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Flexibility Meets Accountability: State Charter School Laws and Their Influence on the Formation of Charter Schools in the United States

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Using an original and unique database of state charter school laws that we have developed, we analyze how state policymakers have incorporated two key values into state charter school laws: flexibility and accountability. We supplement this database with other state-level measures to answer two specific questions: What factors influence the degree of flexibility and accountability in state charter school laws? How does the content of state charter school laws, and the different values those laws embrace, affect the formation of charter schools in the United States? Overall, we show that state political and contextual factors help account for the degree of flexibility, but not accountability, in state charter school laws. Further, we show that the degree of flexibility, accountability, and political and contextual factors influence the number of charter schools that form in the states.

KEY WORDS: charter schools, state policy, values, accountability, flexibility

Introduction

Disagreements over values reside at the core of essentially all public policy controversies. Each day, elected officials reassure constituents of their commitment to promoting legislation that will achieve outcomes efficiently and effectively; that will treat all people equally but still be flexible and responsive to citizens' individual needs; and that will hold public bureaucracies and recipients of government funds accountable for producing results. These claims are not controversial. However, rarely are they all realized in practice because policy choices inevitably involve privileging some values over others.

In this article, we analyze two values that are central in the nation's education reform debates: flexibility and accountability. In particular, we study how state policymakers have considered these two values in crafting state charter school laws. Our research addresses two specific questions: What factors influence the degree of flexibility and accountability present in state charter school laws? How does the balance between flexibility and accountability in state charter school laws influence the formation of charter schools in the United States?

We examine these questions in the following five sections. First, we draw on previous literature to describe the theoretical advantages of considering charter school policy through the lens of competing values. Second, we briefly discuss the charter school concept and trajectory of that reform since the early 1990s. Third, we analyze the forces influencing the content of state charter school laws. Fourth, we examine the effect these laws have had on the formation of charter schools. Our fifth section concludes. Across the article, our aim is to understand better the value dimensions of charter school laws and to help policymakers improve current and future charter school legislation.

Public Policy, Competing Values, and American Education

Policy conflicts over competing values are as old as the United States, and have become embedded in the country's cultural fabric and public institutions (Burns, 1994; Derthick, 2001; Ellis, 2000; Smith, 1993). Because the American political system generates policy from compromises between separated institutions empowered to act for everyone, it is inevitable that multiple and sometimes competing values will become embedded in public policy (Baumgartner & Jones, 1993). That result fosters tensions that unfold when policy moves beyond the halls of legislatures and into the daily work of public servants and lives of the nation's citizens.

Several examples of these value tensions exist. Okun's (1975) famous study identified a "big tradeoff" between efficiency and equality. The irony of democratic capitalist societies, he reasoned, was that they prod people to work better to "get ahead of our neighbors" while simultaneously they embrace "the worth of every human being." In combination, that drive for both efficiency and equality has produced a mix of political, social, and economic disparities, which suggest the "uneasy compromises" that policymakers have made in constructing institutions such as the nation's income tax system and social safety net (Okun, p. 1).

Employees of public bureaucracies are quite familiar with the tensions that competing value commitments create (Moore, 1995; Posner, 2002; Wilson, 1989). Rather than explicitly privileging one value or another, the nation's policy system often produces laws that embrace many conflicting values simultaneously. That puts the nation's public managers in a bind. Even though policy might affirm several values in name, in practice, agency managers and frontline employees must broker the inevitable disputes that arise when, for example, their need to subject all citizens to detailed paperwork requirements, which upholds accountability and equity, conflicts with other desires, e.g., that bureaucracies should respond to individual citizens' unique concerns (Moore; Peters; Posner). Light's (1997) study of government reform from 1945 to 1995, for example, illustrates that previous value commitments frequently endure even as new waves of reform emerge. Thus, in the 1990s many policymakers and many public managers embraced liberation management, an idea that focuses on effectiveness and government responsiveness to citizens and frontline administrators. However, the

nation's public institutions did not abandon their commitment to ideas more popular in earlier eras, such as efficiency, a legacy of the philosophy of scientific management, or internal and external accountability, which emerged with reforms to combat government waste.

Furthermore, conflicts can arise not only when different values compete for attention, but also when opponents disagree over the relative ability of public organizations to promote the values citizens cherish. Some would contend that public bureaucracies, as products of politics, could never be as efficient or effective as their private counterparts (Moe, 1989). Others argue that if the nation relies too much on private actors to solve public problems (in a celebration of efficiency), over time those choices may gut the social and institutional capacities of communities and governments to respond to future unexpected problems (Galbraith, [1958] 1998; Goodsell, 2003; Henig, 1994; Peters, 2001; Sandel, 1996). Education reform is one arena where these tensions reveal themselves in stark relief.

As federal and state policymakers have crafted new laws to improve student learning across the diverse locales in United States, they have faced a difficult delegation problem, which scholars of public policy and administration commonly recognize in principal-agent relationships (Bendor, 1988; Bendor, Glazer, & Hammond, 2001; Epstein & O'Halloran, 1999; Salamon, 2002; Wilson, 1989). Smart principals recognize that to maintain their credibility they must hold their agents accountable for results. However, principals must simultaneously provide agents enough flexibility to respond to unexpected and novel contingencies on the ground. In K-12 education policy, that tension has revealed itself in the growing popularity of two particular reform agendas: standards-based reform, which stresses accountability for results on standardized tests; and school choice, which promises greater flexibility and responsiveness to parent and student needs.

In general, the American system of education governance has a long history of privileging responsiveness to local concerns over other values (Conley, 2003; Epstein, 2004; Tyack & Cuban, 1995; Wirt & Kirst, 2001). For decades, school districts were considered the primary institutions for deciding what students should know and be able to do. Across time, though, other values such as guaranteeing equal educational opportunities to children of all races and economic backgrounds, and, since the 1980s in particular, the need to hold schools and school districts accountable for academic performance challenged the local control prerogative (Graham, 1984; Howell, 2005; Manna, 2006; Ravitch, 1995; Rothstein, 2004).

Given that the movements for standards and choice often emphasize different values, the potential exists for these policy agendas to work at cross purposes. Too much accountability to public authorities may stifle the flexibility needed to respond to parent wishes. Conversely, too much flexibility means that public schools become beholden only to the parents they serve and not other relevant stakeholders, such as taxpayers without school-aged children and community members who enjoy the collective benefits of public schools. Thus, the tendency

for policymakers to embrace both accountability through standards and flexibility through choice creates potential challenges for making policy work. To clarify, we are not suggesting that these reforms are necessarily incompatible (Hess, 1999); however, when policymakers conceptualize accountability in community-wide (i.e., accountability to a public authority) rather than narrow individual (i.e., accountability to parents) terms, these two reforms may chafe against one another in practice.

