

The Policy Landscape of Educational Entrepreneurship

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Abstract

Scholars and practitioners are well aware that public policy—the laws, regulations, and programs instituted by governments—establishes the ground rules for educational entrepreneurship. But the actual policy landscape—the political and policy context within which educational innovators must operate as they attempt to bring new approaches to bear in providing schooling—has received little scholarly attention. This paper surveys the politics and policies of entrepreneurship in the United States and examines how and why states differ in the kinds of obstacles and incentives which they have created for educational entrepreneurs. It focuses on charter schooling, teacher and principal licensure, and supplemental services and concludes with an analysis of the effect that accountability reforms, and the federal No Child Left Behind law, may have on promoting new approaches to schooling.

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INTRODUCTION

In recent years, American public education has undergone a remarkable transformation. Numerous and varied reforms at the local, state, and federal level have been enacted to improve student academic performance and give parents more educational choices. Many of these reforms have been designed to encourage entrepreneurial actors inside and outside of the traditional public school system to develop and deploy genuinely new approaches to schooling. Scholars and practitioners are well aware that public policy—the laws, regulations, and programs instituted by governments—establishes the ground rules for educational entrepreneurship. But the actual policy landscape—the political and policy context within which educational innovators must operate as they attempt to bring new approaches to bear in providing schooling—has received little scholarly attention.

How does policy influence the calculus of entrepreneurship in education? What kinds of policies affect the supply, behavior, and cost-benefit decisions of entrepreneurial actors? This chapter will attempt to survey the politics and policies of entrepreneurship in the United States and examine how and why states differ in the kinds of obstacles and incentives which they have created for educational entrepreneurs. It will focus on three areas of policy that have undergone extensive change in recent years and are having a major impact on the education landscape—charter schooling, teacher and principal licensure, and supplemental services. The chapter will conclude with a look to the future of the policy landscape regarding entrepreneurship and in particular the effect that accountability reforms, and the federal No Child Left Behind law, may have on promoting new approaches to schooling.

POLITICS AND GOVERNING THE MARKET FOR ENTREPRENEURSHIP

Any understanding of the policy landscape of educational entrepreneurship in the United States must begin with the country's uniquely decentralized and fragmented system of educational governance. The country's traditions of localism and federalism have exerted a powerful influence on the evolution of the American public education system. The day-to-day management of schools, including such matters as personnel, curriculum, and pedagogy remained largely in the hands of local authorities (and often the educators themselves), until the middle of the twentieth century. Over time, as David Tyack and Diane Ravitch have shown,¹ educators used their professional autonomy to develop a highly bureaucratized system of public schooling. The U.S. Supreme Court's *Brown vs. Board of Education* decision of 1954, the federal Elementary and Secondary Education Act (ESEA) of 1965, and a wave of school finance litigation in the 1970s, forced states and the federal government to address the inferior educational opportunities available to poor students and students of color. In the equity regime that emerged in the 1960s and 1970s, however, the focus of state and federal governments was largely on inputs and process—on ensuring the compliance of lower administrative units with procedural mandates regarding student assignment and school financing. These developments produced a system of educational governance that is heavily regulated and enormously complicated as local, state, and federal authorities all now regularly enact policies that impact the day-to-day operation of the country's public schools.

The policymaking authority of these various levels of government has been used both to impede entrepreneurial activity in education and to promote it. There are at least three different dimensions to contemplate in an analysis of governmental policies regarding educational entrepreneurship—the level of government involved (local, state, or federal), the kind of policy

lever utilized (legislative, regulatory, fiscal, or judicial), and the type of sector targeted (public or private). An analysis of governmental education policies must also recognize that they differ not just in their ends—their policy aims—but also by the means employed to achieve the desired policy aims. State and federal governments have an enormous impact on the emergence and operations of educational entrepreneurs through their funding and taxation decisions, regulatory environments, and legislative enactments.

The politics of entrepreneurship, however, is such that government is often inclined to be hostile to new players and ideas. Existing policymaking arrangements and standard operating practices are often deeply entrenched and vigorously defended by powerful interests. The most powerful political actors at the local, state, and national level in education are the teachers unions and the variety of advocacy groups collectively referred to as the “education establishment.” These groups generally oppose reforms that would introduce entrepreneurial approaches into the existing public school system or would permit entrepreneurial actors to create alternative schools because they are viewed as a threat to their influence and livelihood.² For many years, the unions were able to use their power to preserve the status quo in education by defeating—or effectively neutering—many of the school reform proposals that emerged at the local, state, and national levels.

During the 1980s and 1990s, however, a variety of factors led states and the federal government to assume a greater share of education policymaking authority and to shift their focus from resources to achievement. These factors included the 1983 *A Nation at Risk* report, the belief that educational improvement was essential to economic development in the information age, the abysmal performance of urban school systems, and the failure of additional resources to end persistent racial and class based achievement gaps. The rise of education to the

top of the public agenda at the state and federal level during the 1980s and 1990s, meanwhile, added a political imperative to school reform efforts. State and federal governments are increasingly using their authority to combine deregulation with accountability and to challenge the status quo and open up the educational marketplace. In this sense we may be witnessing a kind of centralized decentralization in school reform in which centralized power is used to expand the number and type of educational options for parents and children. If the political environment has grown more favorable to entrepreneurial reforms, however, the politics of education remains contentious at the national, state, and local levels. This reality—along with the incremental and conservative nature of the policymaking process more generally—has meant that most school reforms become law only after compromises have limited their size and scope and the freedom accorded entrepreneurs. As a result, the nature and extent of entrepreneurial policies varies enormously from state to state and the barriers to entrepreneurship in education remain considerable.

THE POLICY LANDSCAPE IN THE STATES

The developments described above helped to inaugurate a new era of accountability in education reform, and gave policymakers and school leaders both the means and the incentives to embrace educational innovation to a much greater extent. As a result, states have embraced a wide variety of educational reforms in recent years. Some, like changes in the regulations governing teacher and principal licensure, attempt to reform existing public schools from the inside by fostering public entrepreneurship. Other reforms—such as the charter movement—have encouraged the creation of new schools that operate within the public system but which utilize greater regulatory flexibility to institute different instructional and governance approaches. A third type of reform

has been to increase educational innovation by embracing private entrepreneurs—either by contracting public school services or management to private companies or by allowing students to use public funds to pay for private school tuition.

The major policy impediments to educational entrepreneurship have to do with three things: barriers to entry; lack of access to financial capital for new ventures, and lack of human capital—an insufficient number of entrepreneurially-minded administrators and teachers. This section will explore the specific ways in which federal and state policies have shaped entrepreneurship in K-12 education along each of these dimensions. It will analyze the extent to which states continue to place barriers to entrepreneurial activity in education and the degree to which states have adopted policies that encourage educational entrepreneurship, as well as examine how state policies vary and some of the consequences of this variation.

