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A Charter for Accountable Schools
Accountability, Choice and Charter schools

Oregon Charter Policy Handbook

by the Oregon Charter School Task Force
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1998 Oregon Public Charter School Task Force

The 1998 Oregon Charter School Task Force continues the work begun in 1995 by the first Oregon Public Charter School Task Force. The task force is composed of friends of the charter movement who all have been involved in some way in supporting the development of public school reforms and extending educational services to families and citizens underserved by Oregon's public school system. The committee acts as a self-governing, non-partisan citizens' voice that gives expression and encouragement to the charter strategy as a response to the problem of how to promote planned change in public schools.

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Obtaining the Handbook

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Executive Summary	
I. What's Next for Education Reform?.....	1
Philosophy and Purpose of Charter School Strategy	
Where the State Is Headed	
II. Why Change is Needed.....	5
The Slow Pace of Improvement	
The Need for Accountability	
The Legislature Can't Reform Schools	
Using Common Schools and Uniform Programs for Uncommon Kids and Diverse Needs	
The New Morality of Equity — Choice	
Open, Competitive Systems and Learning Organizations	
Intellectual Discrimination	
Changing the Church, Preserving the Faith	
III. Education Finance In Oregon.....	15
IV. The School as the Unit of Reform.....	21
The School the Legislature Wants	
The Systemic Changes That Are Needed	
V. The Role of the Legislature.....	27
Define the State's Interest — It is Different from the Districts'	
Get to Causes — Lift the 'Exclusive'	
Use the Charter Strategy as Model and Legislative Instrument to Encourage Change	
VI. Specific Recommendations.....	31
1. Implement Accountability	
2. Provide Choice	
3. Enact the Charter Strategy	
4. Use the Nationally Accepted Principles of the Charter Strategy	
VII. Implementation, Evaluation, and Adjustment of Charter.....	35
5. Create a Charter School Advisory Committee	
6. Insure Public Charter School Information is Made Available	
6. Establish Priorities for Federal Charter Development Funds	
7. Stimulate Infrastructure	
8. Evaluate and Revisit the Charter Policy	
VIII. Charter School Research.....	39
IX. Content of a Model Charter Bill.....	43
APPENDIX: Model Charter Bill	

EXECUTIVE SUMMARY

A Charter for Accountable Schools Accountability, Choice, and Charter Schools

Oregon Charter School Task Force

The Need for Change

It is time for the legislature to aggressively create choices for families and opportunities for teachers with charter schools.

Seven years after the state education reform, we find:

- The standards are not completed
- The statewide testing system is not finished
- Meeting state standards is not required for graduation
- Around 80% of the first students graduating under the CIM program will fail the CIM graduation tests

Education is now the public's number one concern. Money is not the public's sole issue. Citizens are frustrated by:

- Belief that their own children could be doing better
- The slow pace of reform and lack of accountability
- Difficulties teachers and principals face in improving their own schools
- Resources not reaching the classroom level

The 'Exclusive' Is the Problem

By the 'exclusive' we mean the 'districting' arrangement that creates the monopoly in public education. The legislature has created a public school system in which:

- Jobs and benefits are largely guaranteed
- Customers — the students — are *assigned* to schools
- Each monopoly is protected by a geographical boundary, and
- There is no consequence to the adults for the failure of kids to learn.

But public schools do not have to be monopoly schools.

The Role of the Legislature

The state's interest is different from the districts'. The state's interest is in creating effective, self-improving schools without micro managing the curriculum, staffing, and operations. Districts' want to protect their 'exclusive' but it is *the 'exclusive' that makes change difficult.*

'Charter schools' is a *legislative* strategy to create opportunity for providers and choice for families. And it lets school boards and superintendents say 'yes' to change. The charter strategy allows the legislature to:

- Establish accountable schools with real site-based decision making
- Create opportunities to solve the problem of the high failure rate
- Offer more diverse, equitable choices for kids and families

The legislature must create a bill that does two things:

- 1. Define the new form of autonomous and accountable public charter school operating under a performance contract.**
- 2. Lift the 'exclusive' districts hold by giving authority to approve a charter school to elected boards other than only the local district board.**

The Four Principles of a Legal Framework

- 1. *Autonomy, both legal and fiscal*** — Charter schools must be separate and independent from district control, eligible to conduct business and enter into contracts, and fully and directly funded by the state with per pupil funding based on enrollment.
- 2. *Multiple sponsors*** — In addition to the local school board, there must be 'someone else' who approves charter proposals — ESDs, community colleges, other district boards, county commissioners, city councils.
- 3. *Accountability in exchange for deregulation*** — Public charter schools must be fully accountable for their results through revocable, limited-term charter contracts. In exchange, they must be released from regulations including restrictions on who can be hired. Public charter schools must accept accountability to families and to the public through the sponsoring board.
- 4. *Public schools of choice*** — Public charter schools must be open to all students, non-discriminatory and non-selective in admissions, tuition-free, secular, and under public oversight.

Legislators' Goal — Self-Reforming Schools

The goal for legislators who want accountability and responsiveness is to create the opportunity for self-improving and self-reforming schools. Ultimately, the legislature can't really reform schools. Schools must reform themselves, and so the legislature must do more than enact standards and testing. It must have a *strategy for change, and the charter idea is its best strategy for taking the next step in the direction of creating accountable and responsive public schools.* We urge the legislature to act.

I. What's Next for Education Reform?

Oregon Charter School Task Force

The legislature should shift its attention to creating choice for families and opportunity for change oriented educators.

- *Education reform goals should include establishing accountability, giving families choice, and freeing providers to create new educational options*
- *Public charter schools provide a key development strategy in creating these changes*
- *Public charter schools can also serve as a model for autonomous, site governed, accountable public schools*
 - *They establish accountability*
 - *They provide choices*
 - *They create opportunities and incentives for change*

Recommendations to the Legislature

It is time for the legislature to aggressively create choices for families and opportunities for teachers. To move toward a system that requires accountability, gives families choices, and frees change oriented educators to create new educational options, the legislature should use the charter strategy to increase the pace of change and improvement in the mainline system. For this reason we believe the charter strategy is the next step in the reform of public education. The charter strategy, by removing the protected status of the districts — the underlying cause that makes change in the public school system difficult and slow — can serve as both a model for new accountable, autonomous public schools under local board oversight and as a legislative tool for making significant change possible.

Philosophy and Purpose of Charter School Strategy

We believe that the goal of education in America should be to create a system in which all children have the opportunity to fully develop their intellect, character, talent and potential. It is clear that our current system of public schools is unable to meet the needs or engage the interest of a significant number of students. We believe that the most promising way to motivate public schools to create needed innovation and to encourage creative people to implement promising educational practices is through the use of public charter schools.

Thoughtfully planned charter school laws make it possible for innovators to quickly move beyond the bureaucratic constraints of the traditional school system while at the same time remaining within the ideals of public education. Good public charter school laws build legal, academic, financial, and equal, open access accountability into the individual school chartering process. We believe that the challenge felt by the big education organizations who oppose an effective public charter school strategy is an appropriate one and this challenge is needed in order to protect and encourage the initiatives creating instructional improvement. We believe that significant academic improvements will result only if we free creative people to compete in open educational arena in which the final determinant of success is student performance. Our goal, therefore, is to offer a charter school strategy and legislative design for the Oregon legislature that will encourage and support real innovation and improvement in the public school system as a whole.

Where the State Is Headed

The School and Change — We believe the legislature should continue its movement toward public accountability by shifting its attention to schools. The obvious next step would seem to be to require that state standards be met for graduation but legislators appear reluctant to mandate another major system-wide change of this size. It's "too soon" they say. But rather than mandates, the legislature could increase local flexibility and opportunities for experimentation while at the same time changing the system to create a *incentive* for districts and schools to improve and change. The challenge of reform is to change the *dynamics* of the system without using mandates — of finding a means by which the legislature can encourage schools to accept accountability and become the unit of reform. The charter strategy offers the legislature the response it needs to the problem it faces — a way to create local opportunities and incentives that increase the pace of change without using coercive mandates. The charter strategy shifts the focus away from centralized efforts of micro managing the implementation of standards and testing to focus on encouraging local initiatives to redesign the common school model. Standards and testing, by themselves, are not a reform strategy. They describe hopes and results but they do not fundamentally change a rigid system based on the old 19th century common school model.

To implement the charter strategy, the legislature will need to confront a two-part process. First, the legislature will need to define the new form of accountable, site-governed public school which has the flexibility and

incentives to be self-governing and self-improving. Second, the legislature will have to lift the ‘exclusive’ districts hold over public education services in order for the state to leverage the move toward accountable, self-improving schools. The legislature lifts the ‘exclusive’ to free boards from politically deadening constraints so boards can say, “If we don’t do this, someone else will.”

The goal is to push the focus of reform down to the school level as well as to create a new dynamic in the public system for change and improvement. This charter strategy supports the broad directions of the state reforms in three ways:

- ***Establishes Accountability*** — Public charter schools laws make accountability mandatory for all public charter schools usually using the state’s standards and testing framework. This accountability sends the message that the legislature will eventually want to require that all public schools be required to demonstrate satisfactory academic growth of all students or suffer a consequence — that is, providing satisfactory value-added service based on change of students’ performance from the beginning to the end of the year. In some districts where there is reluctance in accepting accountability for all kids, charters also means that the most underserved families will have options available.
- ***Provides Choices*** — The charter strategy creates choices for families, teachers, and school boards. Public charter schools give families choices of where to enroll, they give teachers the choice of whether to be employees of a district or whether to own and operate their own learning program within an accountability contract, and they offer school boards a choice between being owner/operators of district schools or of being purchasers of learning from charter schools.
- ***Creates Opportunities and Incentives for Change*** — Without using coercive mandates, the charter strategy is an instrument the legislative can use to encourage the redesign of the public school system. It does this by lifting the ‘exclusive franchise’ districts hold over public education services and by allowing a new form of public school to develop. So the legislature in effect uses the charter strategy to both (1) serve as a model for the new form of accountable, site-managed public school the legislature wants and (2) to open the system to opportunity and the incentives for healthy change within and without the district.

The charter strategy offers the legislature a controlled, decentralized process for encouraging voluntary change without an all-at-once mandated change. It does this simply by creating *opportunity* through the two part process — defining the new form of independent, accountable public school operating by charter contract; and authorizing other publicly elected boards to offer public education services within a district by sponsoring charter schools.

Certainly the post-secondary option, contracting by boards, performance based individual study programs, educational tax credits for families, alternative schools, and other methods for increasing choices of families and opportunities for educators should be enlarged by the legislature but primary emphasis should be given to the charter strategy. It offers a key

legislative tool and the legislature's best hope for creating a new dynamic for change and improvement in the public system.

II. Why We Need to Change the State's Ed Reform Strategy

Oregon Public Charter School Task Force

The legislature is in a difficult position. It needs a strategy.

- *The pace of improvement is much too slow*
- *The legislature can't reform schools*
- *Diverse student needs require diverse school options*
- *Choice is the new morality of equity*
- *Public schools are not learning organizations*
- *Accountability in a seat time system is intellectually inequitable for slower students*
- *It is the public school model that needs to change, not public education*

The Slow Pace of Improvement

The legislature is being placed in an increasingly difficult situation. It has been seven years since it passed the reform act requiring state standards and testing. And the standards and testing are now making clearer the failure of the mainline system. A majority of kids in Oregon did not pass *any* of the state tests at the 10th grade level. Over 70% of the kids flunked the 10th grade math test, only 20% of the kids will meet the state's CIM standards, and yet the legislature is still saying that it is not yet time to get serious about accountability. It still must give the system more time. It does not want to require meeting the state's standards for the diploma because that would have consequences — not only for the kids but also for the adults. If a large

percentage of kids — in a state that long prides itself on being among the best in the nation — are below standards and at risk of not graduating, there are consequences not just for the kids who don't graduate but for the adults who run the system. If by mandating standards for the diploma, schools are still not performing and kids are not meeting the standards, there will be parents who have supported public education many years being told their kid is not going to get a diploma. Educators and legislators are recognizing that that's not doable. It would open the door to other more radical ideas.

Legislators seem reasonably clear about the 'what' of reform, the standards, but the 'how' poses difficulties, and the pace of current methods of change — standards and testing — is too slow for the public's need for a significant turn around in educational performance. The system has a growing population of students being left behind that it seems unable to accommodate. And the system repeatedly rebuffs the initiatives of reform-oriented leaders and charter starters. The legislature will need to act. But it must have a strategy to put a dynamic of change into the static system.

The Need for Accountability

We would stress that we do not have public school accountability. The state standards and testing are not

The Northwest Academy

When Mary Folberg, who previously ran the dance program at Portland's Jefferson High School, read the state's 1991 reform act she envisioned a model public school that would integrate the high quality performing arts program of Jefferson High School with an exemplary goal-based educational program. It would shift education from classrooms based on seat time to a continuous progress program based on step by step demonstrated performance in meeting each goal. In 1996 to realize this dream, She and others started the Northwest Academy. Today the Northwest Academy offers 40 full time and 85 part time students an exciting, high quality academic and arts program featuring the performing arts, media arts, and visual arts.

Private school status allows the Northwest Academy an essential opportunity — the flexibility to hire top notch professionals from various fields to teach. These professionals range from some who teach only one specialized class to a former award winning college Humanities professor from the University of Stanford and Alabama who could not obtain a license to teach in Oregon's public schools. As a result of this rich talent, the school offers an amazing range of powerful academic opportunities to the kids. For example, the school offers three levels of French, Spanish, Japanese, and sign language, and advanced technology skills currently used by the professionals in the media arts. The variety is possible because the school is a bundle of flexible contracts and responsive relationships.

The school quickly implemented the continuous progress, goal based instructional model envisioned in the state reform act. Teachers diagnose entering students to place them into a continuous progress curriculum. Each course has a clear set of objectives aligned with the state CIM standards and which form the basis for the classroom based accountability system. Students must demonstrate proficiency to progress. Many classes have students of widely varying ages working on the same academic objectives. It works better for students and is more efficient for teachers than the old age graded classes, says Mary.