To explore this potential tension between accountability and flexibility we analyze the educational model of public charter schools. As public schools, charters generally operate within the same accountability systems as traditional public schools even as they cater to parent interests. Since the early 1990s, state charter school laws and public charter schools have become more prominent on the American educational landscape. In part, these laws are attractive because they appear to provide a compromise in the nation's divisive debates over school choice. On one hand, charter schools are public schools which placates forces preferring not to see public dollars in the form of vouchers or tax expenditures, subsidize private and religious schools. On the other hand, charters do enjoy more operational flexibility than traditional public schools, which advocates emphasize will provide greater alternatives for the nation's students.

In theory, at least, charters split the difference between these competing positions. In practice, however, the development of state laws that govern charter schools, the expansion of the number of schools themselves, and the performance of existing schools has continued to spark debate (Carnoy, Jacobsen, Mishel, & Rothstein, 2005; Miron & Nelson, 2002; Viadero, 2004; Zimmer et al., 2003). Despite their increasing popularity, charters remain controversial in part because, like many other school reforms (Tyack & Cuban, 1995), they attempt to satisfy many values simultaneously. Because charter schools are public institutions that rely on tax dollars, arguably they must remain accountable to the larger political community, not just the parents and students who they serve. Still, too much accountability can undermine the flexibility that charter principals and teachers argue is necessary to meet their students' needs. How have state leaders attempted to strike that balance between flexibility and accountability? And further, what impact have their policy choices had on the expansion of charter schools across the country? Studying the state laws that govern charter schools provides an interesting arena to understand how the values of flexibility and accountability intersect in practice.

Using an original and unique database of state charter school laws that we have developed, we analyze the role state policymakers have assigned to flexibility and accountability in crafting charter school legislation, and then we explore how these laws affect the formation of charter schools. Consistent with state politics research in other policy areas (Erikson, Wright, & McIver, 1993; Hero & Tolbert, 1996; Ka & Teske, 2002; Mintrom, 2000), we show that state political and contextual factors help account for variation in state policy. In our case this is the degree of flexibility, but not accountability, in state charter school laws. We explain this discrepancy in our discussion. Further, we show that the degree of flexibility and

accountability, and political and contextual factors influence the number of charter schools that form in the states. Before turning to our empirical analysis, we provide some more general background on charter schools and the charter movement in the United States.

Overview of Charter Schools

The charter school idea goes back at least to the late 1980s. Minnesota enacted the first charter school law in 1991 (Nathan, 2002, pp. 17–22; Vergari, 2002), and since then, 40 other states and the District of Columbia have followed suit. As of October 2005, some 3,617 charter schools were operating across the United States (Center for Education Reform, 2006).

Although charter school laws vary considerably by state, all laws attempt to incorporate elements of flexibility and accountability. In exchange for considerable flexibility in operation and design of curriculum, pedagogy, and other aspects of running a school, charter operators agree to uphold certain standards of accountability through a written contract with an authorizing body. Similar to magnet schools, public money supports charters. Note that charter schools, as public schools, are required to meet the same accountability standards as traditional schools under the No Child Left Behind (NLCB) Act. Performance stipulations that appear in some charter contracts are *in addition to* meeting adequate yearly progress and participating in testing.

Traditional public schools often may become charters so they can adopt more innovative educational programs. Most states with charter laws allow this process, known as conversion. The federal NLCB Act even incorporates the option to convert to charter status for traditional public schools that persistently fail to meet yearly progress targets. Private schools may also convert to public charters in some states, but at present, religious private schools may not become charter schools, although some states allow conversion to charter status if they drop religious instruction.

In nearly every state, charter school laws have evolved since their original adoption. Table 1 indicates the original passage date for each charter law and the laws' *original level* of flexibility and public accountability, which we explain in more detail below. Both measures range from 1 to 5. A high value for flexibility means charters are afforded great freedom of action, while a high score for public accountability indicates that charters must demonstrate high levels of public reporting of performance and other measures.

Almost all amendments to initial laws have expanded the number of permissible charters, facilitated conversion to charter status, increased the flexibility of charter school financing and operation, and increased fiscal support. Wisconsin's charter school program provides an illustrative example. The state passed its original charter law in 1993. At that time, the law permitted ten school districts to establish two charter schools each. Three charter schools emerged under this original law. In 1995, legislators allowed all school districts to grant an unlimited number of charters. Because the Milwaukee Public Schools (MPS) had chartered

Table 1. Initiation of Charter School Laws and Major Revisions

| State ^a | Year Law Passed | Substantive Revisions ^b | Initial Flexibility Score | Initial Public Accountability Score |
|--------------------|-----------------|------------------------------------|---------------------------|-------------------------------------|
| MN | 1991 | 1997, 1999 | 2.54 | 2.00 |
| CA | 1992 | 2002 | 3.56 | 3.00 |
| CO | 1993 | 1998 | 3.75 | 4.00 |
| GA | 1993 | 1995, 1998, 2002 | 3.49 | 4.33 |
| MA | 1993 | 2000 | 2.45 | 5.00 |
| MI | 1993 | 1995 | 3.44 | 5.00 |
| NM | 1993 | 1999 | 2.15 | 3.67 |
| WI | 1993 | 1997, 2001 | 2.74 | 2.00 |
| AZ | 1994 | 2000 | 4.30 | 5.00 |
| HI | 1994 | 2001 | 2.45 | 4.33 |
| KS | 1994 | 2000 | 3.33 | 1.33 |
| AK | 1995 | 2000 | 3.15 | 2.50 |
| AR | 1995 | 1999, 2001 | 2.54 | 3.33 |
| DE | 1995 | 2002 | 3.08 | 4.67 |
| LA | 1995 | 1997, 1999 | 3.05 | 1.00 |
| NH | 1995 | 1999 | 3.50 | 3.33 |
| RI | 1995 | 2001 | 2.95 | 4.67 |
| TX | 1995 | 2002 | 3.92 | 4.67 |
| WY | 1995 | — | 3.49 | 4.00 |
| CT | 1996 | 1997 | 2.41 | 3.67 |
| FL | 1996 | 2002 | 3.12 | 2.67 |
| IL | 1996 | 1997, 1999 | 3.43 | 2.00 |
| NJ | 1996 | 2000 | 3.74 | 4.67 |
| NC | 1996 | 2000 | 2.71 | 4.67 |
| SC | 1996 | — | 3.73 | 4.67 |
| MS | 1997 | — | 3.43 | 3.33 |
| NV | 1997 | — | 2.85 | 5.00 |
| OH | 1997 | 1999, 2000 | 3.45 | 2.67 |
| PA | 1997 | 2001 | 3.78 | 4.67 |
| ID | 1998 | — | 2.95 | 3.00 |
| MO | 1998 | 2002 | 3.43 | 4.67 |
| NY | 1998 | — | 3.01 | 5.00 |
| UT | 1998 | 2002 | 3.30 | 2.67 |
| VA | 1998 | 2002 | 3.51 | 4.00 |
| OK | 1999 | 2000 | 3.79 | 4.67 |
| OR | 1999 | 2001 | 3.51 | 4.00 |
| IN | 2001 | — | 3.03 | 4.33 |
| IA | 2002 | — | 3.92 | 3.00 |
| TN | 2002 | — | 2.88 | 5.00 |
| MD ^c | 2003 | — | n.a. | n.a. |

^aStates with no charter law at the time of writing were AL, KY, ME, MT, ND, NE, SD, VT, WA, and WV.

