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Chapter 17: Pursuing Equity Against the Tide

ATTEMPTS TO ADDRESS ACCESS HURDLES

Throughout this book we described examples of individual charter schools, authorizers, districts, cities, and states taking steps to expand charter school access. We did this for several reasons. It is important to recognize the range of policy and practice within the charter sector. It is also important to show that despite the competitive incentives to reduce access, some educators and policymakers are taking steps to increase access. Most importantly, these positive steps illustrate ways that a larger percentage of charters can increase equity. Here we revisit some of those examples while emphasizing that the work of good actors pushing back within an unfair system is no substitute for addressing the larger systemic issues of inequity that afflict choice policies. Detrimental policy disadvantages children as well as those charter schools (and authorizers) that attempt to swim against the tide. Sustainably good public policy does not incentivize bad behavior and then disingenuously hold up the praiseworthy exceptions as exemplars. Exceptions are, almost by definition, limited in scale. The rules and incentives themselves need to change.

Mystery Shopper Programs

The DC charter board has taken the unique step of instituting a “mystery shopper” program in an effort to make sure city charters are not dissuading students with special needs from applying to charter schools. Launched in 2012 by the DC Public Charter School Board (PCSB), the mystery shopper program has staff pose as parents call schools and ask several questions about enrollment, including specific questions about enrolling students with disabilities. Staff are trained to know appropriate “special education language” and create scenarios before making calls, which may be in English, Spanish, or another language. If a school answers questions inappropriately on two occasions during an enrollment season, it is contacted by PCSB staff, who offer to retrain charter staff in open enrollment rules and procedures. Schools may also be issued a notice of concern, which is taken into account when schools are up for renewal (DC PCSB, n.d.).

Massachusetts also implemented a mystery shopper program in 2013, where staff from the Department of Elementary and Secondary Education call charter schools anonymously to inquire about their special education services to determine if charter schools are discouraging parents from enrolling their child (Prothero, 2014).

In their Equity-Focused Charter School Authorizing Toolkit, Philadelphia nonprofit Research for Action includes an equitable enrollment phone call script based on the Washington, DC program. The sample language is intended for authorizers to use when validating or checking up on charter school enrollment practices (see Tool 14 in Research for Action, 2019).

Intentional Diversity

Racial and socioeconomic segregation is unacceptably high in district schools, and it is even higher in charter schools (National Center for Education Statistics [NCES], 2019). Charter school growth appears to drive segregation by socioeconomic status (proxied by free lunch eligibility), and such segregation grew faster in the charter sector than in traditional public schools in the largest school districts in the country (Marcotte & Dalane, 2019).

In response to these and other concerns, a subgroup of charter schools is attempting to create “diverse-by-design” learning environments (also known as intentionally diverse charter schools), led by the Diverse Charter School Coalition (diversecharters.org). In Chapter 8, we discussed the ways enrollment preferences are used by some charters to limit access, but this tool can also be used for equitable aims. For example, High Tech High (n.d.), a San Diego based network that serves students from kindergarten through 12th grade, uses a zip code based weighted lottery that helps achieve its goal of diversity. In Brooklyn, the standalone Community Roots charter school reserves 40% of seats for students who live in public housing (Prothero, 2017). Similar schools and approaches are scattered throughout the United States.

The 2015 reauthorization of the Elementary and Second Education Act (ESEA), known as the Every Student Succeeds Act (ESSA), removed old federal barriers to weighted lotteries like those used in High Tech High schools (Prothero, 2016). But change on the ground has come slowly. In 2018, only 125 diverse-by-design or intentionally diverse charter schools were identified across the country (Potter & Quick, 2018). The small number of intentionally diverse schools might be due to varying state policies; schools are less likely to use weighted lotteries when state charter laws are unclear about whether those policies are allowed. Intermediary organizations in the charter sector, as well as influential funders like the Gates and Walton foundations, can help build the political will to make state contexts more encouraging of diverse charters. They can also directly pressure charter schools to prioritize diversity.

This pressure is crucial because, as Jabbar and Wilson (2018) found, maintaining a diverse student body requires constant effort from charter schools in the absence of incentives to do so. They conclude that absent incentives, the efforts of intentionally diverse charter schools are easily threatened by “leadership turnover, internal tensions in school communities, and plain old inertia” (p. 20).