But a private school operating outside the public education system is not what Mary and others hoped for. Charter status, says Mary, would have been more equitable since it would extend the opportunity to attend to kids of all economic levels.

accountability. Besides being clear about what is to be delivered — the standards — and the method for measuring it — state testing — accountability adds a third leg — a consequence for failure to perform. Accountability means not just that it is clear whether someone performed a task, but that there is a consequence for failure to perform. There will be no pay, a loss of business, or someone else will get to do the job.

We do not see any consequence for failure in the state’s reform plan — at any level. The system remains protected by the legislature. And when talk about charter schools shifts to fears that a charter school might hurt the district, (“we don’t want any more kids to leave”) this consequence is taken as a reason for *not* allowing charter schools. We must be clear; if the district is

Oregon Outreach

In 1993 Becky Black found herself talking to North Portland kids who had dropped out of the Portland Public Schools. “Help us get back into school,” they asked. The district had some limited alternatives targeted to kids involved in teen pregnancy, illegal activities, lack of progress, the inability to succeed in a traditional school setting, but the programs had waiting lists, and some kids who had been involved in the criminal justice system had no chance at all. “They lost their right to a public education,” said one official. Becky proposed to the district that they let her provide public education to the kids under a contract arrangement.

The Portland Public School District officials, reluctant to give up resources, gave Becky’s new school \$4 per day for each student, about a fifth of the minimum legal rate for alternative schools. Becky didn’t know the law but the next year, Becky insisted the kids deserved at least the \$23 per day legal minimum. The district finally agreed but it kept most state and federal entitlements.

Last year, over 230 kids attended Oregon Outreach schools. To serve these kids with difficult needs, Oregon Outreach’s McCoy Academy maintains a 10 to 1 teacher/student ratio and provides a complete range of drug and alcohol, teen pregnant, special Ed, counseling, job placement, and other services. The school provides individualized educational programs based on the state’s CIM standards and a goal based diagnostic/prescriptive accountability system. This program targets kids with hard core problems but it’s holding power pays off with a 71% attendance rate by the kids.

Two years ago the district received \$34.86 per student per day and gave McCoy \$18.29, about 52%. The district profited while McCoy sank into serious financial trouble. Last year things improved. McCoy Academy cost Oregon Outreach \$34 per student per day to operate. The district received a little over \$42 per day for at-risk programs from the state but set the rate for McCoy and other contract schools at \$27 per day, about 64% of what they received from the state for these kids. The district made a profit of over \$2600 per student while McCoy lost money. In addition the district still kept some of the kids’ special funding for English Second Language, foster kids, drug and alcohol, hot lunch, vocational ed, job training, and IDEA but did begin to pass on the federal Title I & VI money for reading, math, and science. The district maintains caps on the school, restricts admission to only at-risk kids (those not previously enrolled or those referred by the district), and issues contracts to McCoy and other contract schools each year without negotiation. This year the district raised the amount from \$25 to \$27 per day but lowered the cap so McCoy receives the same as last year.

So how does Oregon Outreach manage to continue operating McCoy Academy? It subsidizes the McCoy program by cutting technology, textbooks, and materials; finding revenues elsewhere; raising private dollars; and obtaining various government project grants. “The issue is not our program or any one district. It’s lack of equity for these kids,” says Becky. There are programs all over the state for these kids, very successful programs, but the money allocated for these kids’ programs aren’t going to where the programs are. No district should have the right to do that.”

failing to respond, it *should* be hurt. It *should* lose kids and dollars. There must be a consequence. If the district does not want to lose good kids, good families, and good dollars, it must respond. The educational task is too important. If the legislature continues to tell the districts, we will protect you from consequences of your performance, it is removing accountability. The legislature, in effect, will be saying that protecting districts is more important than protecting kids.

The Legislature Can't Reform Schools

As we look at the state reform act, we would point out that the focus on standards and testing puts people outside the school in the wrong role. Failure made clear by standards and testing leads to the question, "How can we reform the schools?" "How can we reform Jefferson?" So the central office takes action, committees form to work on the problem, the legislature looks at how money is spent. The question of how external efforts can improve schools leads in the wrong direction for a solution. It pulls responsibility upstairs. The legislature (or the central office, or a citizens' committee) can't *do* reform. Schools must do reform. Schools must be self-reforming, self-improving, self-governing. They must become learning organizations. The standards debate has been essentially about how the state should centrally define and measure public education for all, not about how or even if schools can change. So without thinking, efforts are shifting toward attempts to *make* school improve. But the goal should be to redesign the system so schools will be *self-improving*.

Using Common Schools for Uncommon Kids

Before the common school, early public/private schools looked much like charter schools — parents forming together to start small schools that were responsive to families' needs. Only later with the common school movement did large schools and large districts begin to appear and with them, the mammoth bureaucratic structures necessary to control them. In 1960, 64% of public school employees were teachers; today, only 52% are. The changes in size from consolidation and centralization of control are staggering. Large size now is a significant and detrimental factor in achievement.

Over the last 50 years, the number of districts in the U.S. has dropped by 87% from 117,000 to about 15,000 today. The average district enrollment went up 1100% from 217 to 2,700. The number of schools dropped by almost 70% from 200,000 to around 62,000 today. The average school enrollment increased by over 400% from 127 students to over 650 students today. Schools of 2,000 are not uncommon. In just the last three years the average size of elementary schools in Oregon has increased by one-fifth from 393 students in 1994 to 475 students in 1997. These various kinds of increases in size directly correlate with a decrease in student achievement, disengagement by students, and increased disciplinary problems.¹

Large size also allows special interests to capture power, insulates the organization from the signals it should get from the consumers it serves, increases coordination costs, discourages innovation, and creates a bureaucracy that must necessarily try to expand itself in order to do a better

job. As a result, a large part of new money has gone for non-instructional purposes.²

But size and the distance of political control from the schools hurt citizen trust and confidence as well. In opinion polls, citizens give parents in their community a 67% trust rating for making education decisions, local boards a 64%, business leaders 29%, the state's governor 28%, teachers unions a 27%, and elected officials in Washington, DC a 14% trust rating. People want meaningful involvement in their local schools yet the state has been intent on taking local control of neighborhood schools away from citizens.

The New Morality of Equity — Choice

School choice is becoming the new morality of equity. In Oregon a form of means tested school choice now exists. Families are 'assigned' to the schools in their area. The rich can afford to buy houses in the nice areas of town with good schools. The poor are effectively 'assigned' to their neighborhood schools, and the kids at risk of dropping out or on the street may be assigned to separate alternative or contract schools. This kind of 'choice' creates an unfair, divisive system of schools.

The last Gallup Poll for the *Kappan* shows public support rising rapidly for having the government pay part or even all of the cost of a student's education in private school. Support for the government paying the *full* bill has risen in just five years from 24 percent to 44 percent; opposition has dropped from 75 percent to 50 percent. What is interesting, is that the demographic breakdown of support

The Brownsville Academy

Not only did the Central Linn SD face a budget crunch, it was in danger of losing families who felt underserved — TAG students, drop outs and at-risk kids, families who wanted a sharper academic focus. But the superintendent and board did what they are supposed to do — they found ways to provide educational service that would attract and hold their families.

The district provided a charter-like arrangement to support the new academic focus school the parents were starting, the Brownsville Academy. The district contracted with the school to provide educational services for the students and agreed to pay the school \$3750 for each student. The district received \$4800 in revenues from the state. Parents were pleased, the school seemed to work and grew to 54 students, kids were served, and the district retained its enrollment and revenues.

For six talented and gifted students who were underserved by existing district resources, the district provided contracted learning services. It located courses from OSU, Linn Benton Community College, the Bend Community College, and distance learning courses through the Internet. Each semester, the families and the superintendent created individualized learning contracts and located resources to deliver the learning opportunities that were needed.

The superintendent then contracted for the courses from the post secondary institutions, bought materials, rented a down link satellite dish, and paid for distance learning courses that were needed. With the state's move toward goal based education, it made sense to contract for learning in order to serve specialized needs. Again the district found a cost effective way to deliver services that made money for the district, maintained accountability for learning and the expenditure of public resources, pleased the parents, and provided students with individualized and creative learning opportunities from a rich variety of high quality resources. It appeared to be a winning solution for all.

shows it comes from blacks, young people, public-school parents, people in blue-collar occupations and in rural areas, and women, groups typically a large part of the Democrats' constituency.

Open, Competitive Systems and Learning Organizations

In spite of increasing costs, government monopolies do not tend to lead to improved services. It means that schools are not learning organizations because they don't 'learn' to improve their product or increase their efficiency over time as organizations in open, competitive systems do. In government schools, good ideas don't spread. In open systems, change is mandatory.

Beginning in the late 1960's, learning curves were plotted for a wide variety of organizations. The remarkable finding is not only that the data consistently show real cost declines ranging from 10 percent to 30 percent for each doubling of experience (in units of production³) but that *no study has ever identified a product or service whose costs did not decline with accumulating experience — except government services.*⁴

We have always had some open competition in education but primarily between different school districts within a metropolitan area. Parents choose where to live based, in part, on the quality of the schools and the property tax level, what we called 'means tested choice' since choosing good schools depends on the financial ability to buy into a neighborhood. But what parents are looking for is results, not funding levels.⁵ These research findings on choice are consistent with the

The Brownsville Drop-Out Retrieval Program

The district launched another program to find and recruit students who had dropped out of school. The district hired a half-time employee to organize programs that would lure kids back into district programs. The district paid for any kid brought back into an educational track that included Linn Benton Community College, Lane Community College, a contracted Navy program, and community based contracted learning experiences. To serve these drop out kids, the superintendent had to find all kinds of non-traditional forms of workplace and community based learning that weren't at the schoolhouse. Some were school-to-work programs; some were academic.

The program worked partly because it allowed flexibility in working with the kids and partly because of the committed folks who felt ownership and pride in running the program. The program grew to 50 students, and out of the 80 kids that were served, 30 of the kids continued on to graduation. The superintendent received touching letters from kids whose lives were turned around, and the Oregonian and the national press picked it up.

But the school board had always been hostile to the non-traditional programs, and in 1998 when the superintendent retired, five members on the 7 member board immediately began dismantling the programs. There were hard feelings, and under a quirk in Oregon's funding law, the stop loss provision for declining enrollments, the board was able to discontinue all three programs and retain the \$1/2 million funding for the 100 kids left underserved.

The Brownsville Academy filed a lawsuit against the board for violation of the funding law. A number of parents started a recall campaign. But without the leadership of a strong superintendent to protect the programs, the politically weak parents found they had no political or legal power to force the board to continue serving the kids.

body of research we cited earlier that found that small school districts and small schools do a better job than do large districts and schools after controlling for demographics and spending levels.⁶

There has also been research into the Milwaukee choice program, a limited voucher program for low-income students that has been in effect since 1990.⁷ It is still too early for definitive results, but Harvard researchers found a striking improvement in math test scores for those students who won the lottery to attend the private schools compared with those who applied for vouchers but did not receive them. Competition, in its traditional forms, improves the public schools without spending more money not because of ‘competition’ per se but because the system is open to improvements and good ideas. Since consumers reward organizations for the improvements and efficiencies they produce, we say their rewards are ‘aligned’ with the public good.

The irony is that public schools are not learning organizations. All personnel must implement one publicly determined set of uniform policies and standards. The closed public monopoly system that the legislature uses by design to deliver public education services violates the principle of aligning private rewards — the adults’ benefits, jobs, and salaries — with the public good — kids’ learning. Innovative teachers and schools too often are punished or pushed out of the system rather than rewarded. By ignoring the powerful principle of the learning curve of open systems, our current public school policy negates the very thing that is unique about human economics — the capacity to respond to experience with intelligence and creativity.

Intellectual Discrimination

We need to point out another form of inequity — that created by combining Oregon’s goal based system with a rigid age-graded school organization. The Oregon reform act signaled a major change by shifting the system from compulsory attendance to compulsory academic performance. Seat time doesn’t count in meeting the state standards, only performance.

If Oregon is serious about holding results constant at the end of schooling instead of holding seat time constant, then it must release the system from the seat time paradigm. It must give up the traditional age graded classrooms — “30 kids, a cell, and a bell” as one educator called it. Holding seat time constant requires kids to move from grade level to grade level and leave behind topics whether they have mastered them or not.

When basic concepts and information are not learned in the early grades, the lack of intellectual foundations exacerbates learning difficulties until simple remediation no longer is effective. To expect low kids who learn at a slower pace than fast kids to suddenly make huge learning gains makes no sense. Meeting the state standards in high school for these kids is highly unlikely if not impossible. A rigid performance based system that moves instruction along according to age without accommodation to individual differences is patently unfair.

Changing the Church, Preserving the Faith

When we urge the legislature to redesign the public school, we want to be clear about what we mean. We are urging the legislature to keep the faith but change the church. “Breaking out of the district public-utility arrangement in which teachers have to be employees and boards have to be employers *does not ‘destroy public education.’*” Public schools as an institution need to be changed, not the ideals of public education.⁸

Figure 1 shows the dividing line that separates public from private. Public schools are accountable to a public body (and sometimes to parents). Private schools are accountable to parents only.

It is important to be clear about the ideals that put education on the left in the public sphere and to understand that public charter schools are on the left. There are four ideals that make education public:

- (1) It provides universal, non-discriminatory access to all students.
- (2) It is free — all students have a free and fair opportunity to benefit from it.
- (3) There is public oversight by some democratically elected board.
- (4) Its purpose is secular *and* non-ideological.