^bDates in the last column correspond to revisions that, based on our coding scheme, changed the state's flexibility or accountability scale score.

^cMaryland is not coded as a charter state in our analysis because our coding of state laws ran through 2002.

only one school by 1997, charter school supporters felt that the MPS and the teachers' unions were blocking new charters. Thus, in 1997, changes to the law expanded charter-granting authority to the city of Milwaukee and several colleges in addition to the Milwaukee school district. In 2001, the legislature clarified the

funding formula for Milwaukee charters because the state department of public instruction was providing less than the full per-pupil funding amount to charter schools.

As state charter school laws have evolved, they have provided different levels of flexibility and demanded accountability in various ways (Green & Mead, 2004; Miron & Nelson, 2002). For example, in Arizona (AZ), one of the most charter-friendly (and most studied) states, interested charter applicants may apply to two charter authorizers for a 15-year charter anywhere in the state, or to the local school board in a district for a similar 15-year period. In contrast, Virginia (VA) only allows local school boards to authorize charter schools; and local boards may exercise this power only when an "adequate" amount of local popular support for the school exists. Further, Virginia districts may even assign teachers to charter schools. Other states provide little direction at all. Kansas (KS) state law does not include any funding provisions for charter schools.

Hypotheses

What factors explain variation in the content of state charter school laws? And how do those laws affect the creation of new charter schools? In this section, we present eight specific research hypotheses, which include six on law content and two on school growth.

Our first pair of hypotheses examines politics. If charter schools are indeed a vehicle of school choice, their ideological rationale should mesh more easily with conservative politics. That orientation would support offering the most freedom for charter operators and requiring minimal government oversight regarding accountability because market mechanisms (i.e., consumer choice) will hold schools accountable for their performance.

Scholars and researchers have long associated the ability of citizens to choose among government services with conservative theorists (Friedman, 1962; Niskanen, 1971). We also draw our political hypothesis from experience with school vouchers, the cousin of charter schools (Gill et al., 2001; Witte, 2000). Therefore, we account for the potential impacts of both ideology and partisanship in our models, as other state politics scholars have done (Brown, 1995; Erikson et al., 1993). To account for ideology, we use the updated state government ideology index of Berry et al. (1998), which accounts for the ideological leanings of state elected officials.¹ Our hypotheses regarding ideology are as follows:

Hypothesis 1 (ideology and flexibility): As a state's elected officials become more politically conservative, state law will allow more flexibility for charter schools.

Hypothesis 2 (ideology and accountability): As a state's elected officials become more politically conservative, state law will require charter schools to be less accountable to public authorities.

We also suspect that partisanship may influence the content of state laws and the number of charters that form. Until 2006, every state that seriously considered

vouchers was lead by a Republican governor (Witte, 2000).² Although Democrats have certainly been charter school advocates in some states, we believe Republicans will be more likely to support charter laws that incorporate market mechanisms and downplay accountability to public authorities. Those understandings about partisan politics motivate our next two hypotheses:

Hypothesis 3 (partisanship and flexibility): As a state's elected officials become more Republican, state law will allow more flexibility for charter schools.

Hypothesis 4 (partisanship and accountability): As a state's elected officials become more Republican, state law will require charter schools to be less accountable to public authorities.

Our third set of hypotheses concern demographics. Here we assume that charter schools are not a part of school choice in the main; rather, they are a response to increasing burdens on schools that struggle to provide services for traditionally lower-performing students (Goldstein, 2003). Some case studies and school-level quantitative analyses have shown that in most states charter schools serve a higher percentage of disadvantaged students than traditional public schools (Carnoy et al., 2005; Dickman, Van Dunk, Witte, Schlomer, & Weimer, 2003; RPP International, 1999; SRI International, 2004). Many state charter laws appear to encourage this. These laws set separate, higher, charter school caps for at-risk schools, and some, like Nevada (NV), practically require charter schools to focus on at-risk students by imposing difficult requirements on other potential start-up or conversion charter schools.

States serving large numbers of at-risk and minority students, many of whom struggle to learn key subjects such as reading and math (Jencks & Phillips, 1998; National Assessment of Educational Progress, 2003), may move policymakers to try anything possible to increase these students' chances of success.³ That would suggest an impulse to give charter operators maximum range to open and operate schools, while not binding them with rigid accountability provisions, which may hamper their ability to creatively address their students' needs. Therefore, we would expect the following:

Hypothesis 5 (demographics and flexibility): As the percentage of at-risk students in a state increases, state law will grant charter schools more flexibility.

Hypothesis 6 (demographics and accountability): As the percentage of at-risk students in a state increases, state law will require less public accountability from charter schools.

Our last set of hypotheses concern the impact of flexibility and accountability on the number of charter schools in a state. Empirically, some states have charter legislation on the books but no (or few) charter schools. Sometimes this is by design. Mississippi (MI), for example, allows only one public school to convert to a charter school in each congressional district. In other cases, states seem to have amended laws to encourage charter formation after initial laws produced few charters. Some have amended their laws to allow "controlled growth" of schools.

A frequent amendment has been to ease or remove a legal cap on the number of schools in a state. For example, Hawaii (HI) amended its charter law in 2003 to raise the school cap to 25 from 23 after all 23 charters had been granted.

Charter school openings must contend primarily with local politics, which can depend on the vagaries of school board personalities and district administrators. Finding a large enough (or cheap enough) facility may be far more important than the partisan control of the governor's mansion or state legislature. Nevertheless, we expect that charter school operators, as policy entrepreneurs (Mintrom, 2000), are attentive to opportunities that state charter school laws create. Flexibility should result in more charter schools (and, one thinks, a greater diversity of schools, although we do not explore this). Accountability to public authorities, on the other hand, frequently translates into perhaps burdensome reporting requirements that charter operators must meet. Some charter schools follow models less suited to standardized student achievement testing (e.g., Waldorf or Montessori schools), therefore we would expect fewer schools to form where public accountability demands are high. Our final hypotheses are:

Hypothesis 7 (flexibility and number of charters): As state charter school laws grant more flexibility, more charter schools will open.

Hypothesis 8 (accountability and number of charters): As state charter school laws require more public accountability, fewer charter schools will open.