Teacher and Principal Training and Licensure

Human capital—the accumulated skills, experiences, and attitudes possessed by employees and managers—is crucial to the success of any organization. Policymakers have an enormous impact on human capital in education through the regulations that govern who is allowed to teach in and run schools, and how such individuals are recruited and trained. States and districts restrict the entrance of individuals into teaching and school administration in two important ways: first by requiring that teachers and administrators be licensed in order to work in public schools, and second, through the requirements that they establish for licensure. Taken together, these regulations—along with compensation practices—restrict the entry of new candidates into teaching and administration in important ways and can make mobility and risk-taking behavior among existing school personnel more costly.³

These licensing processes typically include a number of curricular and experiential requirements which prospective public school educators and administrators must meet. Forty-five states (all except Florida, Maine, Maryland, New York, and Rhode Island) require prospective teachers to complete a state-approved teacher preparation program.⁴ There is considerable variation, however, across states and even across licensing institutions within states in terms of the amount and rigor of coursework required, the number and difficulty of licensing exams, and the amount of time which candidates must spend student teaching. Some states require only an initial teaching certificate while others require a second or third stage certificate with additional course requirements. The traditional way of satisfying these requirements in most states is through completion of a teacher preparation program run through a school of education. In 1983 only eight states reported having some kind of alternative teacher preparation program.⁵ These college teacher preparation programs typically emphasize training future teachers to conform to existing pedagogical, curricular, and organizational practices in traditional public schools rather than instilling entrepreneurial skills or attitudes.⁶

During the 1980s, however, concerns about teacher quality and projected teacher shortages led many states to focus greater attention on how teachers were recruited and trained. Some states focused their efforts on adding additional requirements to existing teacher certification programs. In order to recruit and train more teachers and to recruit and train different kinds of teachers, a number of states also began to develop alternative teacher certification processes that would enable prospective teachers to bypass the traditional education school programs. A 1999 study by the Thomas B. Fordham Foundation, however, concluded that these efforts remained limited and graded state efforts nationwide to create alternative pathways to teaching a “D.” They found that only 14 states had “serious” alternative

certification programs in place in 1999 and that only a few of these had produced sizable numbers of graduates.⁷ In general, teacher preparation programs (even alternative ones) remain quite expensive and time-consuming which can deter would-be teachers from entering the profession even if they are interested in teaching.⁸

The focus on teacher quality and on alternative teacher certification received a major boost with the passage of the federal Higher Education Act of 1998 (and particularly sections 207 and 208 in Title II). The Act mandated that states report information on teacher preparation, certification, and licensing, including details of their alternative certification routes and the performance of teachers who use them on state licensure exams.⁹ The 2002 No Child Left Behind Act (discussed in more detail below) also required states to have a “highly qualified teacher” in every classroom where core academic subjects are taught by 2005-2006. States were to establish a timetable of intermediate steps to reach this goal and all new teachers hired with Title I funds were to have been highly qualified by 2002-2003.¹⁰

These state and federal initiatives have given the alternative certification movement considerable momentum; one-third of current state alternative teacher certification routes have been created since 2000, and more than half have been established during the past fifteen years. Data from the National Center for Education Information shows that in 2005, a total of 47 states (and the District of Columbia) reported that they have alternative teacher certification programs in place. There were 122 alternative routes to teacher certification actually being implemented by approximately 619 different providers, including higher education institutions.¹¹ The oldest and most prolific alternative certification programs are in California, New Jersey, and Texas and these three states produced almost half of the total number of alternatively certified teachers in the country in 2004.¹²

It is important to note that alternative certification programs vary considerably in the extent to which they produce teachers and school leaders who think entrepreneurially. Many alternative certification programs merely embody a different set of requirements and timetables rather than different methods of recruiting or training that could produce a qualitatively different kind of teacher.¹³ In addition, how states chose to govern and administer their teacher licensure programs has a major impact on the size and nature of alternate routes. While typically run through the state department of education, some states with large numbers of teachers coming through alternative certification routes—such as California, Texas, and Georgia—have empowered separate state commissions or boards to oversee the process. It is not yet clear whether the choice of governance structure has an impact on how these programs are implemented or the number and kind of alternative teachers that apply for and gain certification but it is reasonable to think that it does. Texas' Accountability System for Educator Preparation (ASEP) program (established in 1995) empowered multiple and varied providers of teacher preparation. By 2002, the State Board for Educator Certification had authorized 94 different educator preparation programs: 69 were run by colleges or universities, 16 by regional education service centers, 4 by school districts, 3 by community colleges, and 2 by private entities.¹⁴ Nationwide about 50 percent of alternative certification programs are administered by colleges and universities while 20 percent are administered at the school district level. In some states—such as California, Illinois, Pennsylvania, and Texas—most of the alternative teaching programs are controlled by institutions of higher education, while in other states—such as Colorado, Florida, Maryland, and Oregon—they are controlled by the school districts themselves.¹⁵

A number of private and public entities have taken advantage of changes in teacher and principal hiring and certification practices to recruit and train teachers and principals in different

ways. These programs target candidates from diverse educational and professional backgrounds who have not completed a traditional certification program. Many if not most, of the teachers and administrators who enter the profession through these alternate routes would never have become educators without them. One of the most prominent of these groups is Teach for America, which began in 1990 and has placed 14,000 recent college graduates in public schools in poor urban and rural areas across the country. Troops for Teachers, a Department of Defense program initiated in 1994, and the New Teacher Project (1997) have also utilized alternative certification routes for non-traditional teachers. In addition, some states such as Florida, Pennsylvania, Idaho, and Utah have agreed to accept teachers certified through the American Board for Certification of Teacher Excellence (ABCTE) program which was founded in 2001 and targets non-traditional candidates. Despite the existence and growth of these programs, the number of alternatively certified teachers in the country remains quite small—by one estimate they comprised only 200,000 of the nation’s 3 million total teachers in 2004.¹⁶

States have also begun in recent years to reconsider the process by which they recruit and train school principals and superintendents. Historically, the overwhelming majority of school leaders have risen through the ranks—beginning their careers as teachers and then moving on to become assistant principals, then principals, then up to the district office. All but two states require prospective principals or superintendents to acquire a license in school administration in order to be eligible to be hired. State principal licensure requirements typically include the following: three or more years of K-12 teaching experience, a graduate degree in educational administration, and an internship. Many states also require candidates to pass the School Leaders Licensure Assessment exam.¹⁷ A 2003 Rand study found that “formal barriers such as certification requirements and informal barriers such as district hiring practices all but exclude

those without teaching experience from consideration for administrative positions.”¹⁸ As with the standard teacher licensing process, the typical principal and superintendent curriculum is offered through a university education school and does not emphasize the kinds of skills and attitudes which are likely to develop an entrepreneurial cadre of school leaders.¹⁹ Such a lengthy (and often expensive) licensure path also likely deters many prospective entrepreneurial leaders from inside and outside of the public school system from becoming school principals or superintendents.²⁰

Despite some efforts by states to revise their principal and superintendent training and licensing processes, Feistritzer concluded in a 2003 report that “as yet there is no general move afoot to bring people from outside the ranks of traditional educators into school leadership positions.”²¹ The report noted that some large urban districts had begun to bring in different kinds of superintendents on an ad hoc basis and that eleven states had formal alternative routes by which principal and superintendent candidates could enter school administration positions.²² These alternative programs are typically run through the same education schools as the traditional programs, however, and the number of candidates moving through the alternative routes remained quite small. Two states (Michigan and South Dakota) do not require certification of either principals or superintendents and five states (Florida, Hawaii, North Carolina, Tennessee, and Wyoming) as well as D.C. do not require the certification of superintendents.²³ In these states, local districts are free to set their own requirements but in practice these have tended to resemble the standard certification routes set at the state level elsewhere.²⁴

In a recent report entitled “Innovative Pathways to School Leadership,” the U.S. Department of Education declared that “traditional education administration programs and

certification procedures are producing insufficient numbers of [effective] leaders.”²⁵ In an effort to promote models for further action, the study provided case studies of five alternative school leadership preparation programs which it said had taken advantage of changes in state licensing requirements to create “pioneering programs that recruit and prepare principals in inventive ways.” The programs were: Boston Principal Fellowship Program; First Ring Leadership Academy (Cleveland); LAUNCH (Leadership Academy and Urban Network for Chicago); NJ EXCEL (Expedited Certification for Educational Leadership) San Francisco; Principals Excellence Program (Pike County, Kentucky); and New Leaders for New Schools (New York, Chicago, Washington, D.C., Memphis, and San Francisco). “These innovative and entrepreneurial programs,” the report observed, “are developing new recruiting strategies to attract potential leaders from beyond the traditional pipeline of experienced teachers...and emphasize the principal’s role as a catalyst for change.”²⁶ While these alternative preparation programs vary in their particular origins, methods, and goals, what they have in common is a desire not just to address shortages by producing more teachers and administrators, but to produce different *kinds* of teachers and administrators by recruiting candidates with different kinds of backgrounds and by training them in innovative ways.