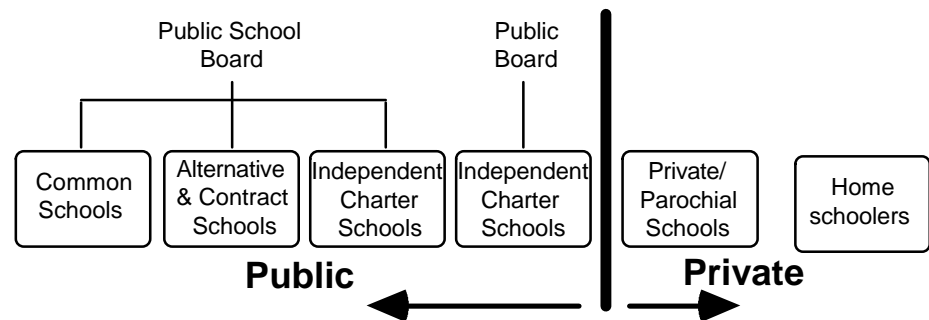


Figure 1: Public and Private Education

Citizens highly value education while support for government schools declines. A whopping 98% of parents want their child to go to college and 82% plan on sending their child to college. On the other hand, given a choice, almost 30% of parents want to send their kids to another school and 20% would choose a private school. The traditional model of ‘districting’ means government-owned public schools. The district ‘owns’ all public education services, money, and students within a geographical boundary. But it is not the districting idea that makes public education public. District owned public schools *deliver* public

education. Obviously, others could also. *With charters, we are recommending a change in the church, not the faith.*

END NOTES

¹ A good summary of existing literature, as well as new results, are presented in Herbert J. Walberg and Herbert J. Walberg III, "Losing Local Control," *Network News and Views*, August, 1994, pp. 23-30.

² Martin Buchannan wrote a useful manuscript on his research into changes in Portland Public School's budget since 1990. It showed increased revenues were eaten up primarily by rising special education and administrative costs, not instructional costs.

³ John M. Dutton and Anne Thomas, "Treating Progress Functions as a Managerial Opportunity," *Academy of Management Review* (1984), p. 238. The original investigator of the learning curve phenomenon was Bruce Henderson. His initial work was produced in 1973, *The Experience Curve Revisited* (Boston: Boston Consulting Group). Learning curves have since been published for every conceivable industry — steel, soft contact lenses, life insurance policies, automobiles, bottle caps, even for egg production. Egg costs have steadily declined to 1/5 of their price since the turn of the century and continue even today. "The learning curve gives orthodox economics fits," says Michael Rothschild, "but it represents what unique about human economics — the capacity to respond to experience with intelligence and creativity." See chapters 15 and 16 of his fascinating book *Bionomics* (New York: Holt, 1990).

⁴ Donald N. Thompson, "The Experience Curve Effect on Costs and Prices: Implications for Public Policy," in *Regulation of Marketing and the Public Interest*, Frederick E. Balderston, James M. Carman, and Francesco M. Nicosia, eds. (New York: Pergamon Press, 1981), p. 62.

⁵ Harvard professor Caroline Hoxby has compared metropolitan areas with many different schools districts to metro areas with few districts. She found that having more districts for parents to choose from leads to improvements in student achievement, with dramatically lower costs. That is, average achievement and cost across the whole metropolitan area is improved by competition among districts. Professor Hoxby also looked at competition between public schools and private schools. We often think that private schools flourish where the public schools do a poor job. Professor Hoxby's statistical work controls for this effect, and considers the pure effect of the supply of private schooling on the performance of public schools. She concludes that where the private schools have greater resources from past generations (endowments, etc.), "then the achievement of public school students is higher, regardless of whether it is measured by test scores, ultimate educational attainment, or wages." She also found that greater private schools resources does not affect public school spending per pupil. See "The Economics of School Reform," NBER Reporter, Spring 1998, pp. 6-12, summarizing "Does Competition Among Public Schools Benefit Students and Taxpayers?" NBER Working Paper No. 4979, December 1994.

⁶ Herbert J. Walberg and Herbert J. Walberg III, present a good summary of existing literature as well as new results in , "Losing Local Control," *Network News and Views*, August 1994, pp. 23-30.

⁷ Jay P. Greene, Paul E. Peterson, and Jiangtao Du, “Effectiveness of School Choice: The Milwaukee Experiment” (Harvard University, March, 1997). See also by Paul E. Peterson, Jay P. Greene, and William G. Howell, “New Findings from the Cleveland Scholarship Program: A Reanalysis of Data from the Indiana University School of Education Evaluation,” (Harvard University, May 6, 1998).

⁸ Ted Kolderie, “School Districts Need Flexibility to Change,” *Minnesota Journal*, November 17, 1998, p. 7. Ted reports that, “Robert Chase, president of the National Education Association, was asked at a dinner at Harvard University on September 23 what ‘public’ means in ‘public education.’

‘Paid for by the public,’ he said. ‘Accountable to the public. ‘Open to the public.’ *And that is all he said.*” See also Paul Houston’s editorial, “Preserving Public Education, Not Public Schools.” *The School Administrator*, September 1998, p. 53. Paul Houston is the executive director of the American Association of School Administrators.

III. Education Finance in Oregon

Oregon Charter School Task Force

- *Oregon now has funding distributed on a per pupil funding formula.*
- *The state's funding formula is equalizing all school districts. Only 35 remained outside the state equity formula last year.*
- *Capitated funding allows attaching funding to students and having funding follow students to the school (site-based funding).*
- *State funding and centralization of control may have negative effects on quality. It needs to be balanced with public charter schools and other local options.*
- *A separate public charter school sector can serve as a laboratory for the legislature to explore site-based funding.*

How Oregon Funds Public Education¹

To fund public schools during the last biennium, the state used \$3.7 billion of general fund revenues, \$454 million of lottery revenues, and \$1.768 billion of local property taxes (about 30% of the total funding for schools). Although property taxes are a local resource, it is treated as a statewide resource in the K-12 distribution formula. In order to maintain school funding, the 1990 Measure 5 property tax limitation measure required the state to gradually increase its share of K-12 funding from about 30% in 1990 to 70%. It also means that the state has moved districts toward equity by holding districts with higher funding levels (such as Portland) nearly constant while bringing up the rest of the districts. About 35 districts, 8% of all students, were still not at equity during this biennium. (With additional help for their PERS and desegregation costs, Portland now is.)

Districts are now funded on a per pupil basis using a permanent equalization grant formula that includes an adjustment for the average experience level of teachers in each district. The formula also gives extra

student counts for each enrolled student counted as at-risk (1/4 extra), second language (1/2 extra), or special education (1 full student extra count). To ease the transition of the districts still not at equity, the state uses temporary flat grant or stop-loss grant formulas. The average per pupil revenues for the state have risen since 1990-91 but when adjusted for inflation, per pupil revenues (including the lottery funds) are actually right at about the same level as in 1990-91. As a result of these funding levels and the transition to equity, some districts actually have lower levels of funding today than in 1991-92.

In addition to the General Purpose Grant, the Legislature made special allocations to K-12 education of about 200 million last biennium for one-time classroom needs and capital items. Districts can also ask voters to pass local bond measures or issue bonds of their own authority.

Funding and School-Based Decision Making

But funding districts often produces a lack of equity among schools. Under the traditional method of funding districts rather than schools, the incentive exists for districts to reallocate money among district schools and even to take revenues from contract schools that bring the district more revenues for at-risk kids. The districts want to be able to override the special allocations the legislature makes for special needs funds. By funding districts, the legislature, in essence, creates a situation in which “the district gets paid for dumping its problems.”

Education finance reform in Oregon brought three features:

- Lower property taxes;
- Equalization of per-pupil revenues both among districts; and
- Equalization of property tax rates between districts by capping local tax rates.

But these reforms reduce managerial autonomy at the school level. According to the literature on effective schools, the most significant determinant of a school's effect on student performance is managerial autonomy. John Chubb and Terry Moe point out that effective schools not only have a strong sense of purpose, clear goals and rigorous academic standards, but they also have strong instructional leadership by the principal, teacher participation in decision-making, cooperative principal-teacher relations, active parental involvement, and highly motivated students.² Administrative complexity, centralized control, and consolidation would seem to directly work against effective schools.

Some education finance experts even attribute the breakdown of the public school systems in Chicago, Washington, New York, Los Angeles, and other central cities to administrative complexity, centralized control, and consolidation — things which usually occur when state money replaces local money. In Oregon the shift to state funding and loss of local control supports the concept of balancing centralization by returning local control options through a public charter school strategy.

Moreover, there is a known relationship between the level of state support for public education and educational effectiveness: higher state aid tends to be related to lower levels of effectiveness. These findings suggest that increased state and federal aid may be at least partly responsible for declines in the effectiveness of public schools apparently because the research also shows increased state aid generally leads to increased state regulation and an expanded role for state educational bureaucracies. Nathan Glazer, citing the research of Donald Erickson, even claims that state funding of private schools in the Province of British Columbia resulted in making private schools more like public schools since Provincial funding led to:

- Increased provincial regulation/supervision, more paperwork and bureaucratization,
- Increased responsiveness on the part of school officials to state agencies,
- Reduced responsiveness on the part of schools to parents,
- Decline in parent involvement and participation in school activities, reduced student enthusiasm, and
- Decline in team behavior on part of teachers, increased concern with pay, fringe benefits, and working conditions (less involvement with parents and setting school policy).

Even though increased state support need not necessarily mean increased administrative control, the fact is that when states take over school funding, they usually want a say in how funds are spent and accounted for, how schools are organized, what services they offer, and to whom, their curricula, staffing, teacher certification standards and pay, and the like.

Furthermore, David Strang at Stanford University has shown, based on an analysis of the variation among the states in the speed and extent of local school district consolidation, that the growth and formalization of local school districts in large part stems from the expanding role of state bureaucracies. There is also some evidence that growth in federal and state categorical aid programs has also led to increased bureaucratic complexity at the local school district level.

Forty years ago most state aid programs were based either on basic aid or so-called Strayer-Haig type foundation programs. The former provided a specified operating subsidy to the local district based on the number of students in ADA. The latter aimed to supplement school spending in low-income, primarily residential districts, and apportioned state aid based on a the difference between the product of the number of students in ADA times a foundation amount and the product of the local property tax base multiplied by a computational tax rate. Under a foundation program an equalization district earned the full foundation amount for each additional student in ADA. Hence, both of these mechanisms once gave local districts a powerful incentive to maximize enrollment and therefore to be responsive to parent tastes, wishes, and interests. Furthermore, aside from the need to standardize enrollment measures and property tax assessments, to set foundation amounts and computational tax rates, and perhaps measure student performance, they implied no further need for state interference in district level operations.

But Oregon had long since ceased to rely on a foundation program when Measure 5 was enacted. Changes in the design of many state aid programs to reduce disparities in per-pupil outlays and disparities in property tax rates largely rendered many state aid programs incoherent. This result was due in part to the propensity of state legislatures to avoid reductions in the amount of state aid they provided to a given district, in part to their willingness to cap district budgets, and in part to the fundamental incoherence of their aims — increased per-pupil spending, greater equity, lower property taxes, higher levels of local effort. In Oregon this trend went even further than elsewhere because our levy based property tax system was highly idiosyncratic and because the system of local assessment in fundamental ways was out of control. Moreover, the state legislature added to the incoherence of the system by spasmodically increasing the total funds available for state aid.

Despite its many flaws, Measure 5 fixed several of these problems —assessment, the levy system, partial power equalization with all of its perverse incentives and incoherence. Moreover, it seems to have restored a system of state aid under which each district receives the same prospective payment for each incremental ADA. This return to capitated funding means Oregon is far ahead of most other states and that site-based funding of charter schools would be a rather small step to implement. Each charter school meeting the minimum standards called forth in the enabling legislation (and their own charters) could simply be paid a capitation amount for each ADA/ADM weighted for special needs students. Moreover, this mechanism would allow the state to test the notion that state (and district) bureaucratic mandates do harm merely by relieving the charter schools of most state (district) mandates, especially those having to do with curricular, personnel and financial matters. Accountability should be based entirely on ex post reporting on performance results and accomplishments, featuring a full set of general purpose financial statements and reports prepared on an accrual basis (using replacement rather than historical cost, as proposed by FASAB).

Given that charter schools are test beds for innovation, it might also be appropriate for the state to invest in Activity Based Costing experiments to determine whether or not appropriate models and standards can be developed to inform the management of Oregon's schools. Certainly, that information is currently lacking, but insofar as actual costs continue to be driven by standardized budget categories and ratios and prices, cost analysis and measurement will remain essentially irrelevant so far as better understanding of educational effectiveness is concerned. All that we can hope to learn from such an exercise in the current operating environment is whether budgets are executed as enacted or not.

END NOTES

¹ The figures and information in this subsection come from the State of Oregon Legislative Revenue Office, "1997 School Finance Legislation: Funding and Distribution," Research Report #2-98, February 1998.

² John Chubb and Terry Moe, *Politics, Markets, and America's Schools* (Washington, D.C.: The Brookings Institution, 1990). They found that student ability is the most influential independent variable, followed by family SES and school organization, each roughly two-thirds as influential as student ability, and school SES, about one-third as influential as student ability. They found that the school organization factor emerged from site-managed private schools and included goals, leadership, attitudes of school personnel, and educational practices. This organizational factor produced “an influence that appears to be in the range of one-half to two-thirds of a year of additional achievement” (p. 137).

IV. The School as the Unit of Reform

Oregon Public Charter School Task Force

To create accountable schools, reform efforts from RAND, the Cross City Campaign, and Minnesota suggest seven changes:

- 1. Move decision making and responsibility down to the school level*
- 2. Give parents choice*
- 3. Establish accountability with contracts*
- 4. Deregulate schools*
- 5. Change board roles from owner/operators to buyers/overseers of learning*
- 6. Attach funding to kids*
- 7. Use results based research and development*

The School the Legislature Wants

We believe that the ideal school the legislature wants is already reasonably clear. It is small and responsive, it is site governed and site funded with accountability to both public standards and to parents through a clear written contract, it has considerable flexibility and freedom in how it operates, it is under direct public oversight by a publicly elected board for its outcomes, its mission is clear and focused, it has a set of shared values and philosophy that bring together its families and teachers, and it is a school of choice for families and teachers. Three sources in particular point to general themes that are emerging in the redesign of the public system.

The Cross City Campaign for Urban School Reform — In the Cross City Campaign for Urban School Reform begun in 1993, experienced reformers from Philadelphia, Chicago, Denver, New York, and Seattle formed a network to exchange ideas about how to create “community-based

autonomous schools” that would make dramatic improvement in public education. They noted that pleas for decentralization and reconnecting schools with their surrounding community are common but there are few guides as to what a decentralized system would look like. Their report “Reinventing Central Office: A Primer for Successful Schools,” describes a model compiled from a number of reforms found in use in various school systems.¹ The comprehensive model redesigns five components — governance, budgets, curriculum and instruction, personnel, and accountability — in order to dramatically gut the central office of power over schools and place resources, authority, and accountability at the school level.

