)(3), except that for purposes of this subsection subparagraphs (I), (J), and (K) of such subsection shall be applied by striking and the State educational agency each place such term appears; and

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(2) contain assurances that the State educational agency--

(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

(B) will assist each subgrantee in the State in receiving a waiver under section 10304(e);

SEC. 10304. ADMINISTRATION.

(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.--The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 10303(b), after taking into consideration such factors as

(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State's education improvement plan;

(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

(3) the ambitiousness of the objectives for the State charter school grant program;

(4) the quality of the strategy for assessing achievement of those objectives; and

(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students.

(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.--The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 10303(c), after taking into consideration such factors as--

(1) the quality of the proposed curriculum and instructional practices;

(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

(3) the extent of community support for the application;

(4) the ambitiousness of the objectives for the charter school;

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(5) the quality of the strategy for assessing achievement of those objectives; and

(6) the likelihood that the charter school will meet those objectives and improve educational results for students.

(c) PEER REVIEW.--The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.

(d) DIVERSITY OF PROJECTS.--The Secretary and each State educational agency receiving a grant under this part, shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants--

(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

(e) WAIVERS.--The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 10306(1), if--

(1) the waiver is requested in an approved application under this part; and

(2) the Secretary determines that granting such a waiver will promote the purpose of this part.

(f) USE OF FUNDS.--

(1) STATE EDUCATIONAL AGENCIES.--Each State educational agency receiving a grant under this part shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this part.

(2) ELIGIBLE APPLICANTS.--Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school in accordance with this part.

(3) ALLOWABLE ACTIVITIES.--An eligible applicant receiving a grant or subgrant under this part may use the grant or subgrant funds only for--

(A) post-award planning and design of the educational program, which may include--

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(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

(ii) professional development of teachers and other staff who will work in the charter school; and

(B) initial implementation of the charter school, which may include--

(i) informing the community about the school;

(ii) acquiring necessary equipment and educational materials and supplies;

(iii) acquiring or developing curriculum materials; and

(iv) other initial operational costs that cannot be met from State or local sources.

(4) ADMINISTRATIVE EXPENSES.--Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part.

(5) REVOLVING LOAN FUNDS.--Each State educational agency receiving a grant pursuant to this part may reserve not more than 20 percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this part, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

SEC. 10305. NATIONAL ACTIVITIES.

The Secretary may reserve not more than ten percent of the funds available to carry out this part for any fiscal year for--

(1) peer review of applications under section 10304(c);

(2) an evaluation of the impact of charter schools on student achievement, including those assisted under this part; and

(3) other activities designed to enhance the success of the activities assisted under this part, such as--

(A) development and dissemination of model State charter school laws and model contracts or other means of authorizing and monitoring the performance of charter schools; and

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Federal Grant Program to Support Charter
Schools

(B) collection and dissemination of information on successful charter schools.

SEC. 10306. DEFINITIONS

As used in this part:

(1) The term 'charter school' means a public school that--

(A) in accordance with an enabling State statute, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

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

(D) provides a program of elementary or secondary education, or both;

(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) does not charge tuition;

(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

(H) admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

(J) meets all applicable Federal, State, and local health and safety requirements; and

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(K) operates in accordance with State law.

(2) The term 'developer' means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

(3) The term 'eligible applicant' means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this part.

(4) The term 'authorized public chartering agency' means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

SEC. 10307. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this part, there are authorized to be appropriated \$15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

Comments From the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

Dr. Linda G. Morra
Director, Education and Employment Issues
United States General Accounting Office
Washington, DC 20548

Dear Ms. Morra:

The Secretary has asked me to respond to your request for our comments on your draft report, "Charter Schools."

Charter schools represent an important new strategy to promote innovation, parental and community involvement, and choice in public education. It will be critical to study their development around the country in order to understand the implications for the charter school movement, and the lessons these schools can offer for American public education, more generally.

Your report raises thoughtful issues about the challenges facing charter schools, and presents an informative survey of the status of their development nationally. It should be useful to anyone wishing either to study charter schools or to initiate one. The Department will use the report as it implements the new charter schools grant program.

We have also considered the recommendations in the report and have the following comments:

- o You recommend that the Department determine whether States may consider treating charter schools as independent local educational agencies, and if so, provide guidance on how States may determine Title 1 funding and legal responsibilities in special education for charter schools that are established dependent of any local educational agency. The Department encourages States to develop legal arrangements that best support State and local strategies for improving academic achievement for their children. Further, while it would be difficult to develop guidance to accommodate the wide variations in charter school laws and practices around the nation, the Department will work with interested States, and others involved in the development of charter schools to address the issues described in the GAO report on a case-by-case basis. As we work with States and others on this issue, we will continue to consider whether more general guidance would be helpful.

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Appendix III
Comments From the Department of
Education

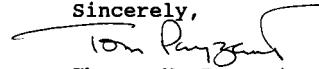
-2-

- o You raise questions about how the waiver authority in Title X, or alternatively in Title XIV, can be used to address issues related to charter schools. The Department wishes to clarify that all schools receiving Federal funds under the Elementary and Secondary Education Act are eligible to receive waivers under Title XIV, and that State educational agencies and other eligible applicants with approved applications may receive waivers concerning charter schools under the broader authority in Title X. The Department intends to use this broader authority to promote flexibility in charter schools.

Under the statute, the Secretary may grant waivers to charter schools with approved applications, if he determines that such waivers will promote the purposes of the Federal charter schools program. However, the Secretary may not waive certain requirements, including the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and Part B of the Individuals with Disabilities Education Act.

Thank you for the opportunity to comment on this useful report. My staff and I are prepared to respond further if you or your representatives have further questions.

Sincerely,



Thomas W. Payzant

Acknowledgments

GAO would like to acknowledge the assistance of the following experts. These individuals provided valuable insights on the issues discussed in this report; however, they do not necessarily endorse the positions taken in the report.

Priscilla Wohlstetter, Associate Professor of Politics and Policy
School of Education, University of Southern California

Ted Kolderie, Senior Associate, Center for Policy Studies

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In addition to those named above, the following individuals made important contributions to this report: Patricia M. Bundy, Evaluator; Sarah Keith, Intern; Julian P. Klazkin, Senior Attorney; Sheila Nicholson, Evaluator; Diane E. Schilder, Senior Social Science Analyst.

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