Data and Methods

In this section, we discuss our data and methods. We report descriptive statistics on all measures in Table 2.

Dependent Variables

To test these hypotheses, we coded every state charter school law passed and substantively revised through 2002. We coded 39 states. Accounting for states that had revised their laws, our coding procedure yields 77 cases overall.⁴ We constructed our coding rules to highlight the dimensions of flexibility and accountability in state laws.

We defined flexibility as the freedom from general school regulation and the availability of financial and other support for charters in state law. This dimension has received considerable attention in prior research (Center for Education Reform, 2006; Hill, Lake, & Celio, 2002; Mintrom & Vergari, 1997; Wohlsetter, Wenning, & Briggs, 1995). Our article proposes a much more complex set of quantitative analyses of flexibility than previous work. Our results also indicate that there are substantive payoffs for our more detailed approach.

Our second dimension captures the level of public accountability that state charter school laws demand. This dimension measures the degree to which charter schools are held accountable to public authorities rather than to individual school clients, such as parents and students. Although researchers have often discussed

Table 2. Summary Statistics

| Variable | For Table 5 Regressions (N = 77) | | | | For Table 6 Regressions (N = 39) | | | |
|-------------------------------------|----------------------------------|-------|-------|-------|----------------------------------|--------|-------|-------|
| | Mean | SD | Min | Max | Mean | SD | Min | Max |
| Number of open charter schools | | | | | 67.18 | 106.93 | 0 | 464 |
| Dimension 1. Flexibility | 3.35 | 0.47 | 2.15 | 4.30 | 3.42 | 0.45 | 2.46 | 4.29 |
| 1.1 Application and authorization | | | | | 3.44 | 0.67 | 1.40 | 4.71 |
| 1.2 Local oversight | | | | | 3.91 | 0.89 | 2.00 | 5.00 |
| 1.3 Fiscal support | | | | | 3.02 | 1.27 | 1.00 | 5.00 |
| 1.4 Employees | | | | | 3.28 | 1.01 | 1.00 | 5.00 |
| Dimension 2. Public Accountability | 3.71 | 1.11 | 1.00 | 5.00 | 3.91 | 0.96 | 1.33 | 5.00 |
| Government ideology | 44.38 | 24.14 | 0.00 | 92.35 | 42.36 | 24.42 | 0.00 | 92.35 |
| Governor is Republican | 0.62 | 0.49 | 0 | 1 | 0.62 | 0.49 | 0 | 1 |
| Republican % in state legislature | 46.66 | 15.35 | 9.21 | 84.76 | 48.37 | 15.49 | 13.50 | 89.29 |
| Percent of public sector unionized | 35.27 | 18.78 | 7.20 | 70.75 | 34.11 | 18.80 | 7.20 | 68.87 |
| Years since first charter law | 7.74 | 2.96 | 1 | 12 | 5.90 | 2.58 | 1 | 12 |
| Charter law has been revised | 0.49 | 0.50 | 0 | 1 | 0.77 | 0.43 | 0 | 1 |
| Percent white school-aged children | 67.48 | 16.09 | 20.32 | 96.68 | 65.83 | 16.41 | 17.26 | 93.23 |
| Percent state population in poverty | 11.91 | 3.26 | 5.30 | 20.90 | 11.54 | 3.28 | 5.80 | 19.80 |
| State population | 6.52 | 6.37 | 0.48 | 35.07 | 6.66 | 6.88 | 0.50 | 35.00 |

and advanced the accountability component as critical to the charter school concept, this dimension has been the subject of less quantitative empirical analysis.⁵

In developing our coding rules, we identified a set of 20 specific variables that captured different aspects of our two main dimensions of interest: flexibility and accountability.⁶ The bulk of these variables, 17, allowed us to explore four different aspects, or subdimensions, of flexibility. Those subdimensions captured the ease with which the state law allowed prospective charter applicants and charter authorizers to establish charter schools (seven variables); the degree of local school district oversight of charters (three variables); the amount of fiscal support the law established for charters (three variables); and the components of the law addressing charter school employees (four variables). The remaining variables, relating to state curricular standards, renewal requirements, and state testing, comprised our accountability dimension. By itself this reveals an interesting feature of these laws. Even though flexibility and accountability are both components of the charter school concept, by and large legislators have attended primarily to flexibility-related issues.

We coded state charter school laws on each of these variables at the time of initial adoption and again if the state had substantively revised its law. Each variable is coded on a 1 to 5 scale. For the 17 variables in the flexibility dimension,

Table 3. Dimensions of State Charter School Laws

| Dimensions and Subdimensions | Variables | Mean | SD | Cronbach's Alpha |
|-----------------------------------|-----------|------|------|------------------|
| Dimension 1. Flexibility | 17 | 3.35 | 0.48 | 0.56 |
| 1.1 Application and authorization | 7 | 3.26 | 0.76 | 0.61 |
| 1.2 Local oversight | 3 | 3.88 | 0.89 | 0.51 |
| 1.3 Fiscal support | 3 | 2.86 | 1.24 | 0.55 |
| 1.4 Employees | 4 | 3.38 | 1.05 | 0.61 |
| Dimension 2. Accountability | 3 | 3.71 | 1.11 | 0.58 |

Note: All scales and subscales range from 1 to 5. For dimension 1 (and its subdimensions), higher values indicate greater flexibility. For dimension 2, higher values indicate greater requirements for accountability. Examples of items in these scales are included in the appendix. States that had never amended their charter law as of December 2003 appear in these data only once, while all other states are included for each substantive revision. Total N = 77.

a 1 means that a state law granted the least flexibility compared with all other state laws on a particular variable. A 5 means that a state law granted the greatest flexibility compared with all other state laws. Because our codes are relative to the universe of state laws, a 5 might turn out to be fairly restrictive if no law gave charter schools much flexibility. The 5 simply means the state's provision was among the *most* flexible. We coded the items measuring accountability in a parallel manner. A "1" indicates the law requires the least amount of accountability and a "5" the most accountability. As with the flexibility scale, our accountability coding was determined relative to all state laws. We provide examples of our coding procedure in the Appendix.⁷

To create scales, we summed and then took the mean of the particular variables associated with each dimension. That resulted in six specific scores for each state: a flexibility score and an accountability score, and subdimension scores for the four components of the flexibility dimension. The initial flexibility and accountability scores for each state are indicated in Table 2. We present the means, standard deviations, and reliabilities for these major dimensions and the subdimensions in Table 3.

As described in more detail below, we use different types of regression models to test our hypotheses. In the first set of models, our overall flexibility and accountability dimensions serve as dependent variables. That allows us to test our hypotheses about the factors that contribute to the content of state charter school laws (hypotheses 1 through 6). Our second set of regressions uses our flexibility and accountability measures as independent variables. In those models, we examine how those dimensions influence the formation of charter schools in the states (hypotheses 5 and 6). The dependent variable for the models testing our school formation hypotheses is simply the number of charter schools open in that state in the 2002-3 school year.