Minnesota Citizens League — The Citizens League has been another rich source of design ideas. One of its recent reports addressed the redesign of the public school model.² It recommended “a dramatic new view of the role of government.” It said, “Government should no longer be mainly about taxing, regulating and spending money on programs. Instead, the role of government should be “to design environments in which people are prodded systematically to meet public purposes in the course of meeting their own interests.” The redesigned public school system would free teachers, parents and staff to decide how education gets done at their school site and would provide plenty of alternatives for parents to choose from. It recommended the legislature:

- Attach funding including compensatory aid to students; have per-pupil aid and levy go to the school — not the district — in which the student enrolls including 95% of the operating revenue and 25% of the capital revenue.
- Ensure that the public interest in education is met by requiring every publicly funded school have a contract with a district, the state, or another public agency to deliver certain specified education outcomes. Establish a mechanism to enforce these contracts.
- Free teachers, parents, and staff to make decisions about how education services are delivered at their public school site. This freedom should include permitting schools to make major decisions about budget, personnel, and education methods and to employ non-licensed individuals in a classroom under the supervision of a certified teacher.
- Expand the number and diversity of public school choices through several strategies — allow parents to select the public school that their child attends, move toward site-based management, encourage existing public schools to become deregulated and autonomous, encourage expansion in the supply of public charter schools, expand the post-secondary enrollment options for high school students, remove obstacles that prevent creation of new models for cost effectively meeting the public interest in education.
- Empower parents to be good consumers of education. Provide reliable information about the performance of schools and programs. Parents should not only have information as to choices and performance, but there should be best practices reviews, processes for measuring and publicizing improvement of schools, and productivity information that makes the “price of education” more visible to consumers.

The RAND Studies — As if he were referring to Oregon’s centralized reforms, Paul Hill of the RAND Corporation and University of Washington in Seattle stated that, “so-called systemic reforms try to ‘align’ the different parts of public education via mandated goals, test, curriculum frameworks, and teacher certification methods but do nothing to eliminate the political and contractual constraints that create fragmented, unresponsive schools in the first place.”³ The alternative form of governance to the traditional public schools funded and operated by a government agency, he states, is “schools operated by a variety of public and private organizations based on school-specific contracts that define each school’s mission, guarantee a certain amount of public funding, and spell out the terms of accountability.” The Central Office does not perform its functions well despite earnest people because it was originally designed “to manage a centralized bureaucratic system.”⁴

From their research of decentralization in a number of major urban and suburban school systems, Hill and others⁵ identified principles for successful site-managed schools. They also found that “the ultimate accountability mechanism for a system of distinctive site-managed schools is parental choice.”⁶

- Decentralization is a means not an end. Its ultimate goal is to make schools more responsive to the needs of students.
- Decentralization means that key instructional decisions are made at the school.
- To become the sites of key instructional decisions, schools must control their own resources.
- In a decentralized school system, funds must be allocated fairly.
- Most decision-making groups are more effective when their choices are bounded as, for instance, by a prior commitment to a mission or some basic principles of operation.
- Schools that live by decentralization must also be able to die by it.
- Accountability for schools in a decentralized system should be based on contracts.

The Systemic Changes That Are Needed

The criteria of success for self-reforming schools is to ask if a reform plan tackles several interrelated systemic issues: Does it establish accountability, remove politics from decision making, empower and involve families, free and empower providers, and support and improve education for all students equitably? We represent the goal of making the school the unit of reform by seven key changes.

Decentralize — Make the school site the unit of responsibility and accountability. Push control of resources and decision making down to the schools close to the action. Let providers can become more responsive and accountable. Gut the power of central offices and make it a support agency. Protect schools’ control over resources and budgets, programs, personnel,

buildings — and reform. But make this invitational, a voluntary action schools must take.

Give Parents Choice — Rebalance the power between consumer and provider. Empower parents with information. Require publication by ESDs of educational options and school data. Separate the consumer voice of parents from the provider decisions of teachers by requiring each school to have a parent council, separate from the site-governance committee, that has evaluative and ombudsman powers and reports directly to the board.

Establish Accountability with Contracts — Have schools and teachers establish clear agreed upon core services for their customers. Require public, schools and teachers to establish clear, agreed-upon core deliverables for their parents and board. Use contractual accountability to replace regulations and administration/supervision. Use contracts to focus the school on objective, results-based accountability. Allow contracted relationships for individualized student education plans.

Deregulate Providers — Allow schools to replace regulation with contracted accountability. In exchange for accepting contractual accountability free providers and get them out from under district, state, and federal mandates. (To begin the process of replacing regulated schools with empowered schools, Texas threw out their education laws so that they could let districts and public schools free themselves but in exchange they had to become accountable providers.) Every local community must be able to have the kind of schools it wants. Increasingly, that means creating an option by which communities can escape the bureaucratic system.

Change Board Roles — Give boards an option to be buyers of learning for kids. Give boards a choice whether to be in the learning business or in the business of owning and operating schools. Encourage boards to think of themselves as brokers who provide oversight of multiple providers on behalf of families.

Have the Money Follow the Kid — Equalization means equity among schools and kids, not just districts. Make it real with site-based funding. Identify what should be spent for each student's education and have that funding follow the kid into the school. Continue to rationalize funding formulas by shifting to site-based funding. Allow schools to buy services they need from a central office or someone else. Give schools control of 95% of operating costs and 25% of capitol investments.

Use Voluntarism and Results-Based Research and Development — Develop a legal framework that creates the opportunity and incentive for schools to voluntarily choose autonomous status and accountability. Make data-driven adjustments based on real, empirically substantiated problems.

END NOTES

¹ “Reinventing Central Office: A Primer for Successful Schools,” Committee Report [Chicago: Cross City Campaign for Urban Reform, undated, (1995)].

² See the Report of the Citizens League Committee on State Spending II, "Choose Reform, Not Declining Quality," (Minneapolis, MN: Citizens League, 1995), pp. 15 - 19.

³ Paul Hill, "Reinventing Urban Public Education," *Phi Delta Kappan*, January 1994, pp. 396- 401.

⁴ Paul T. Hill, "Reinventing Public Education." (Report of the RAND Institute For Education and Training and the University Of Washington's Institute For Public Policy And Management, April 1994), p. 73. The researchers point out that "though site-based management focuses on individual schools, it is in fact a reform of the entire school system." The expectations and controls of a centralized system cannot remain intact. The researchers also found that "site-based management will lead to real changes at the school level only if it is a school system's basic reform strategy, not just one among several reform projects." They called this "projectitis" in which site-based management is just part of other reform efforts.

⁵ Paul T. Hill and Josephine Bonan, "Decentralization and Accountability in Public Education." (Santa Monica, Ca: RAND, 1991).

⁶ Paul Hill, "Deconstructing Decentralization: 12 Tips," *Education Week*, March 10. p. 63.

V. The Role of the Legislature

Oregon Public Charter School Task Force

The state's interests are different from the districts' interests.

- *The state doesn't own the schools, districts do, so the state must change the system in order to make change within districts possible and necessary.*
- *The cause of resistance to change is the 'exclusive' districts hold. Districts should not be protected from the need to change.*
- *The state must 'lift the exclusive'.*
- *The districts will naturally resist losing their protected status but the state's interest is different from the districts. The state must act in spite of the districts' protests.*

Define the State's Interest — It is Different from the Districts'

We believe that the state's role is not to *do* reform. That is the schools' job. And the state's interest is not the same the districts'. The state's responsibility is about protecting the interests of all kids to insure they have educational opportunity. The district's interest is about protecting the district. The district argument that it is *their* kids, *their* money, *their* territory reflects its interest in preserving its 'exclusive'. That is why we say that in order to make change possible within the mainline system, the legislature must lift the 'exclusive' and give parents choice in spite of the protests of districts. We believe major reform can happen without turning to vouchers. The way to do that and keep within the public system is through the public charter strategy. Quite simply, the legislature creates another sector of public education, the charter sector, which opens the opportunity for someone else to offer public education within a district.

Districts will resist the state removing their protected status but the state's interest is different from the districts. The legislature must act on

behalf of the kids and in spite of the protests of the district who do not like the inconvenience of competition. ‘Charter’ must be a legislative initiative done in spite of the resistance of the big education organizations.

Get to Causes — Lift the ‘Exclusive’

The legislature is in a bad situation. It now provides 3/4 of the funding for schools but it can’t get the districts to deliver what it wants. The public’s natural question when we Es the large sum of money the legislators are spending on education — \$4.5 billion every year, a total of about \$8,000 per student, produced from an average of \$2,000 per household — is to know, “Where is the performance in return for this money? Where is the accountability?” But the legislature doesn’t own the schools, and it doesn’t run the schools. And it finds itself in the position in which the district is the only game in town. The legislature has in effect given districts an ‘exclusive’ over public education services. It has guaranteed the adults their jobs, benefits, and customers whether kids learn or not. The legislature has designed a system in which the rewards of the system have nothing to do with the mission of the schools, kids’ learning.

We find little substance as yet beneath the rhetoric of reform. Most ‘reform’ activity centers on the paperwork of the CIM and CAM. But underneath the words, the performance and structure of the public schools and their instructional delivery system have not significantly changed. The paradigm remains a factory model of an age-graded system that treats kids as a collective to be moved as a herd through the system. We don’t believe this is largely a staff development problem nor do we believe more careful testing of the output at the factory door will change the old assembly line design. The people are good; it is the system that is bad. It is a system that often frustrates and drives good people away because almost anyone can veto significant change. Even when change oriented educators express commitment, the system lacks opportunity for initiative. The state needs a strategy to create the *opportunity* for change.

Use the Charter Strategy as a Model and an Instrument to Encourage Change

The changes needed to move schools from administered to accountable status are already possible within districts but they haven’t occurred nor are they likely to occur. In our public school system, good ideas don’t spread spontaneously as they do in free market systems. Districts aren’t self-reforming institutions. As a result, legislatures are faced with the choice of either mandating or making change voluntary. If change is to be voluntary, the legislature needs a method for incentivizing change; it must create the *need* to change. Paul Hill suggests that the move to contract based services should be *imposed* on all public schools. But a reform imposed through a one-time legislative mandate on every school is risky and certain to be perceived as arrogant. What the legislature must do to create the need for change is to ‘lift the exclusive’ districts hold. The legislature, by adopting the charter strategy, makes charter schools a possible model for the kind of

accountable school the legislature wants and *instrumental* in leveraging change in the mainline district system.

The charter school strategy is not designed to give school districts another tool. They can already do this — but they don't. What the big education organizations don't want is the loss of their protected status. Lisa Graham Keegan, Arizona State Superintendent of Education stated, "After chairing (the Arizona House Education Committee) for one year, I realized that no real reform in education was going to come through consensus."

We recommend that the legislature write an honest charter bill using the standard, widely accepted charter principles which allow the creation of an independent charter sector within public education so that the full assembly and governor can clearly decide, in an up or down vote, on the fundamental question of whether to 'lift the exclusive' districts now hold and whether to begin creating accountable public schools.

VI. Legislative Recommendations for Charter

Oregon Public Charter Schools Task Force

The state should be clear about its long-range strategy for education reform.

- 1. Implement accountability*
- 2. Provide choice*
- 3. Enact charter legislation*
- 4. Use accepted charter school principles*

We recommend that the legislature clarify its long-range strategy in promoting real change and improvement in the public school system. We recommend that a long-range strategy include a focus on moving toward allowing for the conversion of public schools from administered status to autonomous, accountable status. We urge the legislature to put three foundation pieces in place immediately.

1. Implement Accountability

We believe the legislature should make meeting state standards mandatory. Public dollars require accountability, and the accountability shell will allow the state to relax process controls and give schools and boards flexibility to redesign them.

We also believe accountability should be instituted at all grade levels, not just at graduation. Given that the state testing program is largely in place, meeting state standards should be mandatory at 3, 5, 8, and 10th grade. If the state has identified a common core of knowledge that all children must have at all levels, then it is unfair and a disservice to kids who learn at different rates to move them to advanced levels before they have had the opportunity to

master the basics required at each level or to require other kids progress to be held back.

We also recognize that the traditional method of organizing instructional delivery around seat time and age graded classes without regard for children's level or rate of progress will collide with a multi-level accountability system. Seat time must give way to performance based progress. To be fair to all kids, a standards based approach with accountability requires a continuous progress model of instructional delivery so that instruction accommodates differences among kids and doesn't leave some kids behind. An adaptive, continuous progress system also means the decision of when to tackle the state tests must be pushed down to the site of learning, the teachers and families.

We recommend that the accountability system distinguish between the assets and deficits kids bring to school so that the value-added growth produced by the school and teacher can be objectively identified.

2. Provide Choice

We urge the legislature to enact public school choice. The legislature should allow parents to select the public school — not just the district — that their child attends. When schools adopt a special focus and philosophic approach it is important that families and kids should not be 'assigned' to these schools. Choice allows the system to 'talk' to its customers and adjust itself through the feedback its customers provide as they choose from among its offerings.

We recommend that open enrollment be required unless a district takes affirmative action to close its doors. And then, closure to open enrollment should only be allowed if a district is full. We recommend the legislature to remove roadblocks to allowing per student funding to follow students to any post-secondary option the student might choose in lieu of high school enrollment.

3. Enact the Charter Strategy

We recommend the legislature begin the process of expanding families' choices and redesigning the old common school model by enacting the charter strategy. We recommend an honest charter bill be presented to the legislature and governor for an up or down vote on the policy or a referral to the voters.

4. Use the Nationally Accepted Principles of the Charter Strategy

We recommend a fundamental strategy of public charter schools to allow accountable public schools to be developed and operated that are independent of districts, that have the possibility of approval and oversight by "somebody else" other than the local district, and that are freed from regulations in exchange for the accountability contract. If charter schools are

tied to district control and regulatory constraints, the strategy will be trivialized and of little use as a significant strategy in promoting change.

In drafting legislation, we recommend adopting these nationally recognized principles¹.