Charter Schooling

States have adopted a number of different kinds of educational reforms in recent years, but charter schools have been the most widely adopted and potentially offer the greatest avenue for introducing a more entrepreneurial spirit into the American educational system. The charter school movement is predicated on the idea of giving educational entrepreneurs the ability to operate public schools that agree to meet specified performance targets in exchange for freedom from bureaucratic rules and regulations. The first charter school law in the United States was

passed in Minnesota in 1991 and the movement has witnessed remarkable growth in recent years. Charter school reforms gained significant public support and political momentum during the 1990s when the idea was embraced by both the Republican and Democratic parties as an alternative to the more contentious voucher proposals that had been hotly debated during the 1980s and early 1990s.

According to the Education Commission of the States, 40 of the 50 states had charter laws in place as of February 2005.²⁷ The only states without charter laws were: Alabama, Kentucky, Maine, Montana, Nebraska, North Dakota, South Dakota, Vermont, Washington, and West Virginia. Gregg Vanourek of the Charter School Leadership Council estimates that the number of charter schools in operation increased from 253 in 1996 to 3400 in 2005 and that the number of students in charters grew from 300,000 in 1999 to 1,000,000 in 2005 (roughly two percent of the total K-12 student population in the U.S.).²⁸ Charter laws now cover 92 percent of the U.S. population and 96 out of the 100 school districts in the country, although 42 percent of charter schools are concentrated in just three states: Arizona, California, and Florida. Due to the particular design of charter laws (see below) and the problems plaguing many urban school systems, about half of all charters in the country are located in or around major cities.²⁹ About 23 percent of charter schools were existing schools that converted to charter status, while 77 percent began as newly created start-ups.

It is crucial to recognize two things about charter reforms, however: all charter laws are not equal and all charter schools are not entrepreneurial. There is considerable variation in the extent to which state charter laws permit and encourage the entrance and sustenance of truly entrepreneurial ventures. Charter schools have embraced a wide variety of different educational missions and approaches and while many of these may be considered innovative pedagogically

or curricularly,³⁰ they do not necessarily attempt to “create educational systems in which energy and fresh thinking are welcomed, constructively employed, and held accountable.” Some charter schools, however, have taken advantage of advances in communications technology to offer educational services in radically different ways such as through distance education programs or “virtual” schools. According to a 2002-2003 survey, three percent of charter schools nationwide report that they rely on online instruction and do not have a physical school building. An additional four percent indicated that they use independent or home study. All told, there were a total of 81 virtual charter schools serving about 28,000 students.³¹

Another important development in the entrepreneurial landscape has been the emergence of for-profit Education Management Organizations (EMOs) and non-profit Charter Management Organizations (CMOs). While approximately 90 percent of the charter schools in the country are independently run, about 10 percent are managed by EMOs and an even greater number of charters contract out to EMOs for the provision of particular educational services. Between 1998 and 2003, EMOS increased the number of states in which they operate from 15 to 28. While the total number of EMO managed schools remains relatively small nationwide, they are a large presence in some states such as Ohio where 66% of charter students attend EMO managed schools.³² According to a report by the Commercialism in Education Research Unit at Arizona State University, 51 for-profit companies managed 376 charter schools (and an additional 87 traditional public schools) with a total of 200,000 students in 2004.³³

While for-profit education companies have long played a significant role in K-12 education by providing various products and services to public schools, their entry into the public school management business is a recent development.³⁴ Edison, Chancellor-Beacon, National Heritage, Victory, and Nobel Learning Communities are among the country’s largest

private managers of public schools and have ambitious plans for future expansion. The different missions, structures, and capacities for expansion of these for-profit EMO-run charters makes them fundamentally distinct from the majority of other charter schools which are run by organizations such as universities or by small groups of concerned citizens and tend to be locally-focused. But the notion of private for-profit companies managing schools is a controversial one and has generated a tremendous amount of opposition—particularly from those who believe such arrangements fail to provide adequate accountability or constitute a threat to traditional public school governance structures and funding streams.

A number of non-profit charter management organizations have also been created in recent years. The New Schools Venture Fund established a “charter accelerator” initiative to increase investment in charters and currently supports nine (CMOs) which run 32 schools serving 8,000 students. The Knowledge is Power Program (KIPP) network began with schools in Houston and the Bronx and now has used philanthropic support to establish 38 schools in 15 states (as well as D.C.) serving over 6,000 students. Aspire Public Schools has opened charter schools in California and plans on operating a large chain of public schools.³⁵ Both for-profit and non-profit EMO organizations have the capacity and the desire to expand dramatically as new entrepreneurial opportunities arise and will therefore play an important role in future school reform efforts. As with independently-run charters, however, the capacity of EMOs to successfully inject entrepreneurial ideas into education is largely dependent on the extent to which they are freed from the political pressures, bureaucratic regulations, and collective bargaining agreements that typically limit the flexibility of public school reformers.

Despite the emergence of EMOs and CMOs and the rapid growth in the total number of charter schools nationwide, approximately 40 percent of charter schools report having waitlists

(which average 135 students)—an indication that the demand for charter schools has outpaced the supply. The future growth of these alternative public schools has been constrained, however, because of state policies which often cap the number of charters that can be issued, provide insufficient charter funding, require excessive regulation of charter schools, or mandate the quick withdrawal of charters for schools that struggle to meet academic goals. Approximately 27 states (more than half) have some form of cap on charter schools in place. Some states, such as North Carolina, limit the total number of charter schools that are allowed to operate. Other states limit the number of charters that can be issued each year, or, as in Massachusetts, the percentage of a district's spending that can be directed to charters in any given year. Still other states (such as Ohio) limit the geographic range within which charters may operate. The National Alliance for Public Charter Schools has estimated that if these restrictions had not existed the charter movement would be 20 percent larger than it is today.

