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FEATURE ARTICLE

Charter Schools Gain Broad Support Nationally; Laws Evolve in Illinois and Wisconsin

By John Bray, National Charter School Resource Center

The roughly 5,275 charter schools across the country comprise only about five percent of all public schools. But charter schools have taken an especially big role in the education reform debate, led by top performers that have demonstrated high achievement among high-need students. The basic bargain with charter schools is that they are publicly funded, and, in exchange for freedom from many regulations, they must meet the terms of performance contracts or face closure.

In September 2011, Maine became the 41st state with a law allowing charter schools. A recent nationwide PDK/Gallup poll found that 70 percent of those surveyed viewed charter schools positively. That broad support appears to be reflected in the U.S. House of Representatives, which on September 13, 2011, voted 365–54 in favor of the Empowering Parents through Quality Charter Schools Act. The bill, developed by the Education and the Workforce Committee, would provide \$300 million annually to support growth of high-quality charter schools through support for facilities, sharing of best practices, outreach to special populations of students, and improved transparency and performance management through stronger systems of approving and monitoring schools. The bill faces review by the U.S. Senate. At the same time, charter schools, a diverse field with wide-ranging performance and operating modes, have come under closer scrutiny regarding financial management, the role of for-profit companies in managing schools, and the extent to which students with the most significant disabilities and discipline challenges are being served.

The National School Boards Association issued a statement calling the U.S. House bill flawed because it expands support for charter start-ups in tight economic times and backs alternatives to school district authorizers whose sponsorships of charter schools “frequently result in alienation and negative competition.” Efforts have been under way in some places to foster collaboration among district and charter schools, including projects supported by the Bill & Melinda Gates Foundation. The issue of who gets to authorize, monitor, and close charter schools has been a key issue in Wisconsin, where a bill to expand the field of authorizers is pending in the state legislature, and also in Illinois, which recently appointed a nine-member independent statewide commission focused on appeals of charter applications turned down by school districts. Other important issues have included funding levels, support for facilities, and the role of teachers unions.

Wisconsin's Number of Charter Schools Among Nation's Leaders; Autonomy Lags

In 1993, Wisconsin was among the first states to pass a charter school law, and the current inventory of 236 charter schools is among the largest of any state. There is no cap on the number charter schools, and routes to authorization for charter school applicants could increase with passage of state Senate Bill 22, which would establish a statewide authorizer and allow so-called cooperative educational service agencies to authorize charter schools. Authorizing options other than school districts have been growing since 1997 and now include the city of Milwaukee, the University of Wisconsin–Milwaukee, Milwaukee Area Technical College, and the University of Wisconsin–Parkside, which is approved for a single charter. The bill also includes provisions covering funding, teacher certification requirements, and enrollment in online or virtual charter schools. A 2010 report by the Wisconsin Legislative Audit Bureau said spending in 2007–08 totaled \$17.8 million for 15 virtual charter schools serving 2,951 students, with a 5,250-student enrollment cap.

The U.S. Department of Education, through its Charter School Program State Educational Agencies Grant from 1996 to 2009, awarded \$103.7 million to support Wisconsin charter schools. In 2009, the state was authorized to receive \$86 million over five years through the program. In August 2011, Wisconsin Department of Public Instruction (DPI) Superintendent Tony Evers announced \$6 million in grants from the federal aid, including \$4.5 for planning for 23 charter schools.

Growth Versus Autonomy

Most charter school applications are viewed favorably, according to Robert A. Soldner, Director of School Management Services for DPI. He oversees DPI's charter schools program. "You're trying different things," Soldner said. "When it doesn't work, you're closing them down and trying the next method."

Some school districts have declining enrollment. "They know they can't sustain the existing system," Soldner said. "So charters give them an opportunity on a smaller scale to figure out how they can survive." Among the planning grants approved by the state is a project in rural Wisconsin to develop an agricultural-based charter school in Fox Lake, a rural part of the state. An elementary school building that was shut down two years ago by the Waupun Area School District in the wake of budget deficits is targeted as a location, according to Fox Lake Mayor Tom Bednarek.