1. ***Legal Autonomy*** — A charter school must be a legal entity separate from the district and eligible to conduct business and enter into contracts. The opportunity must open to all.²
2. ***Multiple Sponsors*** — Public charter schools must not be controlled exclusively by the local district board. To be independent of the district, charter starters must be able to go to other sponsors for approval — ESD, Community College, the county commissioners, the city council, other district boards.
3. ***Fiscal Autonomy*** — Public charter schools must be fully and directly funded by the state. Per pupil funding should fairly reflect the differential costs to educate students, more for at-risk, special ed, less for mainstream kids.
4. ***Accountability*** — A bill must require contractual accountability for performance and oversight by a public sponsoring board. Charters must be revocable and for a limited term. The state must require certain questions to be answered in the charter.
5. ***Deregulation*** — In exchange for a contractual performance accountability, deregulation must follow. Rules and laws must be automatically waived, except for health, safety and federal laws.
6. ***Charter Appeal*** — There must be a mechanism for calling into question a bad charter or inadequate sponsor oversight, and there must be appeal rights for the charter school.
7. ***Public*** — Public charter schools must be non-discriminatory and non-selective in admissions, open to all with no charge for tuition, secular in program, and under public oversight.
8. ***Choice*** — Charter schools must be schools of choice for both kids and teachers. The school must be open to any student in the state, and no teacher can be required to teach in a charter school.
9. ***Exemption from Teacher Certification*** — To meet their contractual performance outcomes, charter provisions, and unique features of their program, charter schools will need to be free to hire whomever they decide would best help them fulfill their obligations.
10. ***Teacher Protections*** — There must be the usual protections for teachers — bargaining rights if an employee, participation in state retirement plan — with perhaps leave from their district.
11. ***Public Information*** — There should be a system of public disclosure and charter school information to insure public accountability and information for parental choice.
12. ***Implementation Support*** — There should be provisions for encouraging the development of high quality charter development, an infrastructure of technical support and resources, development support

for start-up and capital costs, and legislative evaluation and review. Implementation should not be put in the Oregon Department of Education. Instead, it should be possible for those friends of the charter idea who can promote the success of charter schools to be active participants in the implementation strategy.

END NOTES

¹ See Louanne Bierlein's study for the Morrison Institute in which she first derived the principles that seem to account for a 'dynamic' charter law. Since then others have noted the key principles that define the charter strategy: Mark Buechler, Indiana University; Ted Kolderie, Center for Policy Studies; and the Center of Ed Reform Charter School Handbook. The new federal guidelines in the "Improving America's Schools Act" cautiously move toward defining key principles for charter schools — some other sponsor other than the local district, choice, etc. Congress felt guidelines were necessary so that states like Oregon that had not passed a charter bill would not be eligible to receive a federal charter grant. The guidelines to correct the "Oregon problem" are now moot since the US Dept of Ed denied Oregon's renewal application for continued federal funding.

² By creating a 'separate sector', as Ted Kolderie puts it, of public education — the charter sector — the state opens the opportunity for using the charter schools as a laboratory in which it can examine moving schools to an honest reporting system for reporting educational expenses.

VII. Implementation, Evaluation, and Adjustment of a Charter Law

Oregon Public Charter Schools Task Force

We offer five additional recommendations to promote the successful implementation of a charter strategy:

- 5. Create a Charter School Advisory Committee*
- 6. Create a method for disseminating public charter school information to parents and charter starters*
- 7. Establish priorities*
- 8. Encourage an infrastructure of support and technical assistance*
- 9. Revisit and revise the public charter school strategy. Use the results for enacting further research based legislative reform policies*

We recommend that the legislature enact a basic charter strategy without attempting to micro manage the process. Local boards and charter starters will be capable of working out problems. The legislature should then plan on returning to the law and its results to make adjustments as needed. To facilitate this process, we make six additional implementation recommendations.

5. Create a Charter School Advisory Committee

We recommend that the Governor be charged with appointing a temporary, 6 year charter school advisory committee. The committee should a) gather charter information and insure the public is informed, b) oversee and provide assistance in the chartering process for the initial charter schools, c) recommend rules to the state board to implement the funding and fiscal accountability provisions of the bill, d) advise the state board on policy and development grant awards from the federal charter school grant program,

e) gather evaluation data, formulate recommendations, and report to the legislature.

6. Insure Public Charter School Information is Made Available

We recommend that the legislature require public disclosure of charter school information and performance. The legislature should establish a research shell of standard information citizens, legislators, and researchers will need regarding the evaluation of charter schools. Performance measures of the success of accountable schools should be broadened to include measures other than just academic performance. This information might include a variety of data:

- a) Information regarding the program of instruction, academic focus, reasons for chartering the school and services offered by the school;
- b) Aggregate data on accountability mechanisms used and their results including student achievement and accomplishments;
- a) Persistence of students to graduation or highest level served by the school, and post-secondary destination;
- c) Incidence of illegal drug use, school discipline and breaches of safety;
- d) A description of the students the school is designed to serve and the actual number and types of students served identified by ethnic composition, grade level, number of students from outside the school district in which the school is located, attendance rates, enrollment status of students prior to enrollment in the school and any other special categories;
- e) The charter of the public charter school;
- f) The name of the sponsor;
- g) How long the public charter school has been in operation;
- h) The names of partners and supporting agencies involved in starting the school and the source and amount of any initial start-up funds if the public charter school has been in operation for less than five years;
- I) A description of the facilities of the public charter school;
- j) A financial summary of the public charter school; its annual report, staff qualifications, and parent satisfaction.

We recommend the legislature require charter schools to submit information in electronic form to ESDs for public disclosure. The ESD should be charged with publishing in electronic and written form the information submitted by charter schools.

We also recommend that the ESDs make information on the chartering process available to charter starters and sponsoring boards through the Web and printed materials.

7. Establish Priorities for Federal Charter Development Funds

We recommend that the legislature establish guidelines for the use of federal charter school development funds. We recommend these priorities:

- a) Public contract schools serving at-risk youth that have converted to a public charter school.
- b) Up to 10 public charter schools that propose to serve as development sites for Oregon for model public charter schools. Grants or loans awarded to model public charter schools shall aid in providing resources for establishing chartering models, technical resources, performance contracting, performance evaluations and performance benchmarks in cooperation with education service districts, community colleges, institutions of higher education, civic organizations and business organizations.
- c) Public charter schools that serve underserved families or special needs children.
- d) Public charter schools that enhance school district options to parents that are already served by the schools in the school district.

8. Stimulate Infrastructure

We recommend that the legislature authorize one-time grants from the charter school development fund to support up to 10 model public charter schools. The legislature should require each model school to use its grant to contract with a public or private support agency for assistance in the development of the school, the formulation of an accountability method and collection of initial benchmarking data, and formulation of chartering materials and templates.

9. Evaluate and Revisit the Charter Policy

We recommend that the legislature establish a *systemic* evaluation model for the charter strategy itself (not just the schools)¹ in cooperation with the US Department of Education's evaluation project and National Charter Friends Network. This process would allow data driven legislative decisions *about the system* as the charter strategy unfolds in Oregon. The legislature should give thought to how and who will revisit and revise the public charter school strategy. A process of gathering and analyzing the results could be used for extending further research-based legislative reform policies to creating redesign opportunities for district schools.

This systemic evaluation should first ask whether the law is working:

- a) Are schools in fact being created?
- b) How good and how different are the school designs?
- c) How good are sponsors' decisions about approval?
- d) Are districts responding with improvements of their own?

- e) How tough are sponsors about school performance?
- f) How tough is the state about sponsors' performance?

Second, the systemic evaluation should ask how the accountable school model is working:

- g) What standards does the school have to meet?
- h) What measures of performance are being used?
- i) What does the school do about low performance?

Legislators may have other concerns about the impact a charter bill may have that could be added to the evaluation questions. These concerns might include minority participation, elitism, special ed services, district impact, teacher protections, teacher qualifications, use of federal funds, and so forth. We recommend identifying these concerns in the legislative process and incorporating them into the research and reporting charge of the charter school advisory committee after implementation of the bill.

The charter laws in one group of states have caused four kinds of results: (1) Charter schools have appeared. There have been charter proposals, chartering, and school placed in operation. (2) The legislatures have been actively studying and changing their laws to encourage the development of their charter programs. Caps on the number of charter schools have been lifted, new approving authorities are added, financing made equitable, and laws made more dynamic. (3) Support structures for the charter sector appear. These are mainly 'trade associations' of charter operators, 'resource centers', and in some states a 'charter friends' group as well. (4) Districts have responded with changes in their programs. Based on the results they have produced, these 15 states demonstrate they have real, dynamic charter laws. For example, they have produced 1033 of the total 1142 schools started or approved to start, slightly more than 90% of the total.

In the other states, the results from laws are weak, there is very little chartering, few organizational efforts, little legislative interest or activity; or sometimes in states with compromised laws there are delays, legal disputes, and lawsuits. That is why we recommend that an honest charter bill be presented without compromise to the Assembly and Governor for an up or down vote.

END NOTES

¹ See Ted Kolderie, "What Does It Mean to Ask: 'Is 'Charter Schools' Working?'" (Center for Policy Studies, 1997).

VIII. Charter School Research

Oregon Public Charter School Task Force

The first results from the National Study of Charter Schools describe charter school characteristics:

- *They are small, about 150 students on average*
- *They do not skim but serve minorities and at-risk kids at the same rate and in some states, at a higher rate, as do non-chartered public schools*
- *They have an alternative and clear vision for the school's program*
- *Parent involvement and satisfaction is high. About 70% have waiting lists*
- *Charter starters biggest problem is adequate start-up funds and buildings*

Early in the charter movement, researchers in states with active charter laws studied the impact and results of chartering in their states.¹ Each of these studies tended to confirm some preliminary generalizations — charter schools tend to be small, innovative, with distinctive philosophies; they have high parent involvement and satisfaction, often serve more than their share of special needs kids, and do not show evidence of attracting only the best students; they have financial difficulties in obtaining adequate buildings, development funding, and operating revenues; charter laws vary widely in their adherence to charter principles, and this variation seems to account for success in producing charter schools in a state; and charter starters continue to face obstacles thrown up by the public school system and the big education organizations.

US Charter Study

Then in 1994, Congress appropriated money for a four year National Study of Charter Schools. The results recently released from parts 1 and 2 of

the Study appear to largely confirm the preliminary findings of private researchers.²

Number of Charter Schools

Since the 1991 Minnesota charter law and the first charter school opened in the 1992-1993 school year, 33 states and the District of Columbia have passed laws. This year public charter schools will serve over 250,000 of the 22,223,178 public school students, about 1.1%.

The number of charter schools is growing. There were no charter schools in 1990. In 1997-98, 279 new charter schools opened, and as of October 1998, there were 1128 charter schools in the US.

Size and Type

Public charter schools are small compared to non-chartered public schools. Most public schools (84%) enroll more than 200 students but only about 40% of all public charter schools enroll more than 200 students, and 35% of public charter schools enroll less than 100 students whereas only 9% of public schools do. The average enrollment is 149 students for charter schools and 505 for public schools.

Many charter schools were newly created schools, and they are smaller than pre-existing public schools. An estimated 62% of charter schools were newly created; the remainder were pre-existing public schools (25%) or pre-existing private schools (13%) that converted to charter status. The median school size for newly created schools is 116 students compared to a median of 380 for pre-existing public schools.

About two-thirds of pre-existing charter schools were previously public schools, and 65% of pre-existing schools were previously public schools. Private school conversions are allowed in only four of the 16 states.

Students Served

Charter schools as a group generally have a similar racial/ethnic distribution as all public schools. About one-half of charter and public schools serve predominantly White students, about one-quarter of charter and public schools serve predominantly non-White students, and the remainder serve a diverse group of students.

Charter schools in several states have a higher proportion of schools predominantly serving students of color. Of the states with at least ten operational charter schools, California, Colorado, and Arizona have a somewhat higher average school percentage of White students in charter schools than in all public schools. Michigan, Minnesota, Texas, Massachusetts, and Wisconsin have a lower average percentage of White students in charter schools than in all public schools, with the first three states having a considerably lower average. Charter schools in Michigan, Minnesota, Texas, and Wisconsin clearly serve a higher proportion of students of color than other public schools in the corresponding state.

Most charter schools are similar to their districts on student racial/ethnic and income level characteristics, but about a third are more likely

to serve students of color and low-income students. A sizable minority of charter schools serve special populations. For charter schools, about 8% of their students have disabilities compared to 11 percent in the non-chartered schools. Limited English Proficient students (12.7%) comprise a slightly higher percentage than in district schools (11.5%).

Program Characteristics

Many charter schools have non-traditional grade configurations. Charter schools include a higher proportion of K through 12, K through 8, and ungraded schools than other public schools. Newly created charter schools tend to be established to realize an alternative vision for public education or to target a special population of kids. The primary reason for public school conversions is to gain autonomy from their districts or to bypass various regulations.

Parent Satisfaction

Most charter schools are in demand. More than 70% have waiting lists. Parents in charter schools reported dissatisfaction with public schools — low academic standards, dehumanizing culture, student safety, and unresponsiveness to serious parent involvement. Charter schools attract parents by focusing on academics but also offer supportive environments tied to small school size, flexible approaches or its contrasting alternative of highly structured environment.

The top ten reasons why parents choose charter schools are: nurturing environment (93%), value system, safe environment, quality of academics, high standards for achievement, small class size, specialized curriculum focus, small school size, clear goals for each student, and structured environment (71%).

Implementation

The top barriers cited by charter starters are: lack of start-up funds 57.6%, inadequate operating funds 41.1%, inadequate facilities 38.6%, state or local board opposition 23.1%, district resistance or regulations 18.3%, internal conflicts 18.2%, state department of education assistance or regulations 14.8%, union or bargaining unit resistance 11.3%, health/safety regulations 10.4%.

Less than 5% have closed. By 1997-98 school year, 19 had closed. The failure rate for charter schools up through last year was 2.7%, 19 schools total. Of these four had their charters revoked, two because of financial mismanagement and two because of charter violations. The others closed voluntarily or because of administrative re-arrangements such as mergers or reverting to private status.