Another important way in which state policies constrain the number and type of charter schools is by controlling who is given the authority to issue charters. As of 2002-2003, only half of the states with charters had more than one type of authorizer, in a quarter only a state agency could authorize charters, and in the final quarter, only local education agencies were empowered to do so. The vast majority of the 600 existing charter authorizers—about 90 percent of the total—are the local school districts themselves. Of the remaining authorizers, 5 percent are higher education institutions, 3 percent are state education agencies, and 2 percent are other entities such as municipal or not-for-profit organizations. All told, there are only about 60 non-district charter school authorizers in the entire country.³⁶

Placing the local school district in charge of authorizing charters is problematic for two reasons. First, districts are not surprisingly reluctant to expand the number of alternatives to

their own traditional schools. While local districts represented 90 percent of all authorizers, for example, they authorized only 45 percent of all charter schools. State education agencies, meanwhile, which represent only 3 percent of authorizers, authorized 41 percent of all charter schools. In addition, school districts are probably more conservative about the kinds of schools and school operators that they are willing to permit. Due at least in part to these caps and the nature of the authorizing process, the number of new charter schools opening per year has remained largely flat since 2000 and half of the new growth over the past five years has been in only five states (AZ, CA, FL, MI, TX).³⁷ In a 2003 study of state charter authorizer practices and policy environments by the Thomas B. Fordham Foundation, none of the 24 states evaluated received an “A,” while 13 states were graded a “B,” eight a “C,” and three a “D.”³⁸ California and Indiana have taken an unusual approach to charter authorizing, however, which could become a model for other states and encourage the growth of entrepreneurial charter schools nationwide. Indiana’s 2001 charter legislation established multiple charter authorizers—including the mayor of Indianapolis, the only mayor in the country to have such power.³⁹ California’s 2002 charter law allows charter schools with high test scores to apply to the state’s department of education for permission to expand their models statewide without local approval. Earlier this year, non-profit High Tech High Learning became the first charter operation to receive such approval and has announced plans to open two new schools a year in the state.

State laws permitting the creation of charter schools and the attendance of them by public school students, however, are a necessary but not sufficient condition for the creation of *entrepreneurial* charter schools. Outcome clarity and operational flexibility are essential preconditions for entrepreneurship. State policies on charter financing, regulation, and accountability are enormously important in encouraging or discouraging entrepreneurs from

opening and operating alternative schools as well as for shaping *how* they will operate them.

The funding which states provide to charter schools varies considerably, and most states provide significantly less funding to charters than to traditional public schools in the same district.

Nationwide in 2002-2003 district public schools received \$8,529 per-pupil while charter schools reported that they received an average of \$5,688—or about 33 percent less—per-pupil.⁴⁰

Chester Finn and Eric Osberg have remarked that “the current arrangements bear the hallmark of a misguided or rigged policy process; the finance ground rules appear designed to produce failure, not success, on the part of charter schools across the land.”⁴¹ Their study of 17 states found that the per-pupil funding disparity for charters ranged from 5 percent less in New Mexico to 40 percent less in South Carolina, and in dollar terms, from \$414 less in North Carolina to a high of \$3,638 less in Missouri. They report that the gaps are even larger in most big urban school districts.⁴² Research conducted by the Center for Education Reform on forty states in 2005 estimated that the charter school funding gap was 21 percent on average.⁴³

The CER study identified seven major causes of the charter school funding gap: unfair bargaining relationships between charter schools and local districts which result in an unfair allocation of local, state, and federal grants; vague language in state charter school laws; impact aid given to school districts; hold harmless clauses that prevent funds from following students who transfer to charter schools; denial of access to local bond measures; the withholding of funds for charters by local districts; and facilities support that is given to district schools but not charters. As of 2004, only 24 states (plus D.C.) provided facilities assistance to charter schools: 16 states provided support through grants, bond issues, tax breaks, or loan programs, while eight states limited their assistance to charters to permitting them to lease public school facilities.⁴⁴

The lack of adequate government support can be a powerful deterrent to prospective charter entrepreneurs and may make it harder for existing charter schools to innovate or even survive.

A few states such as Florida, Minnesota, and California, provide funds to charters for facilities on a per-pupil basis much as they do for instruction. Some states allow charters to draw from state bond funds but even in those instances, they are often not allocated funds in proportion to their share of the state's public school students. The federal government initiated a number of programs during the Clinton administration to support charter schools, and the GAO has estimated that Congress appropriated over \$1 billion in federal funding to encourage new and expanding charters between 1995 and 2005.⁴⁵ With direct financial support for facilities from states and the federal government generally limited, however, charter operators often turn to the private capital markets. Federal, state, and district loan guarantees for charter schools (or “community facilities” generally), tax credits for investment in low-income neighborhoods, tax-exempt bonding authority (in Colorado and Michigan), and revolving pools of loan capital (such as the Illinois Facilities Fund) are some of the ways in which policymakers have attempted to help charters cover their facilities costs. Despite these efforts, as of 2001 less than 20 percent of charters owned their own facilities and almost three-quarters leased them. Some states such as California and New York have sought to assist charter schools by requiring that district and/or state officials lease them facilities (sometimes as in Colorado, rent-free) or provide a list of vacant public buildings.⁴⁶

Perhaps most importantly, the creation of truly entrepreneurial charter schools requires what might be termed “entrepreneurial space”—freedom from onerous and homogenizing educational regulations. Charters need to retain a large degree of autonomy over their operations—in particular their hiring, budgets, curricula, and scheduling—because it is this

autonomy that enables them to experiment with new educational ideas and structures and to offer parents and students meaningfully different kinds of schools. Entrepreneurs—particularly those in the for-profit sector—must also have the ability to expand the number of schools and the number of students within individual schools in order to respond to market demand and to realize operational efficiencies. One way to measure the degree of autonomy that is being granted to charter schools is to look at whether they are classified as their own local education agency or considered part of the area’s existing LEA. Currently, eight states give charters independent LEA status, 16 include them in existing LEAs, and 15 states grant them a kind of mixed status.⁴⁷ Placing charter schools under the regulation of the local public school district is problematic for the same reasons as making the district itself a charter authorizer—it is likely to undermine the kind of entrepreneurial behavior that charters are intended to provide.

Given these governance arrangements, it is perhaps not surprising, that charter schools have not been given as much freedom from regulation as is often supposed. Vanourek’s analysis of charter laws nationwide revealed that 22 states (about half of the total) provide some sort of blanket or automatic waiver of most regulations, 6 states (14 percent) provide a partial waiver, and 14 states (33 percent) provide only for a discretionary waiver contingent on an application process.⁴⁸ In a 2001-2002 U.S. Department of Education survey, 40 percent of charter schools reported not having authority over curriculum and the school calendar, while 30 percent said they did not have full authority over assessment and discipline policies. Perhaps the most essential kind of discretion for developing entrepreneurial charter schools is that over hiring, promotion, firing, and compensation for personnel. Many charter schools, however, are required to operate under the restrictions of district collective bargaining agreements and 55 percent of charter schools reported not having full authority over teacher certification requirements. The

Department of Education study concluded that: “charter schools are now held to the same requirements as other public schools in addition to measurable goals in the charter document.”⁴⁹

Another crucial public policy question related to charter school governance is how to establish an appropriate accountability framework. How should charter schools be held accountable, for what, and to whom? How should policy straddle a desire for innovation as well as a desire for quality? In addition to being accountable internally to their own parents, staffs, governing boards, and sometimes management companies, charter schools typically face several layers of externally-imposed accountability. Charter authorizers are typically the key player in charter school accountability, though state and federal governments are increasingly playing a greater role. As public schools, charter schools must comply with federal health, safety, and civil rights laws and regulations as well as the provisions of No Child Left Behind. Charter schools must also adhere to many state laws and regulations governing public schools such as by administering achievement tests, and undergoing fiscal audits, although they are typically granted some waivers as part of their charters. While some accountability is clearly essential, too much—or accountability for process and inputs rather than results—fundamentally undermines the freedom to innovate that is the heart of the charter movement’s mission.⁵⁰