Intentional diversity can and should also focus on students with special needs. A small effort in this direction was launched in 2020 by the Bill and Melinda Gates Foundation. The Charter Students with Disabilities Pilot Community, a \$10 million pilot initiative aimed at improving charter school programs for middle and high school students with mild and moderate disabilities, consists of 10 CMOs that collaborate to improve systems, learning experiences, and outcomes for students with disabilities. One of the awardees is Denver-based STRIVE Preparatory Schools, which has had “center-based” special education programs for years. (In Denver, some charter schools are expected to offer special education center-based programs in exchange for access to district properties.) STRIVE’s commitment to enrolling students with

special education needs is reflected in its enrollment: About 15% of STRIVE students have disabilities, which is higher than the district average (Asmar, 2020).

Unified Enrollment Systems and Common Applications

As we discussed in Chapter 6, navigating the array of charter school options and their associated applications, timelines, and other hurdles can easily become an overwhelming task for families. At least six cities (Camden, Denver, Indianapolis, Newark, New Orleans, and the District of Columbia) have taken steps to address these access issues by adopting unified enrollment systems (Hesla, 2018). Although the specifics of each system vary from city to city, unified enrollment systems have the potential to support more equitable access to charter schools by allowing families to fill out one application and adhere to a single deadline for all charter and district schools to which they wish to apply (Hesla, 2018).

We acknowledge here that unified enrollment systems raise concerns among those who object to treating charter schools in ways that equate them to district-run or neighborhood schools. That is, a system that presents parents with a menu of charter and noncharter schools—usually as part of a portfolio reform—serves to promote enrollment in charter schools and to further a system reliant on school closure and churn. In pointing to unified enrollment systems as a positive step for access, we are not weighing in on these other concerns. But, as we note later, a common application system can be created for only charter schools, with district-run schools treated separately.

New Orleans provides perhaps the best example of how this change can be helpful in addressing access. For years, students and families in New Orleans had to navigate a bewildering set of charter school applications. In response, the Orleans Parish School Board in 2011 launched OneApp, a unified application and enrollment system administered by EnrollNOLA, which allows families to apply to all participating schools with a single application. It “manages admissions, readmissions, and transfers for 92% of New Orleans public schools and 84% of its students” (NOLA Public Schools, 2020).

One catch here is that, until recently, New Orleans’s most sought after charter schools opted not to participate in the common application process (Clark, 2018). Further, in the 2018 application cycle, nearly a third of New Orleans students were not admitted to any of their top three choice schools (Williams, 2018). In 2021, the city’s three most sought after charter schools, Benjamin Franklin, Lake Forest, and Lushor, still did not participate in the OneApp process. Several other in-demand charter schools, those with language immersion and Montessori programs, did participate in the OneApp process but had an earlier deadline than the majority of schools (Hasselle, 2021).

Another approach used by several cities is called the common application system, which is similar to a unified enrollment system. The key difference is that the common application systems for charter schools do not include traditional district schools. In common application systems, all or many charter schools in a city agree to have a common application with common deadlines (Hesla, 2018). Several cities have launched such common applications for their charter schools, including New York, Philadelphia, St. Louis, Kansas City, Oakland, and Houston (Hesla, 2018). The new Houston common application system, for example, allows parents to apply to more than 50 charter schools in five charter networks by submitting a single online application. But, again, not all Houston charter schools participate in “ApplyHouston,” which is Texas’s first common charter school application system (Dempsey, 2018).

District and Charter School Collaborations

Denver has garnered national praise for collaboration between district leadership and charter schools (Whitmire, 2014). Leaders in these two sectors signed the District-Charter Collaborative Compact in 2010, in which the district pledged more funding for charters and greater access to district property and school buildings, while charter schools committed to improving student access and equity (Center for Reinventing Public Education [CRPE], 2010). While some Denver charter schools have not embraced these changes, recall that the STRIVE network welcomed both elements—taking advantage of access to school buildings and increasing special education enrollment by beginning to house special education centers in several STRIVE schools. In 2012, Denver was awarded \$4 million by the Bill & Melinda Gates Foundation to continue building on the collaborative work. Since then, Denver district and charter schools have implemented a common enrollment system, a unified accountability system, and cross-sector professional development specifically targeted to better serve students with special needs and emergent bilinguals (EBs) (CRPE, 2016).