State Laws

Charter laws vary greatly from state to state in deviating from the charter principles and, consequently, the number of roadblocks thrown up for charter starters. The Center for Education Reform regularly publishes a rich

table of data on state laws and chartering activity showing the quality and roadblocks of various dimensions of charter law.³ Around 12 states have laws that more or less reflect the basic principles of the charter strategy — multiple sponsors, full funding, autonomy, hiring freedom, accountability with deregulation, and diverse eligibility of charter starters. When the states are ranked according to their adherence to charter principles, these top 17 states have produced 90% (1013) of the 1128 operating charter schools. The top dozen states, about a third (35%) of the states with laws, have produced 1043 charter schools or 81% of the total of 1285 charter schools in operation or approved to open.

Restrictive laws produce very little chartering or chartering with legal and procedural delays and disputes. There apparently has been no research on these procedural and legal problems, but the results of charter laws that adhere to the charter principles show healthy chartering activity. These states have charter rates of up to 2 schools per 100,000 public school students. Arizona and the District of Columbia are producing a high volume of chartering but the charter laws in Arizona and DC have some unusual features such as wide open sponsoring, looser controls, charter start-up incentives, and centralized state support. These features produce the unusual chartering activity — between 9 and 12 per 100,000, about four times the rate of all other states. All other charter laws have chartering rates under 2 (except for North Carolina which has an initial rate of 2.5 for its first two years of chartering). Legislative action in older states also suggests two legislative trends might be emerging: relaxing the limits on the number of charter schools, and providing increased flexibility in the charter-granting process.

END NOTES

¹ The Center for Educational Change provided a nice summary of findings from major studies for each of the states with active laws in Angela Dale and Dave DeSchryver, eds., *The Charter School Workbook: Your Roadmap to the Charter School Movement* (Washington, D.C., The Center for Education Reform, 1997) pp. 297 - 320.

² RPP International, “A National Study of Charter Schools: 2nd Year Report.” (U.S. Department of Education, 1998).

³ Angela Dale and Dave DeSchryver, eds., *The Charter School Workbook: Your Roadmap to the Charter School Movement* (Washington, D.C., The Center for Education Reform, 1997) p. 17.

IX. Summary of a Model Charter Bill

Oregon Charter School Task Force

The charter strategy is a simple two-part action by the state.¹ The state authorizes a new form of accountable, autonomous school, *and* the state authorizes both the district board and other elected boards to approve the chartering of new or existing schools. The legislature creates accountable schools and lifts the ‘exclusive’ of districts, to create a dynamic system in which change is possible and necessary. A model bill does a number of things:

Intent

A model bill encourages and enables the creation of new and innovative public schools under arrangements that will stimulate districts to change and improve their schools.

- For students and families — it creates new options for higher achievement and graduation rates.
- For educators — it offers the opportunity to create different and better programs.
- For the system — and for the state — it establishes accountability that comes from a contract relationship and the stimulus that comes from knowing a district can no longer take its students for granted.

Definitions

A public school today does not exist legally. Public charter schools are legal, autonomous entities.

- A public charter school operates as a self-governing, deregulated, and independent organization. A new non-profit for the school must be created.
- It has its own board. Site-management is real.

Forming Charter Schools

A public charter school may be organized and run by anyone. This opportunity is a ‘bottom up’ change, but no one has a *right* to set up a charter school. This is not a voucher bill.

- Organizers may be teachers, parents, perhaps a museum or university, or some other entity.
- It may be a new school or may be a conversion of an existing school to autonomous public status.
- It requires approval by a sponsor — an existing elected education board that assumes oversight — but not management — of the school.
- The organizers may approach other public school board for their charter. This ‘somebody else’ besides the local school board is important. Traditionally only the local board could offer public education — an “exclusive franchise.”
- With the charter bill the state opens this opportunity to other providers and allows other sponsors: the community colleges, education service districts or other school boards. The local board is not excluded as a sponsor or a provider, but there is now a ‘somebody else’.
- The designated public body does not own, ‘site’, or run the charter school: it *sponsors* the school.

The Chartering Process

The organizers are initiators and designers of schools, not implementers of a publicly mandated program. Organizers, not the state or district, propose and design the philosophy, curriculum, standards, evaluation, students to be served, admissions, and governance matters. A public board reviews and decides. Or a public board may become proactive and seek new district schools by issuing requests for charter proposals.

- The organizers may propose a new school or the conversion of an existing public or private school to autonomous charter status.
- The approved proposal becomes the legally binding performance contract for outcomes the school must deliver. The objectives for and method of measuring student performance are agreed-on up front.
- The school is chartered for a limited term — 5 years or less.

Charter Termination and Appeal

The school accepts an accountability for results. No results, no charter, but there are appeals processes for resolving disagreements and solving problems.

- Renewal depends on performance, and the contract may be terminated for cause.
- Accountability shifts from process to performance, from inputs and intentions to outcomes and results.
- Any board may appeal a charter. Public oversight of public education is maintained.

Restrictions, Waivers, and Protections

The school is *public*. This schools remains within the public education sector. It is not a voucher program or a voucher school.

- The school is chartered by public law to carry out a public purpose under contract to a public board.
- There can be no religious character to the instruction, no charging tuition, no selective admissions, no discrimination.
- De-regulation follows naturally from accountability.
- Health and safety laws must be followed.
- A charter school is a public school. These limitations and accountability to a public purpose sharply distinguish the charter idea from the voucher idea.

Student Admissions

Public charter schools are schools of choice. Nobody is forced to do anything.

- Besides their charter, schools are accountable in a second way. Students, and teachers, are only there if they want to be there. No one is assigned. Educators and families actively choose the school. This provides the stability necessary both in the student body and in the faculty for the school to create and to maintain a distinctive educational program.

Employment Status of Public Employees in Public Charter Schools

Teachers have new opportunities for group practice. Teachers no longer have only the prospect of being an employee of the district. They can be owner/operators of their learning program.

- They may be given leave from a district to teach in a charter school.
- They may remain in, or may join, the retirement system.

- They may choose to be employees or may form a professional group which they collectively own, through which they design and operate the learning program under an agreement with the school.

Authority for Guidelines and Regulations

The school gets real freedom to change and site-based control over its program, staff, and resources. Process controls are lifted in exchange for outcomes.

- Because it accepts an accountability for results, the charter school is exempted from the state regulations and statute law that governs districts except, of course, for what essentially defines public education.
- The elaborate ‘rules’ that control traditional schools are unneeded; a failing charter school will simply be closed.

Phase-In

The legislature has a tool for developing the kind of accountable school it wants without imposing system wide mandates.

- There is a gradual, controlled, voluntary change. A new dynamic is added. There is no sudden, system wide mandated reform, and the state board controls the initial phase-in.
- The charter strategy allows development of key reforms — equity funding, performance contracting, downsizing and mission driven schools, teacher professionalization, parent involvement, equal opportunity and choice, site-based management, and de-regulation.

Funding

The full amount that belongs to the student moves with the student, and the state pays the school directly.

- Like districts, charter schools receive per pupil equity funding from the state except no money comes from property taxes. Readjustments and reassignments naturally occur as they always have. Money follows the student. It is a reallocation within the system, not a loss. It *is* the *student’s* money.
- ‘Categorical’ aids, as for students from low-income families, ESL Title 1 Reading, also move. For special ed, districts remain the responsible LEA and receive the additional funding so they may contract with the school.
- Some district schools converting to charter schools will serve existing public school students. Some new public charter schools may pull non-public students back into the public system. Statewide enrollment may increase slightly.

Implementation

The law goes into effect immediately.

- Schools serving at-risk students needing help, the contract schools already created, the schools forced out of existence can get immediate chartering and full funding.
- Restrictive caps, district control over admissions, territorial protections can be lifted. Schools can be relieved of the old politics surrounding their yearly approval and existence and can focus their attention and energy on kids.
- Federal grant money intended for start-ups of public charter schools can be used properly for public charter school start-up grants and facility loans. Model charter schools can be funded to lead the way.
- A state advisory committee can provide oversight of initial chartering, recommendations to the state board, and information for future legislative adjustments.

END NOTES

¹ Except for the subsection, 'Implementation', these remarks were generously borrowed from Ted Kolderie's paper, "The Essentials of the 'Charter-School' Strategy," (Center for Policy Studies, 1994). In another of his papers, "The States Charter Sponsors: Sponsors Charter Schools," (Center for Policy Studies, 1996) Ted describes the two part strategy and a description of a model bill.

Drafting instructions with commentary for an

Oregon Model Charter Bill

Oregon Charter School Task Force

December 29, 1998

Be It Enacted by the People of the State of Oregon:

SECTION 1. Intent

(1) It is the intent of the Legislative Assembly within sections 1 to 18 of this Act that:

- (a) A new form of public schools, called public charter schools, may be created by teachers, parents, and others and approved by elected school boards. Public charter schools shall be accorded maximum flexibility to educate their students and shall be free from unnecessary, burdensome or onerous mandates in exchange for accountability of results specified by their charters. The provisions of sections 1 to 18 of this Act shall be interpreted liberally to support the goals of this section and to advance a renewed commitment by the State of Oregon to the mission, goals and diversity of public education.
- (b) Designated publicly elected bodies in addition to the local school board may approve the establishment of public charter schools and offer public education that is a part of the state's program of public education.

Kolderie: *Essentially, in a charter law the state says it's OK for more than one organization to be offering public education in the community and that it's OK for somebody other than the local board to start and run a public school.¹*

The movement for charter schools is not really about the charter schools themselves. It's about systemic change — about the state creating the dynamics that will make the system a self-improving system.

(2) The purpose of sections 1 to 18 of this Act authorizing public charter schools is to:

- (a) Improve pupil learning;
- (b) Encourage the use of different and innovative learning methods;
- (c) Increase choice of learning opportunities for pupils;
- (d) Establish a new form of accountability for schools;
- (e) Require the measurement of learning outcomes and create innovative measurement tools;
- (f) Make schools the unit for reform; and
- (g) Create new professional opportunities for teachers, including the opportunity to own the learning program at the school site.

SECTION 2. Definitions

As used in sections 1 to 20 of this Act, unless the context requires otherwise:

- (1) "Applicant" means any person, group or organization that develops and proposes a public charter school to a sponsor.

¹ Boxed comments are from Ted Kolderie, "Model Bill: Chartering Sponsors That May Charter Schools" (St. Paul, MN: Center for Policy Studies) Sept 1996.

A Charter For Accountable Schools: APPENDIX

1 (2) "Public charter school" means a deregulated, independent, and accountable public education
2 provider operating a public school under a charter approved by a sponsor as described in
3 sections 1 to 18 of this Act.

.....
"School district board"
includes education
service districts by
definition. County
commissioners and city
councils also could be
considered as
appropriate sponsors.
They have an interest
in quality schools as
part of economic
development and
strong cities.
.....

4 (3) "Sponsor" means:

- 5 (a) A school district board of a school district including an educational service
- 6 district;
- 7 (b) A board of education of a community college district;
- 8 (c) The State Board of Education;
- 9 (d) The State Board of Higher Education;
- 10 (e) A board of commissioners of a county; or
- 11 (f) The city commissioners or city council of cities.

12 **Kolderie:** *The opportunity for an applicant to go either to a local board or to some other responsible public body*
13 *for its charter is the single most important factor in producing a law that will have the dynamics the*
14 *legislature wants. The idea is not to bypass local boards but to encourage them to respond more positively*
15 *within the district framework to teachers and parents who want changes and improvements and to say to*
16 *those interested in a new school (as they do in states with such laws): "Charter with us!"*
17 *More and more, states have provided multiple routes to the charter.*

18 **SECTION 3. Formation of New Public Charter Schools**

19 (1) A public charter school may be established as a new school or from an existing public or private school or any
20 portion of a school. A public charter school shall be formed as a discrete nonprofit legal entity.

21 **Kolderie:** *One process can probably handle both new schools and conversions even though in a conversion two*
22 *additional questions will have to be answered. The sponsor will have to decide whether enough support*
23 *exists among teachers and parents for it to grant a charter. (The law should leave this a matter of judgment*
24 *for the sponsor.) And, where it is a public school converting, the district will need to provide for*
25 *students/teachers who choose not to remain after the change.*

26 (2) A proposal for a new public charter school may be made by a parent, teacher, school administrator or any other
27 person, group or organization.

28 **Kolderie:** *A question is whether a charter school may be created out of an existing nonpublic school. Answers*
29 *vary. Some states prohibit this. Some, like Minnesota, feel it's OK for a school, like a student, to transfer*
30 *from the private to the public system.*

31 (3) A new public charter school shall be approved by a sponsor and established as a legal entity under the laws of Oregon
32 before it may operate as a public charter school.

33 **Kolderie:** *The law may require the school to become a legal entity or may simply permit it. It should not require*
34 *the school to remain a part of the local district. This is critical to provide the autonomy the school requires*
35 *for its success.*

36 (4) After approval by a sponsor, a proposal for a new public charter school to be located in a district of less than 2,000
37 students shall also be approved by the board of the Educational Service District of the district within which it is to
38 be located.

A Charter For Accountable Schools: APPENDIX

SECTION 4. The Chartering Process

(1) An applicant seeking to establish a public charter school shall submit a proposal for a charter to the board of the school district within which the public charter school will be located. If the board does not accept or approve the proposal, the applicant may submit the proposal to another sponsor. A public charter school may only be sponsored by a board of the district, county, or city or a contiguous district in which the charter school is to be located. The state board may sponsor a public charter school located anywhere in the state. If more than 15% of the students in a district are to be served by a public charter school, in addition to the sponsor’s approval of the proposed charter, the Educational Service District board shall also approve or disapprove the charter proposal. The Educational Service District board shall act on a charter proposal within 60 days and shall insure chartering does not reduce the public education choices available to families.

.....
The “Right of First Refusal “ encourages the district in which the charter school is located to assume chartering responsibilities if they choose.....

(2) An applicant seeking to establish a public charter school shall submit a written proposal for a charter to a sponsor.