Of all of the reforms that have the potential to enhance entrepreneurship in education, charter schooling is currently the most widely enacted. While the total number of charter schools and charter students remains quite small compared to the traditional public school sector, this alternative is gaining momentum across the country and appears headed for significant growth in the near future. Charter schools have become a central component of the education reform strategies of many urban areas, with Indianapolis, Washington D.C., Chicago, and New York City all seeing rapid charter growth. In addition, while charters continue to offer innovative

approaches and structures in education, there is also evidence that their activities are influencing traditional public schools as well. In a 2001 U.S. Department of Education study, 90 percent of the school district leaders queried indicated that they had made changes in multiple areas of their district's operations in response to charter schools.⁵¹

As discussed in more detail below, No Child Left Behind's public school choice provision is having a major impact on the charter school environment and has the potential to dramatically expand the size of the charter school market in America. The current policy environment within which charters schools must operate, however, is enormously varied and complicated both across and within states. Some states clearly offer a more hospitable policy environment for charter entrepreneurship than others but often, states that provide a more favorable policy climate for entrepreneurship in one area (such as funding) often have a less favorable policy climate in another area (such as authorizing or regulation). As a result, as Finn and Osberg have noted, "few states can boast a robust charter climate across the board. Almost fifteen years into the charter school experiment, it's difficult to find a place where the charter ideal has been fully developed in both policy and practice."⁵² Nationwide state and local policies continue to put charter schools at a disadvantage compared to district schools and to limit the entrance and activities of entrepreneurial ventures.⁵³

No Child Left Behind and Supplemental Services

The No Child Left Behind Act (NCLB) of 2001 is having a major impact on school reform across the country and can potentially provide a number of new avenues and incentives for entrepreneurial activity in education. As discussed above, the new law's teacher quality provision is forcing states to reconsider longstanding teacher licensure practices and may ultimately lead to the creation or expansion of alternative routes to teaching and the expansion of

entrepreneurial human capital in education. The law also requires that states deal with underperforming schools by taking corrective actions such as providing extra tutoring money, giving students the option of transferring to another school, or changing school management. Under NCLB, Title I schools that have failed to meet AYP for three or more consecutive years are required to offer supplemental education services (typically tutoring) to students. Congress required that districts with schools in need of improvement set aside an amount equal to at least 20 percent of its Title I allocation for choice-related transportation and supplemental services (SES). The law stipulates that these services may be provided by private companies as well as the local school districts themselves and has created an entirely new market for entrepreneurial activity in education.⁵⁴

The administration of the SES process, however, was left in the hands of states and districts and as a result the ultimate impact of the reform will depend on how they use this discretion. Districts vary considerably in the approach that they have taken to SES and some have been more willing to use it than others to foster entrepreneurial activity (either within the district or in terms of outside providers). A 2005 report by the Center on Education Policy found that 10 percent of Title I districts nationwide had schools that were required to offer supplemental education services. Approximately one percent of all public school students were eligible for SES in 2005 but the percentage of eligible students who actually received such services remained relatively small at around 18 percent. A study of SES by the Association for Community Organizations for Reform Now (ACORN) found that district participation rates ranged from as high as 92 percent of eligible students to no students and that more than half of districts enrolled less than 20 percent of their eligible students.⁵⁵ Districts report that insufficient

funding is a primary obstacle to serving a greater number of eligible students and that on average they currently have the resources to provide SES to only 22 percent of all eligible students.⁵⁶

States also control entry into the SES marketplace by establishing lists of approved providers that can offer services to students, from which parents then choose. Districts are charged with determining student eligibility for SES, administering parent communications about SES, managing access to school sites for SES, and establishing contracts with individual SES providers.⁵⁷ How effectively these tasks are handled has an enormous impact on the ability of entrepreneurs to enter the SES marketplace and to deliver services to students. Siobhan Gorman has noted that “within this new marketplace, school districts hold enormous power as a result of their dual role—as both program administrator and potential provider. Districts also have little incentive to inform parents of the money available to them for tutoring, since districts get to keep any unused funds.”⁵⁸ In testimony before Congress, Jeffrey Cohen of Catapult Learning noted that: “Providers often contend with seemingly unnecessary obstacles, including district opposition to SES, lack of information about implementation plans, and LEA regulation of state-approved programs.”⁵⁹

The newness of the SES program and the tremendous variance in the ground rules that states and districts are establishing has created a great deal of market uncertainty for potential and existing educational entrepreneurs. The U.S. Department of Education recently announced two new efforts which incorporate some of the best practices suggested by the Education Industry Association⁶⁰ and these are likely to have a major impact on the activities of entrepreneurs. The first is a cooperative effort with the Council of Great City Schools to enter into pilot flexibility agreements with select urban districts, the first of which was Chicago.⁶¹ As part of the agreement, districts will have to take a number of steps that are likely to ease the

entrance and activities of entrepreneurs: they must provide early notification to parents about SES eligibility; extended enrollment periods; the use of district facilities to private providers at a reasonable fee; and the use of an independent third party to evaluate provider effectiveness. Prior to the agreement, Chicago—like 75 other large and very large school districts across the country—had been declared as a district in need of improvement under NCLB and was therefore ineligible to offer SES according to the original law. The new agreement allows the district to do so nonetheless in 2005 though whether or not failing districts will be allowed to do so in future years is not yet clear. The decision will be of enormous import in determining the future shape of what is estimated to be a \$2.5 billion market for SES, and the role of non-district entrepreneurs in it. The Department has also entered into a pilot flexibility agreement with the state of Virginia to permit the state to reverse the order in which public school choice and SES are offered in the school improvement process in four districts. This will allow eligible students to receive SES one year earlier than in the original timeline of NCLB. Pilot cities and states must also commit to expanding student participation rates in SES programs. The U.S. Department of Education has singled out five districts for implementing SES quickly and effectively and for maximizing student participation—San Diego, Rochester, Los Angeles, Forsyth (GA), and Toledo (OH).⁶² The number, size, and scope of operations of SES providers, meanwhile, continue to grow at a rapid pace.⁶³

ACCOUNTABILITY AND ENTREPRENEURSHIP

Perhaps the most interesting—and over the long term, influential—development in education in recent years has been the increased focus on accountability for academic achievement. Initiated by many state governments during the 1980s and at the federal level during the 1990s,

accountability has become an even more important part of the educational landscape in the wake of No Child Left Behind. Like so many of the other reforms discussed in this chapter, accountability measures have the ability to either stifle or facilitate entrepreneurship in education depending on how they are conceived and implemented. Historically, there has been tremendous ambiguity about how to evaluate the effectiveness of entrepreneurial ventures in education. The new state and federal linking of accountability to performance on standardized tests in math and reading has provided a clear measuring stick for assessing the effectiveness of alternative schools such as charters. The establishment of clear consequences for schools, districts, and states that fail to meet educational achievement targets may encourage policymakers and public school leaders to adopt a more entrepreneurial mindset in the operation of traditional public schools. Or it may lead states to impose additional regulations on school district operations which would have a dampening effect on entrepreneurial activity. In the short term, however, the corrective actions required by NCLB and many state laws have mandated that additional educational choices and services be given to students trapped in failing schools and many entrepreneurs (as noted above) are rushing to provide them.

The accountability movement has led some states to radically alter the traditional model of district provision of education. A number of states across the country (such as New Jersey, Connecticut, Illinois, Ohio, and Pennsylvania) have assumed control of failing urban districts in recent years and some have imposed reforms which have greatly expanded the number and type of entrepreneurial activities. The persistently poor performance of students in Philadelphia, for example, led the governor of Pennsylvania to take control of the struggling district in December of 2001, and to charge a reform commission with designing and implementing a comprehensive reform plan. The commission ultimately awarded control of 45 failing schools to seven

independent operators—three for-profit firms (Edison, Chancellor-Beacon, and Victory), two non-profit organizations (Universal Cos. and Foundations Inc.), and two universities (Pennsylvania and Temple).⁶⁴ Philadelphia marked the nation’s largest state takeover of a school district as well as the largest use of private education providers for the management of public schools in one district.