Independent Variables: Political

We use three measures to test our political hypotheses. For ideology, we use the most recently available state government ideology index of Berry et al. (1998),

which ranges from 0 (most conservative) to 100 (most liberal). For partisanship, we include a measure for party of the governor (1 if Republican and 0 otherwise) and the mean percentage of Republican seats in the upper and lower houses of the state legislature.

We also control for the potential influence of teachers' unions. Even in states that lack collective bargaining laws, unions can be powerful players in the policy process (Conley, 2003; Moe, 2006). Unfortunately, an efficient, unbiased, and recent estimate of "union strength" is difficult to come by.⁸ Therefore, we use the percentage of public sector workers who are unionized, as compiled by Hirsch and Macpherson (2003).⁹ Besides being geographically coterminous with our other data, this measure has the virtue of representing the strength that teacher advocates may wield in state politics, regardless of whether the state has a strong or weak union affiliate. After all, unions in general tend to oppose reforms that may threaten public sector employment, so a broad measure of unionization seems appropriate.¹⁰

Independent Variables: State Context

Hypotheses 5 and 6 predict that states with more at-risk students will demand less accountability and permit more flexibility. Because both race and poverty tend to correlate with at-risk status, we use two measures as a proxy. To save degrees of freedom, we include the percentage of children aged 18 and below who were white and non-Hispanic rather than separate variables for African Americans and Hispanics. We also use the percentage of the population with incomes under the poverty line. We draw these measures or race and poverty from the U.S. Census Bureau and not the U.S. Department of Education because a handful of states did not submit the corresponding data for each year we study. Some states reported zero students on subsidized lunches, which could technically be true if a state did not participate in the lunch and breakfast programs, but for our purposes, the measure would be a weak measure of student poverty in the states. Following hypotheses 7 and 8, we expect that as the number of white students increases, so the number of charter schools should decrease. Conversely, higher poverty should be associated with more charter schools. If these schools are indeed responding to needs among at-risk population, then more of these students would likely induce more charters.

We also include three variables to control for additional state factors that may influence our dependent measures. First, we include each state's total population. We expect that population will be positively correlated with flexibility and negatively associated with our public autonomy scale. In other words, we expect states with larger population centers to be more likely to offer flexibility and to downplay extra public accountability in their charter school laws.

A second variable included is the number of years elapsed (including the first) since the first charter school law, which came on the books in 1991 in Minnesota, and the introduction or substantive revision for each state. This means that Colorado (CO), which is in our set twice, has one value of three years for the

original law in 1993 and a second value of eight years for the second revision in 1998 as shown in Table 1. Although charter laws in many states have been subject to numerous revisions, we suspect that laws arriving later in the movement—those with higher values for this variable—will grant greater flexibility and impose fewer accountability provisions on charter schools given that as time has passed, the nation has grown more accustomed to the presence of charter schools. Of course, we also expect that the longer a law is in place, more charter schools will open.

Finally, we include a dummy variable to indicate whether a law has been revised or not. We expect that revised laws will be revised to favor opening charter schools; that is, more flexibility and less required accountability. We would also expect, then, that revised laws should correspond to the presence of more charter schools. These expectations flow from the idea that much policy, especially in education, proceeds incrementally.

Methods

We estimated ordinary least squares (OLS) regressions to test hypotheses 1 through 6. The first six hypotheses predict the scale score of state laws, a continuous measure, so OLS is clearly appropriate. For hypotheses 7 and 8, which predict the number of charter schools open, we use negative binomial regressions. A negative binomial predicts a discrete count, and with large samples there is no question that such a model is appropriate. Despite the small number of cases in these models, we decided to use this method for two reasons: First, a negative binomial regression better captures the data generating process under study and is the more appropriate functional form (King, 1998; Long, 1997). Second, we estimated these models with OLS as well and found strikingly similar results. Given the consistency across methods of estimation, we decided to choose a specification with a more appropriate functional form, the negative binomial, even though we do not have large samples.

Results

Our results appear in Tables 4, 5, and 6. Table 4 summarizes the correlations between our flexibility and accountability scales. Regression results on the content of state laws appear in Table 5, and regressions predicting the number of charters open in 2002–03 are in Table 6.

Table 4. Correlations Between Dimensions and Subdimensions of State Charter School Laws

| Dimension | 1. Flexibility | 1.1 Application Authorization | 1.2 Local oversight | 1.3 Fiscal support | 1.4 Employees |
|--------------------------------------|----------------|----------------------------------|------------------------|-----------------------|---------------|
| 1. Flexibility | | | | | |
| 1.1 Application and Authorization | 0.32 | | | | |
| 1.2 Local oversight | 0.35 | -0.05 | | | |
| 1.3 Fiscal support | 0.55 | -0.07 | -0.23 | | |
| 1.4 Employees | 0.64 | -0.03 | 0.10 | 0.07 | |
| 2. Accountability | 0.14 | 0.23 | -0.02 | 0.14 | -0.04 |

Relationships Between Dimensions and Subdimensions

Table 4 reports the correlations between our main dimensions of flexibility and accountability and the four subdimensions of flexibility. The correlations show that state policymakers apparently have decided not to fully reconcile the tension between flexibility and accountability. Instead, as in many other policy areas, they have opted for some of both. The accountability dimension is positively, but weakly, related to the overall flexibility dimension (correlation of 0.14). Further, when we examine the specific components of flexibility, the main subdimension that appears to be driving that relationship is flexibility involved in the charter application and authorization process (subdimension 1.1). The correlation between the accountability dimension and that subdimension is 0.23. Substantively, these results show that as flexibility increases state laws also tend to demand more accountability, although only weakly.

Table 5. Factors Affecting the Degree of Flexibility and Accountability in State Charter School Laws

| | Flexibility Models | | Accountability Models | |
|-------------------------------------|---------------------|---------------------|-----------------------|-------------------|
| | Model 1 | Model 2 | Model 3 | Model 4 |
| <i>State Politics</i> | | | | |
| Government ideology (100 = liberal) | -0.005* (0.003) | -0.01** (0.004) | 0.01 (0.01) | 0.01 (0.01) |
| Governor is Republican | | -0.24 (0.16) | | 0.18 (0.54) |
| Republican % in state legislature | | 0.0003 (0.01) | | -0.01 (0.01) |
| Percent of public sector unionized | -0.01*** (0.003) | -0.01*** (0.003) | 0.004 (0.01) | 0.001 (0.01) |
| <i>State Context</i> | | | | |
| Years since first charter law | 0.004 (0.02) | 0.002 (0.02) | 0.09 (0.05) | 0.10* (0.06) |
| Charter law has been revised | 0.23** (0.11) | 0.26** (0.11) | -0.46 (0.28) | -0.50* (0.29) |
| Percent white school-aged children | 0.004 (0.003) | 0.005 (0.004) | -0.005 (0.01) | -0.004 (0.01) |
| Percent state population in poverty | -0.01 (0.02) | 0.01 (0.02) | -0.02 (0.06) | -0.04 (0.07) |
| State population | 0.03*** (0.01) | 0.03*** (0.01) | -0.002 (0.03) | 0.001 (0.03) |
| Model constant | 3.50*** (0.52) | 3.46*** (0.51) | 3.33*** (1.37) | 3.90*** (1.33) |
| F-test | 12.93*** | 8.84*** | 0.69 | 0.66 |
| R ² | 0.47 | 0.50 | 0.07 | 0.08 |
| Adjusted R ² | 0.42 | 0.43 | -0.03 | -0.04 |
| Number of clusters | 39 | 39 | 39 | 39 |
| N | 77 | 77 | 77 | 77 |