Kolderie: *It’s a good idea (it’s California’s approach, for example) simply to list the questions that school and sponsor must answer and to be open to whatever answer they want to give. Some states do narrow their discretion, as to require certified teachers.*

(3) The proposal shall include, but not be limited to:

- (a) A description of the philosophy and mission of the public charter school;
- (b) A description of the curriculum to be taught, the expected results to be demonstrated by students, the methods of measuring and reporting objective results that will show the growth of knowledge of students attending the school and that will allow comparisons with other public schools; the extent the public charter school will employ the state testing system and if it is not to be fully employed, the other accountability mechanisms that will be used to adequately measure and compare the performance of the school; and the measures of parent satisfaction;
- (c) A description of the target population of students the school is designed to serve, the projected enrollment to be maintained, the ages or grades to be served, and the length of the instructional day and school year;

Kolderie: *The idea is to let the school target on certain populations (often those not doing well in the conventional system) and in general to require it to meet the test of a “common school.” It may not “cream” able kids or “nice” kids or create a white neighborhood school.*

- (d) A description of admission policies and application procedures;
- (e) A copy of any notice required under subsection (4) of this section;
- (f) The plans for insuring or bonding the public charter school;

Kolderie: *Accidents happen; people sue. Someone has to buy insurance. It should be the school.*

- (g) In the case of an existing nonchartered public school being converted to charter status, the alternative arrangements for students who choose not to attend the public charter school and teachers who choose not to participate in the public charter school and the relationship that will exist between the public charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees and their recognized representative, if any;
- (h) The procedures and conditions under which the charter may be terminated;
- (i) The manner in which the program and fiscal audit will be conducted;

Kolderie: *The audit concession usually makes sense although for small schools it can be burdensome.*

A Charter For Accountable Schools: APPENDIX

1 (j) The required qualifications of the teachers at the public charter school; and

2 **Kolderie:** *Nontraditional schools should be able to use nontraditional teachers, under the supervision of a*
3 *credentialed teacher.*

4 (k) The incorporation documents showing the disposition of assets to other non-profit use if the charter is
5 not renewed or is terminated.

6 (4) In addition, the sponsor shall require that the school disclose in an addendum to the proposal for a charter, and not
7 subject to sponsor approval:

8 (a) the facilities to be used for the public charter school and their location if known,

9 (b) the manner of governance and management of the school,

10 (c) ownership and bylaws of the organization, and

11 (d) any distinctive learning techniques to be employed.

12 (5) The applicant shall ensure that the school district board of the school district within which the public charter school is
13 to be located is notified of the charter proposal if the applicant applies for a charter from a sponsor other than the
14 school district board.

15 (6) The sponsor may approve or disapprove the proposal upon majority vote. If a proposal is disapproved, the sponsor
16 shall state in writing the reasons for disapproval. If the proposal is disapproved, the applicant may amend the
17 proposal to address objections and resubmit the proposal or submit the proposal with the reasons for disapproval to
18 another sponsor. A proposal to convert an existing nonchartered public school to a public charter school may be
19 approved only by majority vote of the school district board of the nonchartered public school or by the State Board of
20 Education based on an appeal.

21 (7) The sponsor must approve or state in writing the reasons for disapproval of a proposal within 60 days after the
22 submission of the proposal unless the applicant agrees to an extension.

23 (8) Applicants may request technical assistance for developing the proposal or obtaining recommendations to the sponsor
24 from the sponsor, an education service district or any other organization.

25 (9) An approved proposal to establish a public charter school shall constitute a charter and shall be effective for a period
26 of not more than five years from the date of approval. The charter shall be renewed for no longer than a five-year
27 period at the request of the public charter school unless the public charter school violates the provisions of its charter
28 or the provisions of sections 1 to 18 of this Act. A public charter school and sponsor may amend a charter by joint
29 agreement. A charter is a public document and shall be available for public inspection.

30 **Kolderie:** *A term, probably in the range of three to seven years is essential, to establish that this is a school that*
31 *will be continued only on an affirmative showing of student and fiscal performance. This establishes the*
32 *accountability of the school to public authority and its public character.*

33 (9) Sponsors may charge applicants fees only for the direct costs incurred in the chartering process or for actual services
34 provided in the charter.

35 (10) A sponsor may approve a charter before the applicant has secured space, equipment, and personnel.

36 ***SECTION 5. Charter Termination and Review***

37 (1) A public charter school shall report annually on the performance of the school and its students to the sponsor in
38 accordance with the terms of its charter. The annual report is a public document.

39 (2) During the term of a charter or at the end of the term, the sponsor may terminate a charter with a public charter school
40 on any of the following grounds:

41 (a) Failure to substantially meet the terms of an approved charter or sections 1 to 18 of this Act,

A Charter For Accountable Schools: APPENDIX

1 (b) Failure to meet the requirements for student performance stated in the charter,

2 (c) Failure to maintain an enrollment of at least 15 actively enrolled students,

3 (d) Failure to meet generally accepted standards of fiscal management, or

4 (e) Violation of law that:

5 (A) Places staff, students or parents of students at a public charter school at risk of health or safety; or

6 (B) Defrauds the sponsor, staff, students or parents of students at a public charter school.

7 (3) If a sponsor finds a public charter school in violation of its approved charter or the provisions of sections 1 to 18 of
8 this Act, the sponsor shall provide notice of the violation to the public charter school and the opportunity to correct
9 the violation within a period of time not less than 30 days. If the violation is not corrected after the period of time
10 has elapsed, the sponsor may then either terminate the charter or notify the public charter school of its intent to
11 terminate the charter at the end of the school year for the uncorrected violation of the charter. The public charter
12 school may request a hearing from the sponsor.

13 (4) A public charter school may appeal any decision of its sponsor to the State Board of Education within one year of the
14 decision as a contested case under ORS 183.413 to 183.470. The board shall establish procedures to ensure a timely
15 appeals process to prevent disruption of students' education.

16 (5) Any sponsor may request review of any charter by the education service district board of the
17 district within which the charter school is located. With the request for review, the
18 sponsor shall submit written evidence showing the possible adverse effect a charter may
19 have on the quality of students' education. If the education service district board finds
20 evidence that indicates that the implementation of the charter will have or is having a
21 directly identifiable, significant and adverse impact on the quality of the public education of
22 students residing in the district or that a sponsor lacks qualifications or adequate oversight,
23 the education service district board may issue a written resolution describing their findings
24 and requiring or recommending the re-negotiation of the charter or the transfer of the
25 sponsorship. Either the sponsors or the charter school may appeal the decision of the education service district board
26 to the State Board of Education as a contested case under ORS 183.413 to 183.470. On appeal, the State Board of
27 Education may review, reassign, modify, or terminate any charter.

.....
*The state has an
interest in insuring
quality in sponsoring
and in adequate sponsor
oversight. There
should be a mechanism
in place so that if
inappropriate
chartering occurs, any
board can call a charter
into question.*
.....

28 (6) Termination of a charter shall not abridge the public charter school's legal authority to operate as a private or
29 nonchartered public school.

30 (7) When a charter is not renewed or is terminated, the public charter school shall be dissolved as provided in ORS
31 chapter 65 for nonprofit organizations.

32 **Kolderie:** *Assets of the school may then be transferred to other nonprofit use. This will avoid creating a "special*
33 *interest" of the sponsor in questions of revocation.*

34 **SECTION 6. Restrictions, Waivers and Protections**

35 (1) A public charter school shall not charge tuition for the core instructional program defined in its charter but may
36 charge for elective programs outside of the instructional program described in its charter or raise funds and receive
37 donations in the manner of nonprofit organizations.

38 (2) A public charter school may not levy taxes or issue bonds under which the public incurs liability. However, a public
39 charter school may issue private bonds.

A Charter For Accountable Schools: APPENDIX

1 (3) A public charter school’s financial, enrollment and attendance record shall be available for
2 public inspection. A public charter school’s governing board shall substantially comply
3 with the public meeting and public records laws.

*.....
Disclosure is often a
more powerful
accountability tool
than rules and
standards. It creates a
compliance incentive
for the public charter
school to maintain its
public reputation
.....*

4 (4) A public charter school may but is not required to conform to the uniform financial
5 accounting and reporting standards and processes that govern school districts generally.
6 The governing body of the public charter school shall contract for an annual financial audit
7 by a certified public accountant, in accordance with generally accepted accounting
8 principles. The audit shall examine the validity and integrity of data reported to the state for revenue purposes
9 including but not limited to average daily attendance, enrollment, and internal controls of the public charter school.

10 **Kolderie:** *Again, consistent with the charter school’s accountability for results, the “process” controls needed for
11 district schools are waived. The state’s interest is in seeing that the school remains a viable concern and
12 receives only its designated share of public funds.*

13 (5) Except as specified in this Act or in the charter of the public school, statutes and rules that apply to public education
14 boards, school districts or nonchartered public schools do not apply to a public charter school and are not enforceable
15 against a public charter school by state agencies, boards or public officials. Each public charter school shall comply
16 with the requirements imposed by, and the rules adopted under, this Act and statutes and rules listed in its charter.

17 **Kolderie:** *In return for accepting the accountability represented by the requirements to get its charter affirmatively
18 renewed at regular intervals and to attract and hold its student/parent community, the school is waived clear
19 of “the rule” up front. This “super waiver” is better (and fairer) than requiring the school to petition one at
20 a time for the waivers it needs.*

21 (6) Notwithstanding subsection (5) of this section, a public charter school shall be subject to federal and state health and
22 safety laws and shall not practice unlawful discrimination. A public charter school shall comply with non-
23 discrimination laws.

24 (7) A public charter school shall not violate the Establishment Clause of the First Amendment of the United States
25 Constitution or section 5, Article I of the Oregon Constitution.

26 **Kolderie:** *This and Section 7 are what distinguish charter from “voucher,” public education from private. In private
27 education a school can pick and choose its students, can teacher religion, can charge tuition and is not
28 accountable to public authority for student performance.*

29 (8) The sponsor of a charter school, members of the board of the sponsor organization in their official capacity and
30 employees of a sponsor are immune from civil or criminal liability with respect to all activities related to a charter
31 school they approve or sponsor.

32 (9) After employment public charter school employees shall be subject to the requirement for criminal backgrounds check
33 in the same manner as nonchartered public school employees. For purposes of criminal background checks, public
34 charter schools shall be considered to be education districts.

35 **SECTION 7. Public Information and Student Admissions**

36 (1) Student enrollment in a public charter school is voluntary. All students within the state are eligible for enrollment at
37 a public charter school. If the number of applications exceeds the capacity of a program, class, grade level or
38 building, the public charter school shall select students through an equitable selection process based on the public
39 charter school’s educational mission described in its charter. However, a public charter school may give priority for
40 admission to students who were enrolled in the prior year.

41 **Kolderie:** *Charter schools will be different schools. So students get to choose whether to come.
42 Letting students cross a district line to get to a charter school will provide a larger enrollment base for
43 innovative and specialized schools and will diffuse the financial impact.*

A Charter For Accountable Schools: APPENDIX

- 1 (2) A high school diploma, Certificate of Initial Mastery or Certificate of Advanced Mastery issued by a public charter
- 2 school shall grant to the holder the same rights and privileges as a high school diploma, Certificate of Initial
- 3 Mastery or Certificate of Advanced Mastery issued by a nonchartered public school.
- 4 (3) The education service district boards shall make information and guidelines available to the public for creating and
- 5 using public charter schools through written materials and the World Wide Web.
- 6 (4) A public charter school shall annually report information in electronic form about the school to the sponsor and to
- 7 the education service district within which the school is located. The report shall provide accountability results
- 8 specified in the charter and include:
 - 9 (a) Information regarding the program of instruction, academic focus, reasons for
 - 10 chartering the school and services offered by the school;
 - 11 (b) Aggregate data on accountability mechanisms used and their results including
 - 12 annual student achievement growth and accomplishments;
 - 13 (c) Incidence of illegal drug use, school discipline and breaches of safety;
 - 14 (d) A description of the students the school is designed to serve and the actual
 - 15 number and types of students served identified by ethnic composition, grade
 - 16 level, number of students from outside the school district in which the school
 - 17 is located, attendance rates, enrollment status of students prior to enrollment
 - 18 in the school and any other special categories;
 - 19 (e) The charter of the public charter school;
 - 20 (f) The name of the sponsor;
 - 21 (g) How long the public charter school has been in operation;
 - 22 (h) The names of partners and supporting agencies involved in starting the school and the source and
 - 23 amount of any initial start-up funds if the public charter school has been in operation for less than five
 - 24 years;
 - 25 (i) A description of the facilities of the public charter school;
 - 26 (j) A financial summary of the public charter school;
 - 27 (l) Staff qualifications;
 - 28 (m) Data reflecting parent satisfaction with the public charter school; and
 - 29 (n) Other information.
- 30 (4) To the extent such information is reasonably available, education service districts shall make available to the public
- 31 lists of vacant and unused public and private buildings or portions of buildings that may be suitable for the operation
- 32 of a public charter schools. School districts shall provide to the public and to their education service districts lists of
- 33 unused or underutilized school district owned land and buildings. Nothing in this section requires the owner of a
- 34 building on the list to sell or lease to a public charter school a building or any portion of a building.

.....
*The legislature has an
 interest in promoting
 the reality of public
 charter schools without
 regulating them. It can
 use public disclosure as
 an accountability
 mechanism. Since
 public charter schools
 must attract families,
 they have great interest
 in protecting their
 public reputations.*

SECTION 8. Transportation

The school district within which the public charter school is located shall provide transportation for the students attending the public charter school who reside in the school district. The school district shall also provide transportation to and from the boarder of the school district for those students who do not reside in the school district. The school district may contract with the public charter school for the provision of transportation of students. Or the charter school, at its option, may receive a proportionate share of any state or local transportation funds and arrange its own transportation service.

A Charter For Accountable Schools: APPENDIX

Kolderie: *Most laws simply establish the principle that transportation to this public school will be provided through the district in which the school is located. Students coming from another district are usually responsible for getting themselves to the border of the district in which their school is located. School bus professionals are quite creative and practical about working out arrangements from that point on.*

SECTION 9. Employment Status of Public Employees in Public charter schools

- (1) Teacher assignment to a public charter school is voluntary. The school district board may determine by policy or by negotiated agreement the employment status of school district employees employed by a nonchartered district school that becomes a public charter school and the employment status of public charter school employees who seek to return to employment in the school district.
- (2) The public charter school shall control the selection of teachers at the public charter school.

