

THE CENTER FOR MEDIA AND DEMOCRACY'S

PRWatch

New Documents Show How Taxpayer Money Is Wasted by Charter Schools —Stringent Controls Urgently Needed as Charter Funding Faces Huge Increase

A CMD Reporters' Guide

By Jonas Persson (May 8, 2015)*

"The waste of taxpayer money—none of us can feel good about," Education Secretary Arne Duncan told the Appropriations Subcommittee on Labor, Health & Human Services and Education just last month.

Yet, he is calling for a 48% increase in the U.S. Department of Education's (ED) quarter-billion-dollar-a-year (\$253.2 million) program designed to create, expand, and replicate charter schools—an initiative repeatedly criticized by the Office of the Inspector General (OIG) for suspected waste and inadequate financial controls.

CMD's review of appropriations reveals that the federal government has spent a staggering sum, \$3.3 billion, of taxpayer money creating and expanding the charter school industry over the past two decades, but it has done so without requiring the most basic transparency in who ultimately receives the funds and what those tax dollars are being used for, especially in contrast to the public information about truly public schools.

Although some charters have a veneer of being alternative "public schools," many of them are run by for-profit companies or outsource key operations to for-profit firms, and are exempt from any local democratic control.

These billions have been funneled to charters through a patchwork of state laws often designed to *prevent* government agencies from exercising control over how that money is spent by charters or to *exempt* charters from rules that apply to traditional public schools, including enforceable sunshine rules on spending tax money.

This lack of oversight is a recipe for disaster for far too many American school children, and for taxpayers, when large chunks of the money end up either missing in action or in corporate charter school coffers.

Federal charter school funding has expanded 60-fold since its inception in 1995, and—despite statements by ED and others of regret regarding enormous amounts squandered by incompetent or greedy charter school operators—very little has been done by the government to require strong financial controls to protect the educational opportunities of kids attending charters and to protect our tax dollars from rip-offs and waste.

New open records material obtained by the Center for Media and Democracy reveals major gaps in the law allowing waste and fraud that will surely continue unless and until tough controls by government (not just asking private entities to do more to police themselves and their allies) and real transparency are required by Congress as a condition for access to funds disbursed to expand the charter industry.

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1. New Finding: The U.S. Government Has Spent \$3.3 Billion on Charters since 1993

The Center for Media and Democracy, a national non-profit investigative watchdog group, launched a review of how U.S. tax dollars are being spent by the charter school industry, in light of news reports of numerous criminal indictments for fraud of charter school operators.

Especially troubling were the findings of the Center for Popular Democracy's April 2015 review, showing how criminal misuse in 14 states and Washington D.C. has cost taxpayers at least \$203 million—a figure, they conclude, that might be “just the tip of the iceberg.”¹

That's a huge sum but there's a lot more that is unknown about how federal tax dollars are spent by charters.

CMD calculates that in the past twenty years the U.S. has spent \$3,352,841,281 specifically for charter school development, with many millions more in grants that have flowed to charters (see appendix).²

How did so much money get spent without more people realizing it? Created as an amendment to the Elementary and Secondary Education Act (ESEA), the Charter Schools Program has seen an almost 60-fold increase in the past twenty years: from \$4.5 million awarded in 1995 to \$253 million in the last fiscal year. Congress is considering a FY 2016 budget for charters under the ESEA of \$375 million, an increase of 48%.³

This sweeping expansion, under the banner of bipartisanship, is surprising given the fact that academic studies—independent of charter school advocates and its industry—have consistently found mixed results in terms of charter schools and learning outcomes.

And even the most glowing reports funded by school privatization interests have had to admit that the worst charter schools perform much worse than any traditional public school.⁴

Some charter operators have siphoned funding for their own benefit by locating schools in strip malls⁵ and other inappropriate locales, including even letting the school double as a nightclub after hours.⁶

Despite these findings and numerous examples of abject failure of particular charter schools, many policymakers have bought into the PR that charters are a panacea for “reforming” traditional public schools.

Yet, as Professor Diane Ravitch has shown empirically, the notion that public schools are failing is not true.⁷ And, anti-regulatory charters that evade public accounting about spending tax dollars are not the solution.

¹ http://populardemocracy.org/sites/default/files/Charter-Schools-National-Report_rev2.pdf

² In addition to the seven CSP grants awarded to start, expand, and replicate charter schools, there are other grant streams in which charter schools are a major component. The \$505.8 million School Improvement Grants (SIG), for example, are awarded to help SEAs to “turn around” low-performing public schools by either converting them into charters, firing the principals, and/or imposing draconian teacher evaluation systems that do not account for socio-economic factors affecting test scores.

³ <http://www2.ed.gov/about/overview/budget/budget16/summary/16summary.pdf>

⁴ Even the authors of a 2015 study by the Center for Research on Education Outcomes at Stanford University—funded by the Walton Foundation, which in 2014 spent \$202.4 million on school privatization—were forced to admit that there are many “urban communities in which the majority of the charter schools lag the learning gains of their TPS counterparts, some to distressingly large degrees.”