At the federal level, meanwhile, No Child Left Behind has revolutionized the ends and means of national education policy.⁶⁵ The original federal role outlined in the 1965 Elementary and Secondary Education Act (ESEA) was narrowly targeted on disadvantaged students and focused on regulating school inputs and processes. The original ESEA was thus not intended to promote innovation in education, and indeed many scholars believe that its numerous mandates actually served to stifle entrepreneurial thinking in the nation’s poorest schools. In contrast to ESEA, however, NCLB applies to all schools and students and is focused on school outputs.⁶⁶ Though the law is still new and its early implementation has been contentious, it seems likely that NCLB will ultimately have a major effect on educational entrepreneurship across the country. NCLB’s impact is likely to be felt both directly through its mandates and programs and indirectly through the pressure it applies on states and school districts to improve student academic performance. It is possible, however, that NCLB’s rigid accountability timetables may make it more difficult for new educational ventures or approaches to be created or sustained.

The centerpiece of NCLB is the requirement that states, as a condition of accepting federal funds, establish academic standards to guide their curricula and adopt a testing regime that is aligned with those standards.⁶⁷ NCLB mandates that every state and school district issue a report card that details student test scores and identifies those schools that have failed to meet proficiency targets and are in need of “program improvement.” States are required to establish a

timeline (with regular benchmarks) for making “adequate yearly progress” toward eliminating racial and socioeconomic achievement gaps and moving all students to state proficiency levels within twelve years (by 2014). The law’s accountability provisions require states to take a number of escalating actions with Title I schools that do not reach state performance objectives. NCLB specifies that a school that fails to meet state performance targets for two consecutive years must give its students the option to transfer to another public school in the district and pay for their transportation. Schools that fail for four consecutive years must implement corrective actions such as replacing staff or adopting a new curriculum. After five years of inadequate progress, a school must be reconstituted through the creation of an alternative governance structure, such as re-opening as a charter school or turning operation of the school over to the state. States are also responsible for overseeing districts as a whole, identifying those needing improvement, and taking corrective actions when necessary.

In sum, NCLB represents an enormous challenge to the status quo in public education and has the potential to create a major opening for entrepreneurs inside and outside of the public system.⁶⁸ Since NCLB passed, a large number of schools across the country have been identified as “in need of improvement” for failing to meet Adequate Yearly Progress (AYP) targets. An analysis of state education data by the Center on Education Policy (CEP) in March 2005 found that the number of non-Title I schools identified as in need of improvement (for which states are not required to undertake corrective actions) was 2,370 in 2004-2005.⁶⁹ The total number of Title I schools identified as in need of improvement declined slightly in 2004 but has remained basically stable for the past three years at about 6,000 (or 13 percent of all Title I schools).⁷⁰ As the series of studies in Rick Hess and Chester Finn’s *Leaving No Child Behind?* volume demonstrate, school districts across the country—particularly those in poor urban

areas—have thus far been unable or unwilling to find seats in better schools for many of the students who are eligible to transfer under NCLB.⁷¹

The U.S. Department of Education has argued that seats in better schools must nonetheless be found and offered to students and this has increased pressure on state and local policymakers to increase the supply of alternative schools such as charters. This pressure is only likely to increase, particularly in the law's fifth year when persistently failing schools must be reconstituted. The future focus of federal education policy may well revolve around helping school districts to expand the supply of choice options for students in schools identified as failing under NCLB. It is also worth noting in this regard that Republicans continue to push for federal support for private school vouchers. President Bush included a voucher program as part of his initial No Child Left Behind proposal and in 2003 a Republican-controlled Congress passed a voucher program for Washington, D.C. With that precedent—along with the Supreme Court's *Zelman v. Harris* decision in 2002 that the flow of public funds to religious schools does not violate the U.S. Constitution—federal support for vouchers nationwide may not be that far off.

The combination of tough federal (and state) accountability and increased transparency has clearly increased the pressure on state and local policymakers to produce tangible student achievement gains. What remains uncertain is the methods by which they will choose to do so. It seems likely that accountability pressures will lead at least some states to embrace alternative approaches to school reform and to create a policy environment that is more conducive to the entrance and sustenance of educational entrepreneurs. In addition, as Andrew Rudalevige has argued, the new achievement based paradigm at the heart of NCLB—as well as all of the hard data it is producing—is having, and will continue to have, a major impact on the direction of school finance litigation at the state level.⁷² Like policymakers, many judges have shifted their

measurement of school equity from inputs to outputs. Several recent decisions have indicated that closing the resource gap is no longer sufficient to satisfy many state constitutional education guarantees if large race and class based gaps in educational achievement continue to persist. In cases such as Connecticut's *Sheff v. O'Neill*, many state courts are now requiring that states expand the educational options available to poor and minority students and these judicial pressures may also push states and local school districts to make policy changes that allow more entrepreneurial actors to enter the educational arena.

CONCLUSION

Education in the United States is undergoing a remarkable transformation as longstanding policies regarding how public schools are funded, staffed, and governed are revised in an effort to improve academic performance and increase student and parental choice. The policy environment is crucial to the future of educational entrepreneurship and has been getting more positive over the past decade as a wide array of new educational approaches and reforms have been introduced, both inside and outside of the traditional public school system. Additional research is necessary to determine how individual entrepreneurs are reacting to policy shifts on the ground—how the shifting terrain of laws and regulations in schooling are affecting the behavior of the individuals and organizations which are attempting to develop new approaches, even a new culture, of schooling in America. Many state and district policies, however, continue to constrain the potential of entrepreneurial energies to introduce, sustain, and extend innovation in America's schools. It is not the job of educational entrepreneurs to change policy, and they are often reluctant to challenge the status quo directly because they must work on a regular basis with public school leaders. But as E.E. Schattschneider famously observed, “new government

policy creates new politics.”⁷³ The existence of educational entrepreneurs—and their increasing size and activity across the country—has changed the political discourse about school reform in the local communities where they operate and in the halls of state legislatures and Congress.

¹ See Diane Ravitch, *Left Back*, (New York: Simon and Schuster, 2000); David Tyack, *The One Best System* (Harvard University Press, 1974).

² See: Terry Moe, “A Union by Any Other Name,” *Education Next* (Fall 2001); Tom Loveless, ed. *Conflicting Missions? Teachers Unions and Educational Reform* (Washington: Brookings Institution Press, 2000); Myron Lieberman, *The Teachers Unions: How the NEA and the AFT Sabotage Reform* (New York: The Free Press, 1997); and Peter Brimelow, *The Worm in the Apple: How the Teacher Unions are Destroying American Education* (New York: Harper Collins, 2003).

³ I have personally experienced the impact which teacher licensing requirements can have on prospective public school teaching candidates. After graduating from college, I was eager to become a high school teacher, and was interested in the possibility of working in the DC public school system which I had once attended. However, because my small liberal arts college did not have a teacher certification program and because I did not want to spend the time and money necessary to attend a post-graduate program in an education school, I ultimately choose to teach (for significantly less money) in a small private school. The faculty of the school contained a large number of bright, dedicated, and civic-minded teachers who had recently graduated from top colleges and universities and who, had the barriers not been so high, would have considered teaching in the public system.