But a similar effort at district charter collaboration seems to have met with less success. In 2012 the Urban Hope Act was signed into law in New Jersey, allowing new types of charters known as “renaissance schools” (similar to the Philadelphia charters using the same term) to open in three cities: Camden, Trenton, and Newark. In exchange for adhering to district enrollment patterns by drawing on neighborhood catchment areas, renaissance charter schools are funded at higher rates and given incentives to build facilities (Mooney, 2014). Additionally, unlike other charter schools, renaissance schools must be approved by local school boards (Mooney, 2014). The Urban Hope Act also stipulates that if a renaissance school operates on land owned by the state’s Schools Development Authority, it must serve as a default school for all children in the attendance zone unless a child has enrolled elsewhere.

By requiring that renaissance schools provide access to all children within their attendance areas and by designing a system that required the charters to operate more like traditional neighborhood schools, the Urban Hope Act aimed to address accusations of charter school cream skimming. However, a 2018 report by the New Jersey Auditor explains, with a focus on Camden, how the stated enrollment aims of renaissance schools have fallen short:

All buildings utilized by the renaissance schools during the 2016–17 school year and seven of ten utilized by the renaissance schools during the 2017–18 school year were on land owned by either the district or SDA; however, we found neighborhood students were not automatically enrolled in their neighborhood renaissance school, where applicable, in accordance with the Act. Instead, the enrollment process for all renaissance schools was implemented by the district as a choice program, requiring parents and guardians to opt in if they prefer their child attend a renaissance school. Renaissance school neighborhoods overlap with those of traditional district schools, creating ambiguity as to which neighborhood school a student is entitled to attend.

Under the current process, students are guaranteed a seat in their neighborhood district school but only receive preference at their neighborhood renaissance school. Although students are required to submit an application through Camden Enrollment to be eligible to attend a renaissance school, no application is necessary to attend the neighborhood district school. Without a requirement that all district students apply

through Camden Enrollment, the district cannot prove that all parents and guardians were adequately informed of their child's eligibility to attend or if they opted not to accept enrollment in their neighborhood renaissance school.

The current policy could result in a higher concentration of students with actively involved parents or guardians being enrolled in renaissance schools. Their involvement is generally regarded as a key indicator of a student's academic success, therefore differences in academic outcomes between district and renaissance students may not be a fair comparison. (p. 4)

These implementation struggles in New Jersey nicely illustrate the access struggles presented throughout this book. Without deliberate and diligent care, a school-choice system existing within a stratified society will itself become stratified.

Additionally, the New Jersey Auditor report found that between 2015 and 2018, the opt-in enrollment system severely limited the participation of neighborhood students in Renaissance schools; fewer than half of these neighborhood students were enrolled in their neighborhood Renaissance school (New Jersey State Auditor, 2018).

Beyond such implementation shortfalls, we should note here that charter school critics have similar concerns about these collaborations as those that we noted with regard to the unified enrollment systems. They point out that district charter collaborations have the effect of endorsing and institutionalizing the growth of charter schools, usually as part of a portfolio district approach that equates charter schools and district-run schools (Burris & Ravitch, 2018). Setting aside the merits of that critique, we are comfortable praising the access-focused elements of these reforms. Those elements, however, will provide no advantages if the policies are not enforceable and, in fact, enforced—as demonstrated by the New Jersey example.

Accommodation of Status Concerns

In DC the charter school board has taken steps to make it easier to enroll in the city's charter schools for students whose family members may have a hard time proving residency status or may be wary of attempting to prove that status. In an effort to ease residency verification, the Office of the State Superintendent of Education—which oversees both DC public schools and DC public charter schools—requires all schools to allow a home visit as a way to verify residency in cases where families cannot provide any of the traditional pieces of documentation needed (My School DC, n.d.).