Despite numerical growth, more autonomy and accountability are needed for the state's charter schools to fulfill their mission, according to Todd Ziebarth, Vice President of State Advocacy and Support at the National Alliance for Public Charter Schools (NAPCS). Ziebarth estimates that just over a dozen charter schools in Milwaukee and "a handful outside are actually real charters." Wisconsin ranks 34th among the states for how faithfully its law reflects the NAPCS model law.

"What we've seen too often is districts create new kinds of programs and/or take existing programs and make them charters, get the federal grant money, and, once the federal grant program runs out, they close the program," Ziebarth said. "Districts really have viewed it as a way, to their credit, to offer different kinds of programs," Ziebarth said. "It's just, from our perspective, they shouldn't be using federal dollars reserved for charter schools to do it."

Soldner said the state has worked to clearly convey eligibility standards for federal start-up grants. "Wisconsin, just like many other states, raised the bar for charter school creation to continue to be competitive and eligible for federal start-up funds," Soldner said.

Unions and Charters

The role of teachers unions and the impact on charter schools is in flux. Most teachers in the state are unionized, but a new law now limits collective bargaining to wage issues. School districts can choose whether workers at a charter school they control, a so-called instrumentality charter, are employees of the district or the charter school. It makes a difference, for example, when it comes to who gets bumped during layoffs. If the charter school does not have a memorandum of understanding with the collective bargaining unit, then the charter school might have to go by union seniority rules instead of its own decisions. Charter school teachers who are not employees of the district cannot participate in the state's retirement system, but that could change under pending legislation (Senate Bill 22).

Sarah Granofsky Toce, Acting Executive Director of the Wisconsin Charter Schools Association (WCSA), said layoff bumping cascades in some district-controlled charters have completely changed the makeup of staffs from those who chose the charter to those who are simply taking open positions and are not necessarily enthusiastic about the approach. Going to an independent charter school may mean more freedom but also likely lower pay, except in those charter schools with strong outside fundraising, according to Toce.

The fate of surplus school buildings has taken a favorable turn for charter schools, according to Ziebarth. He noted a law adopted in 2011 that puts disposition of about 30 surplus school facilities in Milwaukee in the hands of city officials, not the Milwaukee Public Schools (MPS).

Evaluating Wisconsin's Charters

Milwaukee has been studied by the School Choice Demonstration Project of the Department of Education Reform at the University of Arkansas. *The Comprehensive Longitudinal Evaluation of the Milwaukee Parental Choice Program: Summary of Fourth Year Reports of 2011* found that charter schools that are independent of MPS (16 of the city's 51 charter schools) "are generating significantly higher rates of achievement growth for their students compared to similar students in MPS." The report states that four of those charter schools had been private schools participating in the choice program and that "achievement gains at those private-to-charter conversion schools were especially high."

Soldner said that a required outside evaluation of the state's charter schools program is due at the end of the current school year and will be done by John Witte of the University of Wisconsin–Madison.

Illinois Gets New Statewide Charter School Commission; Districts Remain Applicants' Starting Place

Illinois passed its charter school law in 1996. Growth in the number of schools has occurred mainly in Chicago, where there are 38 charter schools spread over 104 campuses that enroll about 40,000 students, or 10 percent of all students. Fourteen charter schools operate elsewhere in the state, the most recent addition opening for the 2011–12 school year. The state has a cap of 120 charter schools, with a provision for a limited number of additional schools that serve as reenrollment schools for dropouts.

Charter School Commission

The new state Charter School Commission resulted from enactment of state Senate Bill 79. In Illinois, only school districts are allowed to authorize charter schools. A key role of the commission will be to hear appeals from charter school applicants who are turned down by districts, a job that had been left to the Illinois State Board of Education, which has authorized three charter schools, one of which has closed. The commission also will be able to authorize charter schools that would serve multiple school districts and take over authorization of charter schools if the charter school and its authorizer agree to it. No money was appropriated by the state to fund the commission, although it is allowed to accept grants and donations. The commission can charge a three percent administrative fee of any charter school it authorizes.