<https://urbancharter.stanford.edu/download/Urban%20Charter%20School%20Study%20Report%20on%2041%20Regions.pdf>

⁵ <http://www.nydailynews.com/new-york/bronx/new-charter-school-built-site-old-strip-club-port-morris-midst-heavy-truck-traffic-article-1.1330542>

⁶ <http://www.miamiherald.com/news/special-reports/cashing-in-on-kids/article1938616.html>

⁷ “NAEP data show beyond question that test scores in reading and math have improved for almost every group of students over the past two decades: slowly and steadily in the case of reading, dramatically in the case of mathematics.” *Reign of Error: The Hoax of the Privatization Movement and the Danger to America's Public Schools*, p. 53.

2. New Finding: What ED Doesn't Know about Charter Schools Spending Is Stunning

In late 2014, CMD submitted a total of 33 Freedom of Information Act requests to ED for information about how taxpayer money was being spent and monitored since 2007, covering some of the expenditures under both Republican and Democratic presidencies and congresses.

Only a handful of those FOIA requests have been fully responded to by ED, but those responses shed new light on how widespread the problems are with how charter school money is being managed—or, more accurately, mismanaged and not adequately monitored by federal and state government oversight agencies.

Notably, ED could not provide the public with a current list of all the state authorizers of charters, and it has never published a record of which charter schools received federal tax dollars, because it does not track that information at all, apparently. Its charter school rep urged CMD to contact a private organization, the National Association of Charter School Authorizers (NACSA)—which has no obligation to provide such information—to obtain a list of the authorizers approved to redirect American taxes.

But NACSA is a private association that only oversees around “half of the nation’s 6,000 charter schools.” It has no governmental authority over charter school authorizers in the states that operate largely outside of control by State Education Agencies (SEAs). And many of those “authorizers” in the states would likely say they are not required to disclose details of how federal dollars flow.

Even if all those entities were required to provide the official names of all charter schools ever authorized (and who was legally responsible for each of them), they appear to have no legal requirement to promptly disclose to the public any charters de-authorized or privately sanctioned by them and the reason why. And, the authorizers in states are apparently not obligated to tell the American people how much money each charter school received from federal and state tax dollars or how that money was really spent.

This is a recipe for disaster—with no way to track taxes spent or wasted by *literally* countless charter schools.

Little is known about how tax dollars are spent with the black-box funding for all charters, including:

- 1) how much tax money each charter received each school year;
- 2) how much was spent on executive compensation at each charter school;
- 3) how much was spent on teachers or on salaries relative to experience or credentials;
- 4) how much went directly into the classroom; and
- 5) how much was spent on for-profit contracts (outsourcing accounting, cleaning, or food services, etc.) with firms that might be closely connected to charter school executives or unaccountable to the public.

The Bottom Line: no one actually tracks the list of charter schools that received federal tax dollars to open, expand and/or replicate charter schools, how much they received, or how they spent the people’s monies. Each link in the chain can point to someone else who may have parts of that data but who likely has no obligation to publish that information for the public to understand, although what can be gleaned varies by state. That is, **there is no systematic public accounting for how the federal budget allocated to charters is actually being spent, and not even a reliable per-pupil/per capita figure.** And the devil really is in the details.

2.A. What Is Known about How Some Charters Spend U.S. Tax Dollars Is Deeply Troubling

What *is* known about the resource allocation in charter schools vis-à-vis traditional public schools paints a **very troubling picture**, as demonstrated most starkly by CPD’s report on criminal fraud in charter schools.

However, fraud is just one of the major problems in the lack of adequate controls over how Americans’ taxes are being spent in the charter industry. A 2012 study by the National Center for the Study of Privatization in Education at Columbia University found that **charter schools spent “nearly \$800 more per pupil per year on administration and \$1100 less on instruction.”**⁸

Beyond “administration,” how much is being spent converting public money into private assets through purchasing real estate or using Real Estate Investment Trusts (REITs), or in other ways that benefit private parties rather than the students, is not known.

And, money that should be spent on America’s school children is being spent on other “priorities.” CMD obtained a 2014 draft audit of federal charter school money in New York State, for example, that found that “[o]ne subgrantee used funds to represent the school in lawsuit proceedings related to its sister campus.”

These are just a handful of items that go to the heart of basic accountability, beyond educational performance, that the American people should have a right to know.

The reality is that the patchwork system that has been created to allow such a massive influx of cash to be spent ostensibly on educating America’s children is riddled with black holes where Americans’ taxpayers are being unaccountable lost—even short of criminal fraud—and which leaves American school kids shortchanged in the education they need to thrive.

Many of the gaps through which millions have passed unaccountably have been intentional, resulting from ideological opposition to state oversight over charters that operate like private, not public, schools.

3. New Finding: Audit and New Open Records Show Ongoing Lack of Accountability

CMD’s review of FOIA responses to date has identified an array of specific serious problems that would cause any responsible policymaker or concerned citizen of any political party to call for a moratorium on any new funding for expanding charters until these problems are genuinely redressed.