Transportation

One of the clearest access barriers to charter schools and all other schools of choice is transportation. A charter is not accessible to a child who cannot physically get to that school. Consider the situation in Detroit, which does not provide any transportation for charter school students even though a large share of Detroit students, around 46% in 2017–2018, attend charters (NAPCS, 2020). Although Detroit has public bus networks in the city center, the city generally has a very limited public transportation infrastructure to support its residents. In addition to transportation issues, the city has low rates of car ownership among low-income families. In a 2018 report drawing on interview data collected from district administrators, charter school leaders, charter authorizers, and stakeholders, Professor Carolyn Sattin-Bajaj (2018) concluded

that, “[t]aken together, limited access to cars coupled with poor public transportation and restrictive school transportation policies complicate the full exercise of choice in Detroit.”

The charter school laws in 15 states address this concern by specifying who must provide transportation to charter school students (Connecticut, Delaware, Florida, Idaho, Iowa, Kansas, Massachusetts, Minnesota, New Hampshire, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, and Texas) (Education Commission of the States, 2018). In addition, a 16th state (Louisiana) requires that all local education agencies provide transportation for students living farther than 1 mile away from a school. Because charter schools operate as individual local education agencies, this law mandates that they provide transportation for their own students who live more than a mile away (Sattin-Bajaj, 2018). These state-level transportation requirements are especially important in New Orleans, where almost all of the district’s students attend charter schools (Babineau et al., 2018).

However, despite the state law mandating charter schools provide transportation, challenges persist in New Orleans. To the extent that a charter school’s transportation hurdles are significantly greater than those of other schools, transportation remains an access barrier likely to shape enrollment. A recent example concerns Einstein Charter Schools, a network of charters that, until recently, did not provide so-called yellow bus transportation to students. Instead, the network gave students bus tokens that could be used to ride busses operated by the New Orleans Regional Transit Authority. The network argued that by providing free bus tokens they were complying with the law. However, after a 2017 complaint by an Einstein parent, the Orleans Parish School Board ordered the school to provide yellow bus transportation to students, and the network complied near the end of the 2017–2018 school year (Nobles, 2018a). The new system continues to be difficult for some parents, who must accompany children to the school’s designated bus stops that are sometimes almost a mile from their homes (Nobles, 2018b).

The charter school law in Colorado is one that does not specify who must provide transportation for charter school students. However, the school district in Denver has taken some steps to address transportation barriers facing those students. The district launched the Success Express busing program in 2011, a flexible public busing option that serves students in district and charter schools in the northeast and far northeast parts of the city. A report from the University of Colorado Denver emphasized the importance of such transportation programs that work in parallel with unified enrollment systems (Ely & Teske, 2014). The authors found evidence that Denver’s Success Express busing system reduced absences and truancy while providing increased school options for students and families.

Denver’s school district has since expanded the program, but the routes still serve only a portion of the city. Professor Ely, one of the 2014 report’s authors, later stated that, while the system certainly has its shortcomings, the number of practical policy options is very limited and “as far as better systems, [he doesn’t] think there is one. The more you have kids coming from the same neighborhood, going to different schools, the more expensive and complicated the transportation service needs to be. [He doesn’t think they] really have an answer aside from these piecemeal or ad-hoc solutions” (Robles, 2017). Given the geographic size of the district and the sprawling nature of its semi-urban and suburban areas, as well as the limited geographic scope of Success Express, parents in Denver still face transportation related obstacles to using the unified enrollment system to its full extent. But as Ely suggests, these obstacles are simply an artifact of the widely dispersed attendance resulting from choice portfolio approaches.

THE RULES AND INCENTIVES MUST CHANGE

Let's return again to the example of BASIS, a network of elite college preparatory schools that we discussed in the context of opportunity hoarding and in Chapters 3, 12, and 15. A quick recap: For-profit BASIS Schools is a management organization based in Scottsdale, Arizona. The first BASIS school opened in 1998. There are currently 28 BASIS schools, 21 of which are located in Arizona (BASIS.ed, 2019). BASIS students are more likely to be White, less likely to qualify for free or reduced-price lunch, less likely to have special education needs, and less likely to be ELLs (Arizona Department of Education, 2019). The network does not provide transportation and declines to participate in the federal subsidized school lunch program. Academically speaking, BASIS emphasizes a rigorous curriculum and uses testing in promotion and retention decisions at all levels. For example, in middle school, students must pass end-of-year comprehensive exams in each subject to be promoted to the next grade. BASIS schools dominate the outcomes-based *U.S. News and World Report* rankings.