Note: * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$, two-tailed tests are reported. Model coefficients and robust standard errors in parentheses. The dependent variable in the flexibility model is our dimension 1 from Table 3. It ranges from 1 (law provides low flexibility) to 5 (law provides high flexibility). The dependent variable in the accountability model is our dimension 2 from Table 2. It ranges from 1 (law requires low accountability) to 5 (law requires high accountability). Models are OLS regressions run with clustered robust standard errors in Stata 8. States with multiple revisions appear more than once in our dataset. Thus, observations are clustered by state to account for these repeated observations.

From our point of view, this is remarkable in that one might expect a highly negative correlation. If a state were strongly committed to promoting the development of charter schools, the easiest way to achieve that goal would be to demand little accountability—"let charters off easy"—while providing significant flexibility. The study of accountability by Hill et al. (2002, pp. 5–11) theorized that

Table 6. Factors Affecting the Number of Charter Schools Open in a State, 2002–03 School Year

| | Model 1 | Model 2 | Model 3 | Model 4 |
|-------------------------------------|---------------------|-----------------------------|---------------------|--------------------|
| <i>Charter Law Dimensions</i> | | | | |
| Dimension 1. Flexibility | 0.53 (0.49) | 0.36 (0.48) | | |
| 1.1 Application and authorization | | | 0.94*** (0.18) | 0.95*** (0.17) |
| 1.2 Local oversight | | | 0.27** (0.14) | 0.30** (0.12) |
| 1.3 Fiscal support | | | -0.06 (0.10) | -0.11 (0.10) |
| 1.4 Employees | | | -0.12 (0.19) | -0.29 (0.18) |
| Dimension 2. Public Accountability | 0.19 (0.15) | 0.27* (0.15) | 0.22* (0.12) | 0.31*** (0.11) |
| <i>State Politics</i> | | | | |
| Government ideology (100 = liberal) | -0.015** (0.006) | -0.005 (0.01) | -0.011** (0.005) | 0.001 (0.01) |
| Governor is Republican | | 0.27 (0.35) | | 0.63** (0.24) |
| Republican % in state legislature | | 0.03 [†] (0.02) | | 0.02** (0.01) |
| Percent of public sector unionized | 0.004 (0.01) | 0.01 (0.01) | -0.01 (0.01) | -0.02 (0.01) |
| <i>State Context</i> | | | | |
| Years since first charter law | -0.21*** (0.07) | -0.22*** (0.08) | -0.26*** (0.05) | -0.24*** (0.05) |
| Charter law has been revised | 0.88* (0.46) | 1.19** (0.46) | 0.80** (0.34) | 1.22*** (0.34) |
| Percent white school-aged children | -0.01 (0.01) | -0.02 (0.01) | -0.01 (0.01) | -0.01 (0.01) |
| Percent state population in poverty | -0.08 (0.07) | -0.03 (0.08) | -0.05 (0.05) | -0.04 (0.05) |
| State population | 0.10*** (0.03) | 0.09*** (0.03) | 0.10*** (0.02) | 0.10*** (0.02) |
| Model constant | 3.17 (2.10) | 0.82 (2.40) | 1.07 (1.56) | -1.02 (1.65) |
| Alpha | 0.58 | 0.53 | 0.28 | 0.21 |
| Model chi-square | 48.33*** | 51.84*** | 73.36*** | 82.38*** |
| Pseudo R ² | 0.12 | 0.13 | 0.19 | 0.21 |
| N | 39 | 39 | 39 | 39 |

Note: * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$, two-tailed tests are reported. The dependent variable in each model is the number of charter schools open in a state. For dimension 1 and its accompanying subdimensions, values range from 1 (law provides low flexibility) to 5 (law provides high flexibility). For the dimension 2, values range from 1 (law requires low accountability) to 5 (law requires high accountability). Models are negative binomial regressions run in Stata 8.

school accountability would first link flexibility with internal school accountability, which would then be linked to external accountability (which is called "public accountability" in our coding). If states only required internal accountability, the critics of charter schools might be justified solely on these grounds. Opponents of charter schools have tried to emphasize the lack of public accountability as grounds for curtailing or eliminating charter schools; yet our results in Table 4 suggest that those states providing the greatest flexibility are, in fact, requiring the relatively more public accountability.

Our finding on the relationship between our two main dimensions helps to clarify some of the value debates that have surfaced in the charter context. For example, Wells (2002) argues that charter schools are considerably less accountable than other public schools in CA. Although we do not necessarily subscribe to her characterization of CA's situation, she does address a relevant question about the inconsistency of external accountability in practice. What we find is that the most flexible laws tend to be those with the most provisions for accountability. In other words, if public accountability is indeed a problem in charter schools, it is not because of the laws themselves, but rather how policymakers implement them.

Factors Affecting the Content of Charter School Laws

Table 5 reports the results of our regressions that examine factors influencing the design of charter laws (hypotheses 1 through 6). Models 1 and 2 use the overall flexibility score as their dependent variable and models 3 and 4 predict the state's score on public accountability. Model 1 supports our first hypothesis regarding ideology and flexibility: More conservative governments yield more flexible laws ($\beta = -0.005, p < 0.10$). Partisan factors did not appear to have statistically significant effects.

The public sector union measure suggests some interesting political dynamics within the states. Models 1 and 2 show that a larger union presence is strongly associated with less flexibility ($\beta = -0.01, p < 0.01$), as expected, but not with greater accountability. In model 2, the percentage of the public sector that is unionized has the expected negative influence on flexibility ($\beta = -0.01, p < 0.01$). The effect size is only marginally smaller in magnitude than the influence of government ideology ($\beta = -0.01, p < 0.05$). Overall, these findings suggest that more conservative state legislators and the unions may act as counterweights in shaping the flexibility of charter school laws.