In fact, in 2010, following President Obama’s reauthorization of ESEA, ED published a blueprint,⁹ pledging that charter schools receiving funding under the CSP program would be held to even higher standards of accountability than traditional public schools.

But a damning 2012 OIG audit¹⁰ showed how both the Department and the SEAs have starkly failed to do so.

Documents from the audit and open records requests also show that when faced with the conflict between ED’s pledges to hold the industry accountable, and the reality on the ground—the agency has often deferred entirely to the states. Moreover, the documents illustrate that there is a systemic failure in that federal grants are tied to states holding charter schools and authorizers accountable, and yet, charter schools and school authorizers are often exempt from accountability by design.

⁸ http://www.ncspe.org/publications_files/OP201.pdf

⁹ <http://files.eric.ed.gov/fulltext/ED514177.pdf>

¹⁰ http://www.sourcewatch.org/images/5/55/OIG_2012_audit.pdf

Here are some details from the audit and, as CMD-obtained documents reveal *infra*, not much has changed.

- **California’s SEA, as of 2013, had captured “very little information about the status, progress, or fiscal responsibilities of the monitored schools.”**
- Additionally, **the charter schools it was reviewing were chosen not based on whether the schools had problems or potential problems but “based on staff preference for geographic location.”**
- “California did not monitor authorizing agencies because they had no authority to do so.”
- **More than half of the staff** the California SEA assigned to review charters **“were unqualified to conduct onsite monitoring of charter schools”** (e.g., no fiscal monitoring experience).

Similarly, email communication from 2014 between the Charter School Office at the New York State Education Department and WestEd—a company contracted by ED to monitor how states implement federal charter school grants—reveals that the problem of biased school selection is endemic. Faced with a an on-site audit, the NY state officials recommended that WestEd visit six schools, not based on any suspected problems there, but because they were “logistically friendly from a travel perspective.” WestEd accepted this rationale.

In the case of closed charters the lack of financial controls for federal dollars was absurd, as exposed by the 2012 OIG audit:

- ⇒ **“In some cases, the closed schools received SEA grant funds without ever opening to students.”**
- ⇒ “The school files had **no follow-up documentation for any of the 12 closed schools reviewed.**”
- ⇒ **“No indication of what happened to any of the assets purchased with SEA grant funds.”**
- ⇒ **“California was able to provide the status for only 5 of the 12 closed schools’ assets.”**

Amid concerns that ED still cannot account for where the money goes when schools close down, the OIG launched a “Nationwide Audit of Closed Charter Schools” in 2015, which is not completed.¹¹

Arizona had similar findings, including that the SEA was not monitoring the charter school authorizing agencies or the progress of the charter school sub-grantees. Arizona said it had no authority to monitor the state charter school authorizers and also it largely relied on the authorizers’ evaluations of progress.

Florida also “could not provide a reliable universe of charter schools that received SEA grants nor an accurate list of charter schools that received onsite monitoring, desk audits, or closed during the grant cycle.” And, like Arizona and California, the state had “[l]imited ability to ensure authorizers were approving and granting charters to quality charter schools and providing adequate monitoring to them after the opened.”

- **Florida “did not track how much SEA grant funds charter schools drew down and spent.”**
- “All funds received by charter schools were [reported as] drawn down . . . which made it **impossible to track funds received and spent**” nor could DOE “trace funds between the Florida SEA Charter School Division’s data and the Florida SEA Grant Management and Comptroller data.”

¹¹ See the OIG annual plan for FY15: <https://www2.ed.gov/about/offices/list/oig/misc/wp2015.pdf>

- Florida also **could “not determine the SEA grant funds disbursed to closed charter schools.”**
- **“None of the schools files had information showing what happened to any assets the school purchased with the SEA grant or if any . . . grant expenditures needed to be returned.”**

In sum, investigating charter school funds awarded to SEAs in Arizona, California, and Florida, and then sub-granted to individual charter schools, **the OIG discovered a nearly total lack of accountability:** states, as well as individual charter schools, were free to flout federal regulations without fear of losing federal grant money.

In response, ED held a training suggesting possible courses of action for SEA *if* no provisions of state law either “preclude or require” monitoring of authorizers. That is a pretty big “if,” after 20 years and over \$3 billion.

While audits and on-site visits were conducted on a regular basis by WestEd, OIG determined that **“WestED was not effective in determining whether SEAs were conducting effective oversight and monitoring.”**

In fact, a closer look at who helps underwrite WestEd raises some doubt about its ability to conduct effective and objective oversight of charter school spending. In 2014, **WestEd received a substantial part of its funding—\$3,457,786—from the Bill & Melinda Gates Foundation,**¹² which has pushed for an aggressive expansion of corporate charter schools. In addition, the composition of WestEd’s board of directors raises similar concerns about independence from the industry. Board member Steve Canavero, for example, **also serves as treasurer for NACSA (National Association of Charter School Authorizers), an organization with a track record of fighting against democratic oversight of charter school authorizers.**¹³

Yet even the findings WestED provided to ED were too often not acted on in any meaningful way by ED’s Office of Innovation and Improvement (OII), which is the central part of the federal education bureaucracy that aids the expansion of charter schools. As OIG noted:

“OII was unaware of whether grantees and sub-grantees took corrective actions ... the only corrective action it took was follow-up phone calls to grantees when monitoring reports identified ‘serious’ issues.”