What rules and incentives have fostered BASIS's proliferation? One key element is that the network has benefited tremendously from features of Arizona's charter law. Arizona has no cap on charter schools, allows multiple authorizers, and for-profit entities are not excluded from applying to open a charter (Arizona State Board for Charter Schools, 2019).

In 2016 Governor Doug Ducey unveiled three noteworthy proposals—all adopted into law—that implicitly endorsed some of BASIS's more exclusionary practices and that aided in the network's expansion: (1) an incentive program tied to college-credit exams, (2) a results-based funding program tied to state exam scores, and (3) a construction loan program tied to the state's school ratings system.

The first of Ducey's proposals resulted in the "college credit by examination incentive program," which gives bonuses to schools based on the number of students who pass an AP or IB exam for college credit. When funds were distributed for the first time in the fall of 2018, BASIS received the most money of any network or district, which is unsurprising given the BASIS requirement that students pass AP exams for promotion.

The official purpose of the results-based funding program, which also came out of Ducey's 2016 slate of proposals, is to financially reward and replicate successful schools (Rau, 2017). Money is awarded based on student performance on AzMERIT tests; this is a shift from most state and federal school funding formulas that provide funding primarily based on enrollment. The program initially set aside \$39 million annually for schools with higher test scores, and in 2020 that funding was increased to \$69 million (Arizona State Legislature, 2020). In 2017, BASIS schools were awarded \$2.6 million, and in 2018 an additional \$2.95 million. Again, BASIS schools received the most funding in the state.

According to a 2018 *Arizona Republic* analysis (Harris, 2018), a disproportionate amount of this performance funding benefited White students. While White students account for 38% of overall public school enrollment and Latinx students account for 45% of that enrollment, 53% of students at charters that received performance funding were White, while only 25% were Latinx.

In 2014, then candidate Ducey made a campaign pledge to "fully fund the wait lists" at Arizona's top charter schools, including BASIS. In 2017, the Arizona Public School Credit Enhancement Program began. In short, this program allows public schools who meet certain criteria to take out loans backed by the state, thus advantaged by the state's credit rating. The loans fund infrastructure projects, often in the form of expansions and new schools. To get access to state-backed funding, a school must have a waiting list and be rated "A" under the

Arizona's letter grade system. The program is open to all public schools, but it was likely intended for (and has only been used by) charter schools. In 2017, BASIS issued \$31 million in bonds through this program (Duda, 2019). In fact, although BASIS and the Great Hearts charter network together educate around 3% of Arizona students, they tapped into two thirds of the construction loans given out to the state's charter schools (Harris, 2018).

With some hindsight and perspective, it would have been surprising if a charter network like BASIS hadn't emerged from the policy environment created in Arizona. Governor Ducey and the policymakers before him created a petri dish with all the necessary nutrients. Imagine two potential charter operators surveying the scene, one of whom is considering a BASIS-like model that will forcefully shape enrollment toward very high achievers. The other potential operator might be considering, for example, an arts-themed school that would enrich the lives of students with few resources to engage in such creative activities in their communities. Both schools may open, but only the first is zeroed in on the state's incentives, which will help it thrive.

More generally, the laws and the formal and informal rules for charter schools and for schooling in general reward the enrollment of students who have rich opportunities to learn outside of school. This shows up in everything from GreatSchools.org (Hasan & Kumar, 2019) to states' A–F rating systems (Howe & Murray, 2015), to peer effects (Caldas & Bankston, 1997), to disruptions and instructional time (Rogers et al., 2014). It is then compounded by school finance systems that systematically fail to provide the additional funding needed to support the education of students who have greater needs and fewer resources and opportunities to learn outside of school (Baker et al., 2018). Changing access-related practices in charter schools (and in other schools operating within choice systems) will require changing these incentives.

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