Kolderie: *A school that aims to have a distinctive character must be able to maintain the integrity of its teacher group. So the idea is both for the teachers to choose the school and for the school to choose its teachers.*

- (3) Employment experience in public charter schools shall be considered as equivalent to employment experience in nonchartered public schools for teacher licensing.
- (4) Employees of a public charter school may be members of the Public Employees' Retirement System.
- (5) If a teacher chooses to be an employee of a public charter school, the teacher may be a member of a labor organization or organize with other teachers to bargain collectively. Bargaining units at the school shall be separate from bargaining units. Employees of existing schools that convert to a public charter school may continue perquisites or benefits granted by the school district as specified in a charter, without regard to potential conflict with collective bargaining agreements.

Kolderie: *This would explicitly allow a school district to continue staff members' status in district tenure, leave, pot-retirement healthy benefits, annuity, life insurance, vacation, sabbatical and other policies — even if existing bargaining agreements call for such rights to be limited to members of existing bargaining units. The post-retirement health benefit provision is key in some districts since most teachers hired before 1986 are not covered by Medicare.*

- (6) Teachers in a public charter school may choose to be part of a professional group that operates the instructional program under an agreement with the public charter school. The teachers may form a partnership or cooperative that they collectively own.

Kolderie: *The charter law breaks with the long-held assumption that "if you want to be a teacher, you have to be an employee." It opens up a new option for teachers: To form a separate group that will provide the learning program under an agreement with the school. This will give teachers full control of the professional issues they have been unable to win through bargaining as employees.*

- (7) A teachers leaving a position in a public school district to teach in a public charter school may take leave to teach. While on leave, the teacher shall retain seniority and continue to be covered by the benefit program of the school district in which the teacher was employed. Service teaching in a public charter school shall be considered the same as service teaching in a nonchartered public school.

*.....
It is a proper state
interest to encourage
teachers to develop
public charter schools.
.....*

SECTION 10. Authority for Guidelines and Regulations

- (1) The State Board of Education may act on recommendations from the Public Charter School Committee to adopt non binding guidelines for charter applicants and sponsors. The State Board of Education may adopt only those minimum rules necessary for the implementation of the intent and procedures required by sections 1 to 18 of this Act. The State Board of Education may not abridge the intent to delegate broad powers to sponsors and public charter schools to enter into results based agreements. The rules shall follow the intent of sections 1 to 18 of this

A Charter For Accountable Schools: APPENDIX

1 Act to provide sponsors with broad authority to approve and provide oversight for deregulated public charter schools
2 held accountable by the terms of an approved charter and the requirements of sections 1 to 18 of this Act.

- 3 (2) Upon application by a public charter school, the State Board of Education may grant a waiver of any provisions of
4 sections 1 to 18 of this Act if the waiver promotes the development of programs by providers, enhances the equitable
5 access by underserved families to the public education of their choice, extends the equitable access to public support
6 by all students or permits high quality programs of unusual cost. The State Board of Education may not waive any
7 appeal provision in sections 1 to 21 of this Act.

SECTION 11. School Cap and Phase-In

8
9 The State Board of Education shall ensure that no more than 15 public charter schools begin operating in the 1999-2000
10 school year and no more than 25 public charter schools begin operating in the 2000-2001 school year. Public charter schools
11 that serve at-risk or underserved students shall not be counted under this cap and shall be given priority. The State Board of
12 Education shall give priority to charter-like schools who have an approved charter proposal who are already in existence who
13 provide contracted educational services or who have accountability contracts and site-governance powers approved by district
14 boards.

15 **Kolderie:** *The state wants everybody to improve. So the law should expose every district to the possibility that a*
16 *charter school may appear in its area. Small "pilot" programs for a handful of charter schools fail this test.*
17 *Some states do "cap" the allowable at any given time and then raise the cap over time. But again: A state*
18 *that wants the maximum stimulus to change and improvements will not limit the opportunity for charter*
19 *schools to appear.*

SECTION 12. Notification of Establishment and Eligibility for State Funding

20
21 Each sponsor of a new public charter school or the new public charter school shall notify the State Board of Education of
22 the sponsor's approval of a new public charter school, the school's proposed starting date, the projected enrollment of students
23 at the school, and the type of students to be served who are eligible for additional services or funding entitlements or
24 weightings. Within 35 days after the board receives notification, the board shall establish a funding eligibility starting date
25 and the maximum number of students to be served. If the board does not act on the notification within 35 days of its receipt,
26 the establishment of the public charter school shall be considered approved as submitted in the notice. After 1 July, 2001, the
27 State Board of Education may not establish caps on the number of students served by a public charter school.

SECTION 13. Funding

- 28
29 (1) Public charter schools as defined in this Act shall be eligible for payment monthly from the State School Fund for
30 those students actively enrolled in the public charter schools the previous month. Public charter schools and their
31 students shall be eligible for all federal, state and local benefits provided to nonchartered public schools and their
32 students except for special education funds allocated to the resident district of a special education student attending a
33 charter school. Except as provided in sections 1 to 13 of this Act, a public charter school shall be eligible to receive
34 any available aid, grants or revenue in the same manner as a school district. A public charter school shall be eligible
35 to receive services from an education service district and the Department of education and other state agencies in the
36 same manner as any nonchartered public school or district. The State Board of Education shall set aside funds from
37 the State School Fund for public charter schools in a manner consistent with the state formula for per pupil funding
38 of nonchartered public schools to ensure the full, equitable and direct funding of public charter schools for those
39 students actively enrolled in public charter schools. The State Board of Education shall insure the per pupil amounts
40 authorized includes the weightings for special category students except for the additional weights for special
41 education. The State Board of Education may establish differential per student payments to public charter schools by
42 age or grade of students or other special categories.

- 43 (2) The State Board of Education shall establish, by rule, an efficient, timely and equitable system of per pupil payments
44 to public charter schools for services rendered to actively enrolled students of public charter schools. The State Board
45 of Education shall establish, by rule, the method for determining the number of actively enrolled students, the

A Charter For Accountable Schools: APPENDIX

1 reporting procedures by which public charter schools shall report and receive payment for those student actively
2 enrolled in the public charter school and the manner in which payment shall be made.

3 **Kolderie:** *The idea is for the charter school to receive the amount that would have been available for the student
4 under traditional arrangements. And for the school to get its revenue directly from the state.*

5 *Think about it this way: The state now requires each community to pay, each year, a certain proportion
6 of its wealthy toward the cost of educating its children. With whatever dollars this raises, the community
7 pays for the education of as many kids as those dollars will cover. The state pays in full for all the
8 remaining kids.*

9 *This lets us think of district enrollment as a box full of kids: the bottom layer (say, 20%) all green fully
10 paid by the community; topped off by a layer (80%) all gold, fully paid by the state. So the notion of “the
11 local portion and the state portion” never applies to the individual student.*

12 *A student moving to a charter school is assumed to be a kid off the top of the box — fully state-paid. The
13 state pays the full amount — say \$6,000 — to the charter school (where the student is) rather than to the
14 district (where the student isn’t any more).*

15 *Districts will always object, when a charter law is proposed, that a charter school will “take away
16 money.” But it’s a pupil-driven system of finance. When enrollment goes up, the district has more
17 money; when enrollment goes down, it has less money. Kids moving to a charter school is another kind of
18 enrollment change. The state payment changes accordingly. The district adjust, just as it would if the
19 students moved to another district or another state.*

20 *Avoid at all costs provisions such as those added to Massachusetts law providing funding to school
21 districts that lose enrollment to charter schools. This defeats and/or blunts one of the most important
22 aspects of charter legislation: to put strong and appropriate pressure on existing schools system to change
23 and improve.*

24 (3) The State Board of Education may, by rule, make corrections to the ADMw of a school district for a nonchartered
25 remote small school caused by chartering a school. Where the cost of nonchartered public schools falls below levels
26 of local property tax levies due to chartering schools funded by the state school fund, the State Board of Education
27 may, by rule, require that excess local property tax revenues be returned to the state school fund.

28 (4) Public charter schools are exempt from the restrictions normally associated with any state funded categorical education
29 funding programs.

30 **Kolderie:** *The intent here is to essentially “block grant” all funds to a charter school and cuts the red tape and
31 strings often associated with categorical funding programs.*

32 (5) A school district shall serve as the local education agency for purposes of any required special education to any student
33 who is a resident of the school district and who attends a public charter school. The resident school district of a
34 student attending a public charter school shall be responsible for providing any required special education and related
35 services to the student. A student who requires special education and related services shall be considered a resident for
36 school purposes in the school district in which the student’s parents or guardians or persons in parental relationship
37 to the student reside pursuant to ORS 339.133 and 339.134.

38 (6) The resident school district may contract with a public charter school for the provision of the special education and
39 related services. The contract shall include provisions for payment of any special education and related services
40 provided by the public charter schools.

41 (7) The resident school district shall receive any additional special education funding for special education students on an
42 IEP residing in the district who are attending a public charter school.

43 (8) In addition to ADMw funding awarded under this section, the public charter school shall receive a lease aid grant for
44 the costs of leasing or purchasing facilities of \$250 per student enrolled in the public charter school. When
45 available, school districts may provide building space and charge fair market value to public charter schools. Public
46 charter schools shall consider leasing district’s unused space.

A Charter For Accountable Schools: APPENDIX

Kolderie: *The policy goal is to ensure that charter schools are part of an overall system that serves the needs of all students and to ensure that charter schools pull their "fair share" of the weight in either (1) proportionate share of special needs students and/or (2) the fiscal "pain" often associated with the cost of serving special needs populations. This will require a careful and detailed analysis of existing state and federal law and funding streams by the state board.*

SECTION 14. Public Charter School Committee

- (1) There is established a Public Charter School Committee consisting of 9 members appointed by the Governor. At least five of the members shall have experience in operating or developing a public charter or contract school or charter school support organization. At least four of the members shall have experience or training in business or economics.
- (2) The term of office of each member is two years. A member is eligible for re-appointment. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term.
- (3) A member of the committee is entitled to compensation and expenses as provided in ORS 292.495.
- (4) The committee shall select one of its members as chairperson for such term and with duties and powers necessary for the performance of the functions of the office as the committee determines.
- (5) A majority of the members of the committee constitutes a quorum for the transaction of business.
- (6) In accordance with applicable provisions of ORS 183.310 to 183.550, the committee may adopt rules necessary for the administration of the laws that the committee is charged with administering.
- (7) The committee shall meet at times and places specified by the call of the chairperson or of a majority of the members of the committee.
- (8) The committee shall receive staff assistance from the Department of Education.

SECTION 15. Appointment and Terms of Committee Members

Notwithstanding the term of office specified by section 14 of this Act, of the members first appointed to the Public Charter School Committee:

- (1) Five shall serve for terms ending December 31, 2001.
- (2) Four shall serve for terms ending December 31, 2000.

SECTION 16. Duties of Committee

The Public Charter School Committee shall have the following duties:

- (1) Advise the State Board of Education regarding criteria for use of the Public Charter School Development Fund, the implementation of charter policy, and the gathering and utilization of information from the model public charter school sites;
- (2) Review grant applications and make recommendations to the State Board of Education for awarding grants or loans;
- (3) Gather information and evaluate the public charter school policy as to the quality of public charter schools and as to public charter school effects on districts and the statewide system of public education; and
- (4) Formulate recommendations about changes in public charter school policies and procedures to the State Board of Education and legislative committees on education.

*.....
The federal government is very serious about promoting the development of public charter schools. With this money comes the need for oversight and assistance to the state board and the legislature.
.....*

SECTION 17. Public Charter School Development Fund

- (1) There is established a Public Charter School Development Fund, separate and distinct from the General Fund, consisting of all funds received from the Federal Government or from

*.....
This concession protects against the fear of a huge influx of new charter schools.
.....*

A Charter For Accountable Schools: APPENDIX

1 other sources for public charter school development and any loans repaid under section 18 of this Act. All expenses
2 incurred in the administration of section 16 of this Act shall be borne by the fund. Interest earned by the fund shall
3 be credited to the fund.

4 (2) The moneys in the fund are appropriated continuously to the Department of Education for purposes of the grant and
5 loan program operated under this Act.

6 **SECTION 18. *Grant and Loan Program***

7 (1) Subject to the rules of the State Board of Education, the Department of Education may award grants and loans to
8 public charter schools on the basis of need to public charter schools that have a charter approved by a sponsor. The
9 purpose of the grants and loans shall be to promote development of high quality public charter schools that extend
10 services to undeserved families.

11 (2) The State Board of Education upon recommendation of the Public Charter School Committee shall establish, by rule,
12 criteria for awarding grants and loans. No grants or loans shall be awarded to school districts or to public charter
13 schools that converted an existing public school that was not a public contract school to a public charter school.

14 (3) Priority for awarding grants and loans shall be in the following order:

15 (a) Public contract alternative schools serving at-risk youth that have converted to
16 a public charter school.

17 (b) Up to 10 public charter schools that propose to serve as development sites for
18 Oregon for model public charter schools. Grants or loans awarded to model
19 public charter schools shall aid in providing resources for establishing
20 chartering models, technical resources, performance contracting, performance
21 evaluations and performance benchmarks in cooperation with education
22 service districts, community colleges, institutions of higher education, civic organizations and business
23 organizations.

24 (c) Public charter schools that serve underserved families or special needs children.

25 (d) Public charter schools that enhance school district options to parents that are already served by the
26 schools in the school district.

27 (4) The State Board of Education upon recommendation of the Public Charter School Committee shall evaluate the
28 effectiveness of the grant and loan program:

29 (a) In promoting the development of high quality, community based public charter schools:

30 (b) On the effectiveness in extending public education services to underserved families;

31 (c) On the impact on existing private and public education providers; and

32 (d) On the equity of the program.

33 (5) The State Board of Education upon recommendation of the Public Charter School Committee shall make
34 recommendations to the Legislative Assembly regarding policies on the use of funds from the Public Charter School
35 Development Fund and what part of those funds should be offered as loans.

.....
*Funds should go where
needs are greatest But
the state can also use
the federal dollars to
fund the development
of support services and
infrastructure with
model schools*
.....

36 **SECTION 19.** This Act being necessary for the immediate preservation of the public peace, health and
37 safety, an emergency is declared to exist, and the Act takes effect on its passage.