A major concern raised by the OIG has to do with charter school authorizers—the charter boards, universities, and 501(c)(3) non-profit groups tasked with green-lighting and, ostensibly, with overseeing charter schools, but they have repeatedly told federal officials they have no legal authority to hold charters accountable:

- ⇒ **“None of the three SEAs we examined monitored the authorizing agencies responsible for granting charter school licenses and monitoring charter school progress ... without proper monitoring of authorizing agencies, SEAs have limited ability to ensure authorizers were approving and granting charters to quality charter schools and providing adequate monitoring to them after the opened.”**

As Inspector General Kathleen S. Tighe testified before the congressional Committee on Oversight and Government Reform in 2013:

“OIG has conducted a significant amount of investigative work involving charter schools. These investigations have found that authorizers often fail to provide adequate oversight to ensure that charter schools properly use and account for Federal funds.”

¹² <http://www.gatesfoundation.org/How-We-Work/Quick-Links/Grants-Database/Grants/2014/08/OPP1115155>

¹³ <http://www.qualitycharters.org/about-nacsa/board-of-directors/steve-canavero.html>

The fact that authorizers enjoy almost complete autonomy—not only from state regulations but also from public control through elected school boards—is a feature of the anti-regulatory environment in which charters have grown, rather than a bug.

For decades, a small group of millionaires and billionaires, like the Koch Brothers, have backed a legislative agenda to privatize public education in America. Lobbying groups funded by them, like the corporate bill mill ALEC (the “American Legislative Exchange Council”), have been pushing states to create and expand charter schools outside of the authority of the state public school agencies and local school boards, confining the state to limited oversight of whether authorizers have adequate policies, not over how charters spend tax dollars.

This includes pushing bills to “**stomp out local control**,”¹⁴ as stated by a member of ALEC’s Education Task Force—where corporate lobbyists vote with lawmakers on bills. How? The keynote speaker to the California Charter Schools Association in 2014, Netflix CEO Reed Hastings elaborated.¹⁵ By waging a war of attrition, he **hoped that elected school boards would be eliminated within 20 years.**¹⁶

In the light of all this, it is particularly worrisome that ED instead of keeping track of charter school authorizers its agents referred CMD to NACSA, which is a former ALEC member.¹⁷ Add to this the fact that ED contracts with a company with close ties to NACSA to conduct oversight of the billions spent on charters, and the picture becomes even more troubling.

3.A. Accountability? How “Overseers” Let Charters Off the Hook

CMD’s review of all of the state WestEd audits has found that the conflict between federal claims that SEA hold the authorizers and charter schools accountable and state laws barring them from doing so (or not expressly granting them power to do so), crops up time and again.

Examples include:

- ✓ **California:** *“The grantee does not monitor or hold accountable authorized public charter school agencies.”*
- ✓ **Florida:** *“Grantee noted that the money goes to the school and never the management company. [But the state DoE] do not have direct oversight.”*
- ✓ **Texas:** *“Area of concern: Authorizer accountability. The SEA has limited statutory or operational authority to monitor and hold accountable other authorized public chartering agencies to improve the capacity of those agencies to authorize, monitor, and hold accountable charter schools.” With the SEA’s hands tied, Texas got away with enrolling religious schools in the charter program, and with giving them federal money, as pointed out by West Ed: “The subgrant application requires that schools certify that they are non-sectarian, but at least one of the schools visited by the monitoring team was located on a church campus and had religious artifacts in the school’s entrance and library.”*

¹⁴ <http://www.progressive.org/news/2014/05/187687/alec-otherworld>

¹⁵ “[T]he fundamental problem with school districts ... is that they don’t get to control their boards ... Now, if we go to the general public and say ‘Here’s an argument why you should get rid of school boards’ of course no one is going to go for that. School boards have been an iconic part of America for 200 years. So what we have to do is to work with school districts to grow steadily.”

<http://www.washingtonpost.com/blogs/answer-sheet/wp/2014/03/14/netflix-reed-hastings-has-a-big-idea-kill-elected-school-boards>

¹⁶ Former Michigan governor and ALEC co-founder John Engler, who signed one of the most far-reaching charter school bills into law in 1994, admitted to the *Detroit Free Press* that state oversight was [not part of the plan](#): “the oversight is ultimately [by] the parent[s], just like it has always been.”

¹⁷ <http://www.republicreport.org/2012/charter-alec-quit/>

- ✓ **Indiana:** *“At the time of the monitoring visit, the State was unable to provide evidence that it had conducted monitoring.”*

Additionally, internal auditing records obtained by CMD under one of its FOIA’s explains what the “follow-up phone calls to grantees” entail.