We find some support for hypothesis 5 (more at-risk students lead to greater flexibility) but no support for hypothesis 6 (more at-risk students lead to less accountability). Larger states, which have larger at-risk student populations, are very likely to have more flexible laws ($\beta = 0.03, p < 0.01$), but there is no difference for accountability.

Interestingly, the largest effect on both flexibility and accountability stems not from state context (as we measure it) or from partisan pressures, but rather from revising charter school laws. Our results indicate that when state governments revise their charter school laws, they increase flexibility (models 1 and 2; $\beta = 0.23$

and 0.26 respectively, $p < 0.05$) and soften accountability requirements (model 4; $\beta = -0.50, p < 0.10$). In other words, revisions to state laws seem to facilitate the charter school concept, perhaps at the expense of holding them accountable.

Factors Affecting the Number of Charter Schools Open

What difference do these state charter laws make on the formation of charter schools? In Table 6, we analyze the effect of laws on charter formation using two separate groups of models. Models 1 and 2 are general models that include our overall flexibility measure and our overall public accountability measure. Models 3 and 4 permit us to look "inside" the flexibility scale and note which subdimensions of flexibility are most important for charter school growth. We find strong support for hypothesis 7 (flexibility) and support for a revised hypothesis 8 (accountability). Our control variables also suggest interesting results.¹¹

Models 1 and 2 appear to indicate that flexibility has no statistically significant effect on the number of charter schools in the state, although the sign on the coefficient suggests that greater flexibility leads to more charter schools. When we look at the subscales in models 3 and 4, however, the results are more clear: Ease of application and authorization processes and more local oversight are strong predictors for the number of charter schools in a state. The coefficient on subscale 1.1, application and authorization, is triple any other coefficient among the subscales of flexibility. This indicates that if there are multiple charter school authorizers, schools are likely to open even without specified financial support (subdimension 1.3) and regardless of who hires employees (subdimension 1.4). Considering model 4 as an example, a one-standard-deviation increase in the flexibility of application and authorization predicts an increase of almost 16 schools.

What seems to matter less for charter formation is the degree of flexibility associated with the hiring of employees. Although we have no strong evidence to explain this finding, we do offer one conjecture, which we would encourage other researchers to consider. The lack of a statistically significant finding may illustrate the presence of relatively strong demand from teachers who prefer to work in the charter school context. In other words, state laws governing employment in charters, regardless of how much flexibility they provide, do not appear to promote or hinder charter school leaders as they recruit staff, which may due in part to teacher enthusiasm for the charter concept.

Public accountability offers a surprise. Contrary to our expectations in hypothesis 8 and to many critics of charter schools who see them as ways to circumvent accountability, more schools are likely to open as accountability becomes stricter. That finding holds across three of the four model specifications in Table 6. A number of explanations are possible. Charter school operators may well consider a state's accountability requirements as simply a fixed cost that does not influence their decision to start a school. It may also be that the idea of charter schools implies a specific, contractual accountability standards, and therefore, they respond to the challenges of stricter state laws. This finding also suggests that

charter school operators know the scrutiny they will face, fulfilling one of the choice theorists' goals for market-based education: transparency.

Unlike the content of state laws, partisanship *does* appear to influence the number of open charter schools. Having a larger number of Republicans in the legislature is slightly associated with more schools ($\beta = 0.02$, $p < 0.05$), but a Republican governor is highly influential ($\beta = 0.63$, $p < 0.05$)—a finding obscured by the ideology measure. (The ideology variable by itself confirms this trend: More liberal governments yield fewer schools). The high-profile support of charter schools by many Republican governors, even in Democratic-leaning states, may convince potential charter operators to apply to open a school.

Consistent with the arguments of charter school advocates, our results in Table 6 strongly suggest that charter schools are emerging in challenging educational environments. Specifically, we find that as the percentage of white students in a state increases, fewer charter schools are likely to form. This suggests that charters may serve larger proportions of minority students. We also find that charters are more likely to form in larger states where educational needs may be the greatest.

We again find strong and significant effects stemming from law revision ($\beta = 1.22$, $p < 0.01$ in model 4). Consistent with our previous explanation, state legislators appear to have tailored revisions to the needs of charter entrepreneurs. Controlling for the years that states have had charter laws, states that revised their laws had an expected addition of 23 charter schools when holding all other variables at their means.

Conclusion

We believe that our analysis provides persuasive empirical evidence that charter school laws embrace different constellations of values, and that those values have real impacts on charter openings. Overall, our results have at least two specific implications for policymakers and charter school operators in the field.

First, we would encourage elected officials who craft charter school laws to think carefully about the value tensions that their compromises sometimes embrace. Public policy scholars have long urged these officials to consider the challenges that value tensions enacted into law can create for policy practitioners (Majone, 1989; Pressman & Wildavsky, 1984; Tyack & Cuban, 1995). We echo those views. When state elected officials write charter school laws, they should remember that embracing flexibility and accountability, two worthy values, may foster challenging conditions for charter school operators but may also support good public policy. It appears that elected officials have responded to some needs of charter school operators as they have revised their laws. Optimistically for charter school operators, our results in Table 5 suggest that as state officials have made these policy changes, they have tried to recalibrate the emphasis they place on flexibility and accountability. Our results strongly suggest that incremental change in charter laws has favored the schools by reducing additional accountability requirements and increasing the flexibility of operation. There is no insidious plot

here: The initial charter laws were subject to high-profile debates well in view of the public. Once this public scrutiny passed, laws could be adjusted to incorporate the experience (or non-experience, in some states) of charter schools.

Second, we believe our results help explain the varying growth in charter schools across states. First, they illustrate the importance of the application and authorization components of state charter school laws. That factor proved to be an impressively strong predictor of the number of charter schools open in the states. Local oversight was also important, but lagged behind the application and authorization issues that we analyzed. Because application and authorization carries such weight, we would advise state leaders who craft new charter laws or modify existing ones to give it careful consideration.

We found that political context was a key variable in the expansion of the number of charter schools. State with more conservative ideologies and Republican governors and legislatures had greater increases in charter schools. Undoubtedly this political mix worked in tandem with the amendment process that made it easier for entrepreneurs to apply for, and districts to authorize, charter schools even as they faced lesser accountability.

The early controversies over charter schools appear to have convinced legislators and governors that their laws needed to emphasize the two core values of charter schools: accountability in return for flexibility. Once lawmakers opened this door, however, it appears that low-profile interest group lobbying combined with partisan politics successfully changed the policy narrative. As states revised their laws, charter schools gained both more flexibility but were excused from elements of accountability.

If nothing else, charter school policy highlights both the value tensions that accompanied the creation of charter laws and also the importance of subsequent incremental change. In states' first attempts, lawmakers stressed flexibility and accountability. A good thing, we think. Neither did partisanship seem to matter. Revisions to those laws led to *increased* flexibility and *reduced* accountability, however. Those factors, in concert with Republican politics, led to relatively larger numbers of charter schools.