“Effectively, there was no recourse for someone who wanted to start a charter school in a district that was philosophically anti-charter,” said Stacy McAuliffe, Chief Operating Officer of the Illinois Network of Charter Schools (INCS). While appeals technically were the job of the Illinois State Board of Education, “it wasn’t part of what they really did,” McAuliffe said. Starting a charter school that will serve multiple districts should be easier now. “It’s perfectly reasonable that kids from multiple districts might attend a school in one location,” McAuliffe said. Todd Ziebarth, a member of a task force that produced a report in 2010 on the need for a statewide authorizing entity, said he anticipates the commission’s specific focus on charter schools will push school districts to take their job as authorizers more seriously. Illinois ranks 30th among the states for how faithfully its law reflects the National Alliance for Public Charter Schools (NAPCS) model law.

Jennifer Saba, charter school specialist and legal adviser to the counsel for the Illinois State Board of Education, said another wrinkle of the law is that it formalizes that charter schools authorized by the state are designated local education agencies (LEA), which means they act as their own district. The status influences issues such as eligibility for certain types of grants and responsibility for special education services. Funding is provided directly to the schools from the state, not through the district.

Charter schools are the subject of a biannual report by the Illinois State Board of Education. The 2010 report included a broad range of data, including performance on the Adequate Yearly Progress (AYP) standard of the Elementary and Secondary Education Act (ESEA) reauthorized as No Child Left Behind (NCLB).

Funding Illinois Charters

Wide latitude exists for funding Illinois charter schools, which are to receive 75 percent to 125 percent of the local school district’s per capita amount, according to state law.

The Chief Executive Officer of Robertson Charter School in Decatur, Illinois, G. E. Livingston, said the circumstances of charter school funding are complex and vary by location. His school, a PK–8 school of about 340 students, gets 100 percent funding from the school district. “In some areas, the school districts, depending on how progressive they are regarding charters, partner with them a little bit more,” said Livingston, whose school has made AYP for the past

seven years. Part of the funding bargain at his school was recognition of serving an enrollment of nearly 90 percent high-need students and providing transportation with a fleet of eight buses that pick up citywide without charge. "It would be impossible to provide the transportation piece without getting 100 percent," Livingston said. About 90 percent of the school's students take the buses.

Even with 100 percent funding, it is tough to make ends meet, according to Livingston, who said the school does not receive facilities funding from the district. The school opened in 3,000 square feet of former office space, which was gutted to form classrooms. The school's current location, which had been a district school, was purchased from a construction trades training organization about five years ago and has been renovated. "In all of those progressions, we didn't get any facility funding," said Livingston. He joined the school shortly after it opened nearly 11 years ago and is now working on a plan to develop a high school program involving a local community college.

In September 2011, Governor Pat Quinn called attention to a \$27 million investment by the state in building the United Neighborhood Organization's (UNO's) Soccer Academy Elementary School, UNO's newest charter school in Chicago. According to the announcement, the school integrates soccer with a traditional curriculum.

Funding for Illinois through the federal Charter Schools Program State Educational Agency grants program has totaled about \$21.3 million since 1996. But the last three-year grant came in 2007, and the state's most recent application was turned down.

McAuliffe said the loss of the federal program funding provided to the state for subgrants was "a bit of a blow to the charter sector." But individuals have been able to apply directly for federal support through the federal Charter Schools Program. In October 2011, the U.S. Department of Education announced \$4.8 million in grants for individual charter school planning, start-up, and dissemination of best practices projects, including nine grants in Illinois totaling about \$1.6 million.

Illinois Charter Performance

Many charter schools have proven their worth. INCS released a statement in September noting that 2011 scores on the ACT, the main college admission examination in Illinois, showed all but one of the top 10 performing open enrollment high schools in Chicago were charter schools. Charter schools are "disproportionately represented among the best schools in the city, and there are also a few that are really struggling, and we'll be the first to say that those schools need to really work on improving," McAuliffe said.