After an October 2013 call to discuss the issue of authorizer accountability with the Texas SEA, the U.S. Department of Education’s Office of Office of Innovation and Improvement noted:

“Discussion topics included discussing potential technical assistance provided to authorizers and that **this finding is not telling Texas to change law but to address what they can do within the confines of the law to try and strengthen authorizing, monitoring, and holding charters accountable across the state**” (emphasis added).¹⁸

In other words, when the accountability standards Education Secretary Arne Duncan pledged to uphold in 2010 clash with the on-the-ground reality, the states need not fear punitive measures as much as a forgiving discussion by phone from DC.

Similarly, Arizona and Florida were let off the hook with homework assignments. For example, OII noted that **“Florida should provide a narrative describing their efforts as well as a brief summary of the authorizer activity outlined in their application and a timeframe for when that activity will begin, deliverables etc.”** No further sanctions were imposed, according to the audit files.

Surprisingly, the audit records betray a lack of understanding of precisely how autonomous and exempt from state oversight charter school authorizers are.

Here’s case in point: **the OIG insisted that Florida and Arizona laws do allow for SEAs to monitor authorizers.** But during post-audit conference calls between the state departments of education and OIG and Charter Schools Program staff, including Director Stefan Huh, it became clear that this was not the case.

In all, it would take two years before the OII responded in any meaningful way to the OIG findings, and it did so by taking regulatory action in October 2014.

In future grant applications, the OII writes, “the Secretary [will] consider the quality of the SEA’s plan—to monitor, evaluate, assist, and hold accountable authorized public chartering agencies.”

The vague phrasing and lack of real teeth, however, leaves plenty of leeway. **More importantly, it is flatly at odds with another criterion that will still be used when ED evaluates applications from SEAs: “flexibility offered by state law.” This rubric actually awards schools and authorizers that are exempt from state oversight.**¹⁹ Case in point: when Indiana applied for a SEA grant in 2010, one reviewer gave it the highest score on that rubric precisely because of the lack of accountability:

- **“Strengths: The applicant described the administrative relationship between the charter schools and authorizers in which schools are held accountable solely by their authorizer per Indiana state law. 30/30”**

¹⁸ See “Internal Report: Corrective Action Plan December 15, 2014” http://www.sourcewatch.org/images/0/0d/CAP_for_Audit_Split.pdf

¹⁹ The rubric also penalizes states that cap the number of charter schools, states requiring certified teachers, and states that do not offer “flexibility in personnel hiring and firing.” Also, states with unionized charter school teachers are given consistently lower ratings: **“Weaknesses:** Flexibility for NY’s charter sector is limited by a unionized workforce,” the reviewer points out in his/her feedback on a 2011 application from New York State.

Nevertheless, charter school associations and state departments of education inundated the OII with public comments to the effect that the new accountability rule—which to a certain extent would codify what Arne Duncan had pledged but never enforced four years earlier—was anathema to the very idea of charter schools.

3.B. Meanwhile Charter Schools Use Their Growing Power to Push Back on Controls

The following snapshot from public comments²⁰ reveals how the charter school industry—aided and abetted by public and private charter advocates—has reacted to federal efforts to seek more accountability:

- ✓ **The California Department of Education:** “*We strongly recommend that Selection Criteria (g) [i.e. “Oversight of Authorized Public Chartering Agencies”] be removed from the requirements or given a very low value in the scoring process.* This criterion assumes that authorized public chartering agencies are providing inadequate or ineffective oversight and that SEAs have the statutory authority to monitor, evaluate, and hold accountable the public chartering agencies.”
- ✓ **The National Association of Charter School Authorizers** argued that states with “high-quality” authorizers should not be required to exercise any oversight of these: “Quality authorizer oversight in this context may be limited to transparent reporting by the authorizers on their practices and the quality of their portfolios ... with little direct involvement from the state in the authorizers’ work.”
- ✓ **Ohio Department of Education:** “Ohio’s policy is grounded in the principle of autonomy [and] independence of action.” “Ohio strongly recommends that authorizer diversity, including the authorizer’s ability to apply its judgment and discretion to contracting decisions be regarded as a strength, not a deficiency.” **The system relies on “authorizers holding themselves accountable.”**
- ✓ The **Michigan Council of Charter School Authorizers** assured the OII that **state authorizers authorize themselves through a self-imposed accreditation system.** “This system improves accountability and authorizing practices while allowing authorizers to retain autonomy to make independent decisions.”
- ✓ The **Illinois State Board of Education** argued that **authorizer accountability should be downplayed;** instead the focus should be on a “diverse” team of players, including authorizers and for-profit management companies:

“The proposed rule appears to place primary focus on the strength of authorizers. While we think this is vital to the expansion of high-quality charter schools, we believe the primary focus should be on investing in charter development teams to plan and start new, innovative, and high quality public schools ... To the extent the final priorities, requirements, and selection criteria focus on the strength of authorizers, we would like to see them include how the SEA will work with all partners, including authorizers, to ensure that the pool of charter developers is diverse.”