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Notes

1. The data are available at ICPSR as study 1208, and online as <http://webapp.icpsr.umich.edu/cocoon/ICPSR-STUDY/01208.xml>.
2. In 2006, Republicans in the Arizona legislature passed a voucher bill, but it was vetoed by Democratic governor Janet Napolitano.

3. The logic of the NCLB's improvement provisions for schools not making yearly progress for several years also suggests as much by offering conversion to charter status as a reform option.
4. The District of Columbia also has a charter school law. We omitted it because its political situation is unique.
5. A comprehensive and thoughtful study of charter school accountability is the recently published work by Hill, Lake, and Celio (2002). That study is based on 17 case studies of accountability in charter schools in six states, other evidence from 150 charter schools, and the use of a national survey of charter schools conducted by RPP International in 1998.
6. Our coding effort actually included one other variable of interest that captured the extent to which state charter school laws addressed aid for students with disabilities. Through our scaling analysis, we found that this variable did not scale comfortably with our primary dimensions of flexibility and accountability. We recognize, though, that who is responsible for providing services to disabled students is a potentially important factor in the menu of school expenses (and thus budgetary flexibility) that charter schools, and regular public schools, must address. In the course of our analysis, however, we did find it interesting that state charter school laws contain very little discussion of the requirements charter schools must follow when they determine whether to admit students with disabilities.
7. More details are available from the authors.
8. The major teacher unions, the National Education Association (NEA) and American Federation of Teachers (AFT), do not make state-by-state membership numbers readily available. The problem is compounded by the fact that in some states, union membership is essentially a by-product of employment. Even recent work (Plutzer & Berkman, 2004) measures union strength with membership data from 1987, which was the last time the U.S. Department of Education included a union-membership question in a publicly released survey.
9. The data are available at <http://www.unionstats.com>. We thank an anonymous reviewer for this suggestion.
10. We did examine the difference between right-to-work and collective bargaining states but found no meaningful relationships. That finding is consistent with the work of other researchers who note that unions can have influence even without these formal legal protections (Moe, 2006).
11. Given the low sample size ($N=39$) and relative large number of independent variables, we run a potential risk of over-fitting these models (Greene, 2000). Despite this possibility, our results remained relatively stable even as we experimented with additional independent variables.
12. We experimented with including school responsibility for disabled students in our two primary dimensions and several of our subdimensions of flexibility, but we were unable to obtain a satisfactory Cronbach's alpha statistic. We have included the measure here to make our coding fully transparent and because disability issues carry significant, real-world implications for charter school operators and the public officials who craft charter school laws.

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Appendix: Coding Rules and Examples

In this appendix, we do two things. First, we list the complete set of variables that we used to code state charter laws for flexibility and public accountability. Second, we include some illustrative examples to show how we employed our coding rules. The full coding sheet is available upon request.

Dimensions

Dimension 1. Flexibility

- 1.1. Authorization: School cap; school types (new or conversion); charter holders; number of first-application authorizers; local support for opening; and maximum charter contract years.
- 1.2. Local Oversight: Appeals process for denial; rules waived; waiver authority; and disabled-student responsibility.
- 1.3. Fiscal Support: Type of facilities funding; buildings available for occupancy; and source of school funds.
- 1.4. Employee Issues: Teacher certification requirements; teacher tenure availability; teacher employer; and ability of teachers to transfer into a school.

Dimension 2. Accountability: Charter renewal requirements; performance reports required; and state standard requirements.

Dimension 3. Disability Requirements¹²: Is charter or district the LEA for federal purposes?

Samples of variable coding rules and specific examples of use

All of these examples come from the subscales of our flexibility dimension. For each variable, a 1 indicates the lowest amount of flexibility and a 5 indicates the highest.

Appeals process (from subdimension 1.2 Local oversight)

If a charter is denied, what appeal process exists in law? Codes: (1) no appeal permitted according to statute. (2) appeal to court system or voters in the district. (3) resubmission to charter authorizer only. (4) an authorized appeal board can review chartering decisions but may only remand the decision. (5) an authorized appeal board can force chartering (or will authorize the school itself).

State example of 1 (Delaware, Title 14, sec. 511(k)): "If an application is made to the Department or a local board as an approving authority and the charter application is not approved, such decision shall be final and not subject to judicial review."

State example of 2 (Utah, 53A-1a-505(2)(c)): "The state board's action under Subsection (2)(b) [approval of a charter school] is final action subject to judicial review."

State example of 3 (Kansas, 72-1907(b)): "The decision to nonrenew or revoke a charter is not subject to appeal; however, the charter school authorities may renew procedures for authority to operate a charter school."

State example of 4 (Nevada, 386.525.4 and 5): "If the board of trustees denies an application after it has been resubmitted pursuant to subsection 3, the applicant may submit a written request to the subcommittee on charter schools created pursuant to NRS 386.507 . . . to direct the board of trustees to reconsider the application. . . . [525.5] If, upon reconsideration of the application, the board of trustees denies the application, the applicant may . . . appeal the final determination to the district court."

State example of 5 (Pennsylvania, XVII-A-1717-A(H)): "A decision by the appeal board under this subsection or subsection (G) to grant, to renew or not to revoke a charter shall serve as a requirement for the local board of directors of a school district or school districts, as appropriate, to sign the written charter of the charter school."

Teacher tenure (from subdimension 1.4 Employee issues)

Are teachers in charter schools eligible for tenure (or equivalent)? Codes: (1) yes, service counts toward tenure rights for all newly-hired and teachers on leave. (2) yes, but service count only if a teacher is later employed in a traditional public school. (3) tenure issues are specified in the charter or teacher contract. (4) no, but time does count for teachers on leave from a traditional public school (not for newly-hired teachers). (5) No tenure rights in charter schools.

State example of 1 (Idaho, Ch. 52, Title 33-5206(3)): "Certified teachers in a charter school shall be considered public school teachers. Educational experience shall accrue for service in a charter school and such experience shall be counted by any school district to which the teacher returns after employment in a charter school."

State example of 2 (Connecticut, 10-66dd(c)): "A school professional who is . . . employed for forty school months of full-time continuous employment by the charter school and is subsequently employed by a local or regional board of education shall attain tenure after the completion of twenty school months of full-time continuous employment."

State example of 3 (Hawaii, 302a-1187): "The employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees shall be determined by the [charter school] and applicable personnel laws and collective bargaining agreements."

State example of 4 (Illinois, 27A-10(b)): "The contractual continued service status and retirement benefits of a teacher of the district who is granted a leave of absence to accept employment with a charter school shall not be affected by that leave of absence."

State example of 5 (Indiana, 20-5.5-6-10(b)(2)): "The teacher's years as a charter school employee shall not be considered for purposes of permanent or semipermanent status with the school corporation."