⁴ Andrew Rotherham and Sara Mead, “Back to the Future,” in Frederick Hess, Andrew Rotherham, and Kate Walsh, ed. *A Qualified Teacher in Every Classroom?* (Cambridge: Harvard Education Press, 2004) 12.

⁵ National Center for Education Information, “Alternative Routes to Teacher Certification: an Overview.” Accessed from: www.ncei.com.

⁶ For more on the curriculum of schools of education see: David Steiner with Susan Rozen, “Preparing Tomorrow’s Teachers,” in Frederick Hess, Andrew Rotherham, and Kate Walsh, ed. *A Qualified Teacher in Every Classroom?* (Cambridge: Harvard Education Press, 2004) 119-148.

⁷ Thomas B. Fordham Foundation, “The Quest for Better Teachers: Grading the States,” 1999, <http://www.edexcellence.net>.

⁸ For more on these deterrents, see: David Ruenzel, “Tortuous Routes,” *Education Next*, Spring 2002.

⁹ Recently, debates during the reauthorization of the federal Higher Education Act indicate that Congress may once again use its leverage through the student loan process to force additional changes in the teacher training programs at university education schools.

¹⁰ Title I was the centerpiece of the 1965 Elementary and Secondary Education Act and remains its single largest program. It provides federal funds to communities (many of which are located in urban areas) with a high concentration of low-income families. “Highly qualified” is specified in the law as meaning that a teacher must be fully certified or licensed, have a bachelor’s degree, and shown competence in subject knowledge and teaching skills. The law also gives parents, for the first time, the right to request information from schools about teacher qualifications. For more on the evolution of the federal role in teacher preparation see: Heidi Ramirez, “The Shift from Hans Off,” in Frederick Hess, Andrew Rotherham, and Kate Walsh, ed. *A Qualified Teacher in Every Classroom?* (Cambridge: Harvard Education Press, 2004) 49-79.

¹¹ National Center for Education Information, “Alternative Routes to Teacher Certification: an Overview.” Accessed from: www.ncei.com.

¹² Forty percent of new teachers hired in New Jersey come through alternative certification programs, while one-third of Texas’ and California’s new hires come through alternate routes. Alabama, Florida, Georgia, Kentucky, Louisiana, South Carolina, and Virginia—as well as the cities of Chicago, New York, Milwaukee, and the District of Columbia—have seen considerable growth in the number of teachers certified through alternative routes in recent years. C. Emily Feistritzer, “State Policy Trends for Alternative Routes to Teacher Certification: A Moving Target,” Accessed from the National Center for Alternative Certification at www.teach-now.org.

¹³ Feistritzer has noted, however, that there has recently been “a shift away from emergency and other temporary routes to new routes designed specifically for non-traditional populations of post-baccalaureate candidates, many of whom come from other careers.” Feistritzer, 9.

¹⁴ Since 2001 Louisiana has also permitted nontraditional providers of teacher candidates though as of 2003 only three had been approved (a school district and two non-profits). Bryan Hassel and Michele Sherburne, “Cultivating Success Through Multiple Providers,” in Frederick Hess, Andrew Rotherham, and Kate Walsh, ed. *A Qualified Teacher in Every Classroom?* (Cambridge: Harvard Education Press, 2004) 206.

¹⁵ Data from The National Center for Alternative Certification at <http://www.teach-now.org>.

¹⁶ Andrew Rotherham and Sara Mead, “Back to the Future: The History and Politics of State Teacher Licensure and Certification,” in Frederick Hess, Andrew Rotherham, and Kate Walsh, ed. *A Qualified Teacher in Every Classroom?* (Cambridge: Harvard Education Press, 2004) 12.

¹⁷ Frederick Hess, “A License to Lead? A New Leadership Agenda for America’s Schools,” Progressive Policy Institute’s 21st Century Schools Project, January 2003: 1.

¹⁸ S. Gates, et. al., “Who is Leading Our Schools? An Overview of School Administrators and their Careers” (Arlington, VA: Rand Education, 2003).

¹⁹ As Emily Feistritzer has noted, school administrators are generally viewed and trained as instructional leaders rather than CEOs. Emily Feistritzer, “Better Leaders for America’s Schools: A Manifesto,” Thomas Fordham Foundation, May 2003. Accessed online at <http://www.edexcellence.net>.

²⁰ Rick Hess has argued that “existing constraints limit the ability of school districts to draw upon particular sources of skill or expertise from outside of the conventional structure...Taking fuller advantage of available leadership talent requires loosening the cords of statute, practice, and culture.” Frederick Hess, “A License to Lead? A New Leadership agenda for America’s Schools,” Progressive Policy Institute’s 21st Century Schools Project, January 2003: 13.

²¹ Emily Feistritzer, “Better Leaders for America’s Schools: A Manifesto,” Thomas Fordham Foundation, May 2003. Accessed online at <http://www.edexcellence.net>.

²² These eleven states were: California, Idaho, Kentucky, Maryland, Massachusetts, Minnesota, Mississippi, New Hampshire, Ohio, Tennessee, and Texas.

²³ For additional detail on the specific requirements of individual states in the area of principal and superintendent licensure see The National Center for Education Information at <http://www.ncei.com/publications.html>.

²⁴ Elizabeth Hale and Hunter Moorman have noted that the efforts to reform state educational leadership preparation programs had different origins in different places, at times initiated by the legislature (North Carolina), at times by the state Superintendent of Education (Mississippi), and at times in cooperation with national non-profits and

associations (Iowa). Elizabeth Hale and Hunter Moorman, "Preparing School Principals: a National Perspective on Policy and Program Innovations" (Washington D.C.: Institute for Educational Leadership, 2003) 8-9.

²⁵ U.S. Department of Education, "Innovative Pathways to School Leadership," December 2004, page 5.

²⁶ Ibid, 5-6.

²⁷ "What Governors Need to Know: Highlights of State Education Systems." Education Commission of the States. Accessed from www.ecs.org.

²⁸ Gregg Vanourek, "State of the Charter Movement 2005: Trends, Issues, and Indicators," Charter School Leadership Council, May 2005.

²⁹ This has had a major impact of the student composition of charter schools: during the 2002-2003 school year 59% of the students attending charter schools were minorities, 49% were poor (eligible for free and reduced price lunch), and 12% were in special education. Vanourek, 4. The special education data was from the 2000-2001 school year.

³⁰ In a 2002-2003 national survey by the Center for Education Reform, 14% of charter schools reported using a Core Knowledge approach, 13% college prep, 13% science/math prep, 13% direct instruction, 12% thematic instruction, 9% back to basics, 6% arts, and 6% school to work. Center for Education Reform, "Charter Schools Today," 2004: 12.

³¹ As cited in Vanourek, 10.

³² Vanourek, 10.

³³ As cited in Scott Elliot, "Public Schools, Private Markets," Education Writers Association of America, 2005: 12.

³⁴ Henry Levin, "Forum: For-Profit Schools," *Education Next* Spring 2001.

³⁵ For more information on the mission and activities of EMOs see: Bryan Hassel, "Friendly Competition" *Education Next* (Winter 2003) and Henry Levin, "Bear Market" *Education Next* (Spring 2001).

³⁶ Vanourek, 4, 16-18.

³⁷ Vanourek, 6-7.

³⁸ Louann Palmer and Rebecca Gau, "Charter School Authorizing: Are States Making the Grade?" Thomas Fordham Foundation, June 2003: 1.