- ✓ **National Alliance for Public Charter Schools:** The organization recommends “Revisions to authorizer oversight selection criteria that may impede the development of new, innovative charter school models.”
- ✓ **D.C. Public Charter School Board:** “We ask that the NPP be modified to allow PCSB to continue its successful practices, and, more broadly, to **provide authorizers flexibility in their approach to**

²⁰ The public comments are from <http://www.regulations.gov/#!docketDetail;rpp=100;so=DESC;sb=docId;po=0;D=ED-2014-OII-0019>

addressing important equity and fiscal issues. Moreover, we believe that adding school-specific objectives in these areas may infringe on charter school autonomy as well as create unnecessary reporting burdens on the schools.”

- ✓ **Charter Schools Development Center:** “First, the proposed priorities favor a very strong SEA role in driving both (1) statewide charter school strategy and (2) authorizer quality and oversight. This approach does not align to many states’ laws or context, including California’s, where the **state charter statutes were purposefully drafted to minimize the SEA’s role in the charter school sector.**” “[W]e suggest deleting this third priority in its entirety.”

The public comments—not to mention the quixotic attempts by federal officials to lecture SEAs on state law—illustrate a fundamental disconnect between the nearly annual pledges to hold charter schools and authorizers accountable to the public, and the reality on the ground.

Admittedly, a bipartisan 2015 bill to reauthorize ESEA—the Every Child Achieves Act—contains “incentives for states to adopt stronger charter school practices,” in the words of its co-sponsors Senators Patty Murray (D-WA) and Lamar Alexander (R-TN).²¹

The relevant section of the bill²² reads: “[SEA applications must include a description of how the State will] actively monitor and hold authorized public chartering agencies accountable to ensure high-quality authorizing activity, including by establishing authorizing standards and by approving, reapproving, and revoking the authority of an authorized public chartering agency based on the performance of the charter schools authorized by such agency in the areas of student achievement, student safety, financial management, and compliance with all applicable statutes.”

But federal “incentives” do not punish funds that have already been wasted, and neither can they change state law that has impeded access to information by agencies, so it remains to be seen how they could play out. Moreover, such rules by private charter entities still would not endure that *the public* has access to crucial data.

And, examples of charter school management organizations and their CEOs fighting tooth-and-nail against transparency and disclosure are legion.

For example, National Heritage Academies—a Michigan-based chain of 80 schools—refused to provide the New York State Comptroller with information on how it spent taxpayer money for a 2012 audit.²³ It was impossible, the Comptroller concluded, to know “the extent to which \$10 million of annual public funding benefited students.”

In Pennsylvania, charter school magnate Vahan Gureghian has repeatedly refused to comply with open records requests from the public, instead suing reporters for libel and seeking legislation that would exempt his school management company from the public records law.²⁴

²¹ http://www.help.senate.gov/imo/media/The_Every_Child_Achieves_Act_of_2015--summary.pdf

²² Sec. 1114(a)(1)(B). See http://www.help.senate.gov/imo/media/S_EveryChildAchievesActof2015.pdf

²³ <http://osc.state.ny.us/audits/allaudits/093013/11s14.htm>

²⁴

https://books.google.com/books?id=_YcIAAAQBAJ&pg=PA166&lpg=PA166&dq=%22vahan+gureghian%22+lawsuit+records+request&source=bl&ots=RZlqXsV9j7&sig=5OG5VoYuLPqqRPnokY3AwGh_kns&hl=en&sa=X&ei=c2MuVY7TFc7ZoASVg4GgCQ&ved=0CCcQ6AEWAQ#v=onepage&q=%22vahan%20gureghian%22%20lawsuit%20records%20request&f=false

3.C. Other Examples of How the Charter Industry Tries to Strong-Arm State Officials

CMD's open records requests to states have resulted in some illuminating exchanges illustrating how charters and their authorizers are flexing their muscle with state authorities in an effort to wrest even more power from the hands of politically accountable officials.

For example:

Utah: Last year, Bryce Adams, Senior Director of State Relations at the Connections Academy chain of online charter schools, exerted pressure on Utah school officials. When the state tightened its regulations by prohibiting schools from outsourcing their student records to third parties, Adams submitted a corporate line-by-line rewrite of the law. He also issued a warning: if the law is not changed, "student achievement" will suffer.²⁵ From 2012 to 2014, Utah Connections Academy received \$643,792 in federal funds, according to state receipts reports.²⁶

How much public money underwrote the Academy's lobbying—or that of other charter operators—to prevent regulation of how public money is spent is unknown.

New York State: When the payment for a CSP grant for a new charter school in upstate New York was delayed last year amid serious concerns that a school subcontractor owed more than \$25,000 in unpaid wages²⁷, the head of the school, Finn Academy, reached out to the State Education Department by phone, and became—in the words of an official—"abusive."²⁸

A supervisor had to tell her staff to "work via email only with HER." As if this were not enough, the Director of School Applications at the State University of New York's Charter School Institute, the school authorizer, emailed the Department "with a potentially annoying question." He wanted to get the ball rolling and the money to be paid out with no delay.²⁹

Finn Academy is still set to open its doors in August 2015, although the head of that charter has given assurances that the subcontractor in question will not be used.

Colorado: In 2013, Children's Kiva Montessori in Cortez, CO, was awarded a \$189,000 start-up grant under the federal CSP program. In October 2014, a former business manager at the school sounded the alarm in an email to the Colorado Department of Education: "**I'd like to pass-on some thoughts on what criteria you want to consider when evaluating future charter school applications: Does anyone directing the school actually have some knowledge about federal and state employment laws?**" he wrote. He then listed some of the violations he had encountered:

- "They had no means to actually process and pay a payroll. The CCSP Grant that had been approved is a reimbursement grant and they only had \$1,000 +/- in the bank.
- They had not applied-for a Colorado Tax ID.
- They had not applied-for a Colorado Unemployment Insurance Account.
- They did not have a PERA Account.

²⁵ "An LEA and third party service providers contracted by an LEA to perform duties normally conducted by the LEA are ~~is~~ the only entity entities authorized to collect and store public school enrollment verification records." Adams added that it was vital to "strike a balance between student privacy and school efficiency."

²⁶ The reports do not contain a breakdown of the different federal grants, but other Connections Academy schools have received hundreds of thousands in CSP grants. Michigan Connections Academy, for example, [was awarded](http://www.sourcewatch.org/images/2/2a/Connections_Academy.pdf) a \$305,000 Charter Schools Implementation grant in 2013. See http://www.sourcewatch.org/images/2/2a/Connections_Academy.pdf.

²⁷ http://www.sourcewatch.org/images/1/13/Streeter_Associates.pdf

²⁸ http://www.sourcewatch.org/images/9/92/Finn_Abuse.pdf

²⁹ http://www.sourcewatch.org/images/d/d9/Quick_question_NY_authorizer.pdf

- They did not have an Employers Liability (Workers Comp) Insurance Policy.”³⁰

The Grant Manager with the Colorado Department of Education replied that this “is not typical or appropriate,” and went on to send an email to the Colorado League of Charter Schools as “potential feedback ... to consider for your quality criteria document.”

The program manager with the Colorado League of Charter Schools wrote back, demanding that she “**rescind the statement ... ‘you are right that the arrangement you outlined below is not typical or appropriate.’**”

She went on to say that the business manager was let go for mismanagement, and that he was the one in charge of implementing the processes he complained of.

She later added: “some of this may not be out of the ordinary, especially depending on the exact wording that covers these areas contractually. **Charters are always so interesting!**”

Conclusion

Charters are more than “interesting.”

The anti-regulatory environment surrounding their operations and the lack of real consequences for a stunning array of unaccountable spending of public tax dollars are astonishing and must be reformed.

Congress has failed to require proper controls to allow taxpayers to find even most basic information about how charters are spending our money, which warrants a moratorium rather than increased charter funding.

³⁰ See email exchange: http://www.sourcewatch.org/images/c/cd/Colorado_Charter_Employment_Law.pdf

Appendix 1: Federal Tax Dollars Spent to Create and Expand Charter Schools

Year	CSP SEA Grants (New and Continuation)	CSP non-SEA	CSP non-SEA dissemination	CSP grants for replications and expansions	National Leadership Activities Grants	Charter School Exemplary Collaboration Awards	Credit Enhancement for Charter Schools Facilities Program	State Charter School Facilities Incentive Grants
2014				\$26,500,000				
2013	\$208,581,863		\$253,361				\$13,000,000	\$10,000,000
2012	\$183,833,559	\$6,098,584	\$318,941	\$14,415,612	\$1,914,881	\$618,243	\$11,035,836	\$12,000,000
2011	\$189,857,470	\$6,613,837	\$502,181	\$25,000,000	\$3,816,619		\$9,983,395	\$13,000,000
2010	\$166,112,995	\$6,380,417	\$374,727	\$50,000,000	\$3,577,233		\$8,300,000	\$14,782,000
2009	\$184,836,034	\$4,140,054					\$8,262,977	\$14,782,000
2008	\$175,346,562	\$6,505,401			\$5,305,972		\$8,300,000	\$12,731,000
2007	\$184,710,219	\$6,043,685	\$151,078		\$5,741,890		\$36,531,246	\$14,782,480
2006	\$186,083,634	\$8,525,680	\$295,190		\$7,244,000		\$36,611,190	\$14,782,480
2005	\$166,306,559	\$4,368,138	\$282,810		\$4,909,001		\$36,658,128	\$16,952,384
2004	\$183,718,121	\$3,186,956	\$129,820		\$5,027,492		\$37,278,750	\$18,702,000
2003	\$202,217,654	\$5,747,185	\$865,383		\$4,725,611		\$24,776,492	
2002	\$175,650,317	\$9,458,685	\$452,600				\$24,962,499	
2001	\$152,929,271							
2000	\$122,355,649							
1999	\$100,645,049							
1998	\$73,114,511							
1997	\$43,145,921							
1996	\$21,150,221							
1995	\$4,539,548							
Total	\$2,725,135,157	\$67,068,622	\$3,626,091	\$115,915,612	\$42,262,699	\$618,243	\$255,700,513	\$142,514,344
Total CSP	\$3,352,841,281							

Explanation:

The Federal Charter Schools Program (CSP) was created in 1994, as an amendment to the Elementary and Secondary Education Act. Federal funding began in 1995 with the CSP SEA grants.