³⁹ For more on Indiana's charter law and charter school operations in Indianapolis, see: Bryan Hassel, "Fast Break in Indianapolis" Progressive Policy Institute, September 2004.

⁴⁰ Vanourek, 30.

⁴¹ Chester Finn and Eric Osberg, "Charter School Funding: Inequity's Next Frontier," Thomas Fordham Institute (August 2005) V.

⁴² Ibid, 4.

⁴³ Shaka Mitchell and Jeanne Allen, "Solving the Charter School Funding Gap" Center for Education Reform, 2005.

⁴⁴ Kim Smith and James Willcox, "A Building Need," *Education Next* (Spring 2004) 46.

⁴⁵ These funds are dispersed through 18 different federal programs, with the majority coming through Title I and special education grants. Other programs include the Charter Schools Grant Program (\$218 million in 2005), State Charter School Facilities Incentives grants (\$200-300 million), and the Credit Enhancement for Charter School Facilities program (\$37 million). Vanourek, 34.

⁴⁶ Ibid, 46-50.

⁴⁷ Vanourek, 9.

⁴⁸ Vanourek, 28.

⁴⁹ Policy and Program Studies Service, "Evaluation of the Public Charter schools Program: Final Report," U.S. Department of Education, 2004: 52.

⁵⁰ Andrew Rotherham, the Director of Education Sector and a former Clinton Administration education advisor, has argued that states must redesign their charter laws to preserve charters' flexibility and independence while increasing oversight to ensure quality. He notes that 20% of the charter schools in Texas have been identified as low-performing and that Minnesota has adopted a policy that provides greater oversight and accountability to ensure that only those schools which are providing quality schooling are permitted to remain open. Rotherham has called for the federal government to triple the approximately \$220 million that it currently spends to support charter schools and that the money only be allocated to those states that have strong charter laws and accountability in place. Andrew Rotherham, "Increasing the Supply of Public Schools," Progressive Policy Institute Briefing, April 9, 2003.

⁵¹ RPP International, "Challenge and Opportunity: The Impact of Charter Schools on School Districts," U.S. Department of Education, June 2001: 11-12. Additional studies have revealed that the extent and nature of school leaders' responses to entrepreneurial reforms like charters is dependent on the degree of entrepreneurial flexibility (or operational autonomy) that the leaders themselves possessed. SRI International, "A Decade of Public Charter Schools," U.S. Department of Education, November 2002: 63.

⁵² Chester Finn and Eric Osberg, "Charter School Funding: Inequity's Next Frontier," Thomas Fordham Institute (August 2005) 5.

⁵³ For specific guidance to states on how to design charter school (and choice) policies see: Center for School Change, University of Minnesota, "Providing Quality Choice Options in Education," National Governors Association, 2005.

⁵⁴ About half of the state-approved SES providers were for-profit companies, 18 percent were nonprofit groups, and about 14 percent were district providers (though district providers typically enroll larger numbers of students).

⁵⁵ As cited in Scott Elliot, "Public Schools, Private Markets," Education Writers Association of America, 2005: 17.

⁵⁶ Center on Education Policy, "Year Three of the No Child Left Behind Act" (Washington, D.C. 2005) 131.

⁵⁷ NCLB also requires states to evaluate the effectiveness of SES providers after two years to determine if their services "contribute to increasing the academic proficiency of students." Subsequent guidance from the U.S. Department of Education has told states to take a "flexible approach" in evaluating SES provider effectiveness in order to expand options for parents as much as possible, but whether states will in fact heed this guidance is unclear.

⁵⁸ Siobhan Gorman, "Selling Supplemental Services" *Education Next* (Fall 2004) 32.

⁵⁹ Jeffrey Cohen, Testimony provided at the U.S. House Committee on Education and the Workforce hearing on April 26, 2005.

⁶⁰ Steven Pines, "Remarks Before the Center on Education Policy Forum on Supplemental Education Services," May 16, 2005.

⁶¹ For more on the implementation of NCLB in urban districts see: Michael Casserly, "Choice and Supplemental Services in America's Great City Schools," in Frederick Hess and Chester Finn, ed. *Leaving No Child Behind? Options for Kids in Failing Schools* (New York: Palgrave MacMillan, 2004) 191-211.

⁶² U.S. Department of Education, "Creating Strong Supplemental Educational Services Programs," May 2004.

⁶³ The number of SES providers in operation has witnessed considerable growth over the program's first two years, rising from 4 to 11 providers on average at the state level, and from an average of 7 to 31 in very large school districts. Center on Education Policy, "Year Three of the No Child Left Behind Act" (Washington, D.C. 2005) 125-127. While many approved SES providers operate in a single district or state, by the end of 2004, ten for-profit companies (led by Plato Learning, Kaplan, and Catapult Learning) had been approved as SES providers in 25 or more states. Paul Peterson, "Making Up the Rules as You Play the Game" *Education Next* (Fall 2005) 44.

⁶⁴ For more on the state takeover see: Catherine Gewertz, "It's Official: State Takes Over Philadelphia Schools," *Education Week*, January 9, 2002.

⁶⁵ For the full text of NCLB, see Department of Education, [No Child Left Behind Act](http://www.ed.gov/nclb); www.ed.gov/nclb. For a detailed analysis of the provisions of the Act, see Learning First Alliance, [Major Changes to ESEA in the No Child Left Behind Act](http://www.learningfirst.org); www.learningfirst.org.

⁶⁶ For more on the evolution of the federal role in education see: Patrick McGuinn and Frederick Hess, "Freedom From Ignorance? The Great Society and the Evolution of the Elementary and Secondary Education Act," in Sidney Milkis and Jerome Mileur, ed. *The Great Society and the High Tide of Liberalism*. University of Massachusetts Press. September, 2005.

⁶⁷ For detailed analyses of the NCLB from the viewpoint of state implementers, see Education Commission of the States, *State Requirements Under NCLB*, January 2003, www.ecs.org, and National Governors Association, *NGA Summary of the Timeline Requirements of NCLB*, www.nga.org.

⁶⁸ For more on the evolving politics of NCLB and the early implementation of the law see: Patrick McGuinn "The National Schoolmarm: No Child Left Behind and the New Educational Federalism." *Publius: The Journal of Federalism*, Volume 35, Number 1, Winter 2005.

⁶⁹ Center on Education Policy, *From the Capital to the Classroom: Year 3 of the No Child Left Behind Act* Washington D.C.: Center on Education Policy, 2005. Available online at: http://www.ctredpol.org/pubs/nclby3/press/cep-nclby3_21Mar2005.pdf

⁷⁰ *Ibid.*, 68-73. "Title I schools" are high poverty schools that receive funds from Title I of the Elementary and Secondary Education Act. The distinction between Title I and non-Title schools is very important because the mandatory corrective actions spelled out in the new law for failing schools only apply to Title I schools. The other provisions of the law (such as those regarding standard, testing, and school report cards) apply to Title I and non-Title I schools alike.

⁷¹ For more on the implementation of NCLB's school choice provisions in the states see: Frederick Hess and Chester Finn, ed. *Leaving No Child Behind? Options for Kids in Failing Schools* (New York: Palgrave MacMillan, 2004) 289.

⁷² Andrew Rudalevige, "Adequacy, Accountability, and the Impact of 'No Child Left Behind,'" Conference paper presented at Harvard University, October 13-14, 2005.

⁷³ E.E. Schattschneider, *Politics, Pressures and the Tariff* (Hamden, CT.: Archon Books, 1963).