CSP SEA grants (84.282A): “This program provides funds to plan and art new charter schools and disseminate information about existing charters in states with charter school laws. The U.S. Department of Education makes grants directly to a state’s department of education (or comparable state department), which then subgrants the funds to charter schools within its state. This program receives the largest portion of any CSP grant competition.”

1995-2013: <http://www2.ed.gov/programs/charter/funding.html>

CSP non-SEA grants (84.282B): “This program allows individual charter schools to apply directly to the Department for start-up funds. Applicants must be from charter schools in states in which the SEA does not have an approved application from CSP under 84.282A (or will not have an approved application under 84.282A) as of the start date for the grant.”

2002-2012: <http://www2.ed.gov/programs/charternonsea/funding.html>

CSP non-SEA dissemination grants (84.282C): “This program provides funds for established charter schools to disseminate information about their best practices. As with 84.282 B, applicants must be from charter schools in states in which the SEA does not have an approved application from CSP under 84.282A (or will not have an approved application under 84.282A) as of the start date for the grant.”

2013: <http://www2.ed.gov/programs/charternonsea-dissemination/2013awards.html>

2012: <http://www2.ed.gov/programs/charternonsea-dissemination/2012awards.html>

2011: <http://www2.ed.gov/programs/charternonsea-dissemination/2011awards.html>

2010: <http://www2.ed.gov/programs/charternonsea-dissemination/2010awards.html>

2002-2007: <http://www2.ed.gov/programs/charternonsea-dissemination/2002-2007awards.html>

CSP grants for replications and expansion of high-quality charter (84.282M): “This program provides funds to non-profits, including charter management organizations, to replicate and expand high-quality charter schools.”

2010-2014: <http://www2.ed.gov/programs/charter-rehqcs/funding.html>

National Leadership Activities Grants (84.282N): “This program provides funds for eligible non-profit organizations to run charter school projects of national significance.”

2003-2012: <http://www2.ed.gov/programs/charter-nationalleadership/funding.html>

Charter School Exemplary Collaboration Awards (84.282P): “This program awards high-quality public charter schools that partner with non-chartered public schools and non-chartered Local Education Agencies [LEAs] to share best educational and operational practices, and to disseminate information about these practices. The funds must be used to continue or expand the collaborations, as well as for dissemination.”

2012 only: <http://www2.ed.gov/programs/charter-collaboration/funding.html>

Credit Enhancement for Charter School Facilities Program (84.354A): “This program awards high-quality public charter schools that partner with non-chartered public schools and non-chartered Local Education Agencies to share best educational and operational practices, and to disseminate information about these practices. The funds must be used to continue or expand the collaborations, as well as for dissemination.”

2001-2013: <http://www2.ed.gov/programs/charterfacilities/funding.html>

State Charter School Facilities Incentive Grants (84.282D): “Grants are available to help states establish or enhance and administer 'per-pupil facilities aid' for charter schools, which allows states to make payments for charter school facilities based on a formula that takes into account the number of pupils enrolled.”

2004-2013: <http://www2.ed.gov/programs/statecharter/funding.html>

Non-CSP Federal Funding Sources:

\$80 billion has been allocated to states under the federal Title 1A grant since 2007, an unknown amount of which has gone towards funding charters.

\$122 billion has been allocated to states under federal **The Individuals with Disabilities Education Act (IDEA) Part B** since 2005, an unknown amount of which has gone towards funding charters.

\$8.7 billion has been allocated to states under the federal **Race to the Top** Grant competition since 2009, an unknown amount of which has gone towards funding charters.

\$2 billion has been allocated to states under the federal **Investing in Innovation Fund** since 2010, an unknown amount of which has gone toward funding charters.

Improving Basic Programs Operated by Local Educational Agencies (Title I, Part A)

2007-2011: <http://www2.ed.gov/programs/titleiparta/funding.html>

Individuals with Disabilities Education Act (IDEA) Part B

Federal special education funds are distributed through three state grant programs and several discretionary grant programs. Part B of the law, the main program, authorizes grants to state and local education agencies to offset part of the costs of the K-12 education needs of children with disabilities.

Part B State Allocation Tables 2004-2014: <http://www2.ed.gov/fund/data/award/idea/index.html>

Race to the Top

3 Phases: <http://www2.ed.gov/programs/racetothetop/funding.html>

Early Learning Challenge: <http://www2.ed.gov/programs/racetothetop-earlylearningchallenge/funding.html>

The Investing in Innovation Fund (i3)

Established under section 14007 of the American Recovery and Reinvestment Act of 2009 (ARRA), provides funding to support (1) local educational agencies (LEAs) and (2) nonprofit organizations in partnership with (a) one or more LEAs or (b) a consortium of schools.

2010-2014: <http://www2.ed.gov/programs/innovation/funding.html>